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FEDERAL BUREAU OF INVESTIGATION

#1082884

Precedence: ROUTINE

Date: 12/29/2006

To:

[Redacted]

Attn:

SAC
ASAC
SSA
IA

[Redacted]

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Counterterrorism

Attn: CTD/ITOS II/PRGU

Inspection

Attn: Internal Investigative Section
Attn: [Redacted] Room 11865

From: Office of General Counsel

NSLB/CTLJ-2/LX-1, 3S-100

Contact:

[Redacted]

Approved By: Thomas Julie F

[Redacted]

(U)

Drafted By:

Case ID #: ~~(S)~~ 278-HQ-C1229736-V10 Serial (Pending)

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Title: ~~(S)~~ (U) INTELLIGENCE OVERSIGHT BOARD
MATTER 2006-[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). Our analysis follows.

(U)

~~(S)~~

~~Derived From : G-3
Declassify On: 12/29/2016~~

(U)

Reference: ~~(S)~~ 278-HQ-C1229736-V10 Serial 1549

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Details: ~~(S)~~ By electronic communication (EC) dated July 17, 2006 and referenced above, the [Redacted] Division [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. We believe it does and our analysis follows.

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To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

(S) The referenced EC from [redacted] concerns [redacted]

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(S)

[redacted]
[redacted]
[redacted] was and remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA).²

(U)

~~(S)~~ During the course of the investigation, [redacted] issued National Security Letters (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States."

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(U)

~~(S)~~ The error in this instance occurred in July 2005, after the initial toll records were received from [redacted]. The results listed a telephone number ending with the digits [redacted] being subscribed to by the target. However, when the NSL result letter was scanned [redacted] an errant spreadsheet was produced. The spreadsheet indicated that the target had subscribed to seven sequential telephone numbers. The inadvertent results had the same area code and initial three digits, but ended with [redacted].

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~~(S)~~ A follow-up NSL dated 10/17/2005 was addressed to [redacted] requesting subscriber information for the seven inadvertently added telephone numbers [redacted]. On 11/07/2005, [redacted]

(U)

¹ ~~(S)~~ 278-HQ-C1229736-VIO Serial 1549.

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of the incorrect telephone numbers, the phone numbers referenced in this EC will only list the last four digits.

⁴ (U) See, id.

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To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

[redacted] responded with subscriber printouts for the requested information. The subscriber results were initially uploaded into ACS by [redacted].⁵

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(U) [redacted] In the course of performing telephone analysis in June 2006, the errors were discovered and remedied by [redacted]. [redacted] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers [redacted]. In addition, [redacted] removed all references to the inadvertently uploaded numbers from FBI records, including [redacted] Automated Case Support (ACS). In addition, [redacted] coordinated with the [redacted] Division [redacted] to remove the EC documenting the subscriber information belonging to the seven errant numbers provided by [redacted] directly coordinates toll record NSLs requests for the FBI with [redacted].

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(U) To prevent future errors, additional quality control steps have been added to the telephone record scanning process. The process of scanning phone records as opposed to hand-entering the information was only initiated in [redacted] earlier in 2005. The above-referenced telephone records were some of the first scanned records. Since that time, [redacted] control/quality assurance has improved and is only performed by trained personnel.

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(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that

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(S)

[redacted] was permanently charged out in December 2006 removing the last reference to these errant telephone numbers in ACS. The charged-out serial is being forwarded from [redacted] to [redacted].

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⁵ See, Id.

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To: From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

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)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

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To: [redacted] From: General Counsel
Re: 273-HQ-C1229736-VTO, 12/29/2006

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LEAD(s) :

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

COUNTERTERRORISM

AT ITOS II/FRGU

(U) For review and action deemed appropriate.

Set Lead 3: (Discretionary)

[redacted]

AT [redacted]

(U) For review and action deemed appropriate.

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cc: Ms. Thomas

[redacted]
IOE Library

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U.S. Department of Justice

Federal Bureau of Investigation

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Washington, D. C. 20535-0001

BY COURIER

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

Dear Mr. Friedman:

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

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

Enclosure

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

~~Derived From: G-3
Declassify On: 1/02/2017~~

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NSL VIO-34585

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Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

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NSL VIO-34586

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about a United States Person or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

LEAD(s) :

Set Lead 1: (ACTION)

[REDACTED]

AT

[REDACTED]

(U) For review and action deemed appropriate.

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Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

Ms. Thomas

[REDACTED]

IOE Library

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(01/26/1998)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 00/00/2006

To: General Counsel

Attn: Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/
COUNTERINTELLIGENCE/CYBER] Attn: [UNIT]

[REQUESTING OFFICE] Attn: SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] Attn: SA [CASE AGENT]
[SQUAD] [X]

[DELIVERING DIVISION] Attn: SSA [SQUAD SUPERVISOR]
(if using personal service) [SQUAD] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-
0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

(U) Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

(U) Case ID #: ~~(S)~~ [CASE FILE NUMBER] (Pending)

Title: ~~(S)~~ [SUBJECT]
[AKA] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL) for email subscriber information; provides

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NSL VIO-34622

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To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

reporting data; and, if necessary, transmits the NSL for delivery to the electronic communications service provider.

~~(S)~~ Derived From: G-3
Declassify On: ~~[10 years from date of EC]~~

FULL/PRELIMINARY Investigation Instituted: ~~(S)~~ [00/00/2006]

Reference: ~~(S)~~ [CASE FILE NUMBER Serial XXX]

Enclosures: (U) Enclosed for [DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through a restricted delivery service or fax] is an NSL dated [00/00/2006], addressed to [COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting the name, address, and length of service for the e-mail address holder(s) listed.

~~(S)~~ Details: ~~(S)~~ A [FULL/PRELIMINARY] [INTERNATIONAL/FOREIGN COUNTERINTELLIGENCE] investigation of the subject, a [USPER/NON-USPER], was authorized in accordance with the Attorney General Guidelines because [Give a full explanation of the justification for opening and maintaining an investigation of the subject; barebones facts will not suffice and will cause the request to be rejected for lack of legal sufficiency]. This electronic subscriber information is being requested to [Fully state the relevance of the requested records to the investigation].

(U) This electronic communication documents the [APPROVING OFFICIAL's] approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on [NUMBER OF] [e-mail/IP address(es)] from [ISP #1]; [NUMBER OF] [e-mail/IP address(es)] from [ISP #2], etc.

(U) Arrangements should be made with the electronic communication service provider to provide the records [personally to an employee of the DELIVERING division OR through use of a delivery service or secure fax to OFFICE OF ORIGIN] within [NUMBER OF] business days of receipt of this request. The electronic communication service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

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NSL VIO-34623

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(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement:
There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, 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.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs]

(U) Information received from an electronic communications service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

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(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

(U) Any questions regarding the above can be directed
to [CASE AGENT, telephone number (000) 000-0000].

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(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

LEAD (s):

Set Lead 1:

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLE is requested to record the appropriate information needed to fulfill the Congressional reporting requirements for NSLs.

Set Lead 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3:

[DELIVERING DIVISION - fif using personal service]

AT [CITY, STATE]

(U) Deliver the enclosed NSL as indicated above. Upon receipt of the information requested, [DELIVERING DIVISION] is requested to submit results to [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12-05-2007 BY 65179 DMH/KSR/eb

From: HQ_OFFICE_OF_PUBLIC_AFFAIRS
Sent: Friday, March 09, 2007 10:40 AM
To: FBI_HQ AND FO POCS
Subject: Inspector General Report on National Security Letters
UNCLASSIFIED
NON-RECORD

This message is being sent to: All employees at Headquarters, Field Offices, and Legats.
Please check with the appropriate authority prior to dissemination of this message to all
employees within your division to avoid duplication.

Today the DOJ Inspector General released a report on the FBI's use of National Security Letters.
You may see a number of media stories regarding this report and the Director will be conducting
a press availability at 11:30 AM EST today to further discuss the report and the FBI's response.
So that you can be knowledgeable about the report and the FBI's response, we have collected
resources for you on the FBI Intranet homepage and will be updating the story throughout the
day.

FBI Responds to IG Report on NSLs

http://[redacted]
[Currently includes: FBI press release, FAQs, and IG Report]

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John J. Miller
Assistant Director
Office of Public Affairs

UNCLASSIFIED

NSL VIO-34627

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

(U) [redacted] (S) By Electronic Communication (EC)¹ dated July 17, 2006, [redacted] Division [redacted] notified FBI Headquarters (FBIHQ) of an inadvertent acquisition of toll record information associated with unknown individuals in the course of a national security investigation. [redacted] (S) [redacted] was and remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA).²

(U) [redacted] (S) During the course of the investigation, [redacted] issued National Security Letters (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States."

(U) [redacted] (S) The error in this instance occurred in July 2005, after the initial toll records were received from [redacted]. The results listed a telephone number ending with the digits [redacted] being subscribed to by the target. However, when the NSL result letter was scanned [redacted] an errant spreadsheet was produced. The spreadsheet indicated that the target

~~Derived From : C-3~~

(U) ¹ [redacted] (S) 278-HQ-C1229736-VIO Serial 1549.

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of the incorrect telephone numbers, the phone numbers referenced in this EC will only list the last four digits.

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~~Declassify On: 12/29/2016~~

had subscribed to seven sequential telephone numbers. The inadvertent results had the same area code and initial three digits, but ended with [REDACTED]

(U) [REDACTED] A follow-up NSL dated 10/17/2005 was addressed to [REDACTED] requesting subscriber information for the seven inadvertently added telephone numbers [REDACTED]. On 11/07/2005, [REDACTED] responded with subscriber printouts for the requested information. The subscriber results were initially uploaded into ACS by [REDACTED]

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(U) [REDACTED] In the course of performing telephone analysis in June 2006, the errors were discovered and remedied by [REDACTED]. [REDACTED] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers [REDACTED]. In addition, [REDACTED] removed all references to the inadvertently uploaded numbers from FBI records, [REDACTED] and Automated Case Support (ACS). In addition, [REDACTED] coordinated with the [REDACTED] Division (Newark) to remove the EC documenting the subscriber information belonging to the seven errant numbers provided by [REDACTED]. [REDACTED] directly coordinates toll record NSL requests for the FBI with [REDACTED].

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(U) To prevent future errors, additional quality control steps have been added to [REDACTED] process. The process [REDACTED] was only initiated in [REDACTED] earlier in 2005. The above-referenced telephone records were some of the first [REDACTED] records. Since that time, [REDACTED] control/quality assurance has improved and is only performed by trained personnel.

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(U) Section 2.4 of Executive Order (EO) 12863,

⁴ (U) See, id.

³ [REDACTED] was permanently charged out in December 2006 removing the last reference to these errant telephone numbers in ACS. The charged-out serial is being forwarded from [REDACTED] to [REDACTED]

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⁶ See, Id.

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NSL VIO-34629

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dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U)

~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance

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NSL VIO-34630

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with the reporting requirements of Section 2.4 of E.O. 12963, this matter is being to the IOB.

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NSL VIO-34631

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INTELLIGENCE OVERSIGHT BOARD (IOE) MATTER
[redacted] FIELD OFFICE
IOE MATTER 2006-[redacted] (U)

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~~(S)~~ By Electronic Communication (EC) dated July 17, 2006,
[redacted] Division [redacted] notified FBI Headquarters (FBIHQ) of
an inadvertent acquisition of toll record information associated
with unknown individuals in the course of a national security
investigation. [redacted]

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[redacted] was and remains a "United States person." as that term is
used in Section 101(i) of the Foreign Intelligence Surveillance Act
of 1978 (FISA).¹

(U)

~~(S)~~ [redacted] issued a National Security Letter (NSL)
pursuant to the Electronic Communications Privacy Act, 18 U.S.C. §
2709² for toll record information associated with the target. The
error occurred after the initial records were received from [redacted]
[redacted] The results listed a telephone number ending with the digits
[redacted] being subscribed to by the target. However, when the NSL
result letter was scanned with new software, an errant spreadsheet
was produced.

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(U)

~~(S)~~ The spreadsheet indicated that the target had
subscribed to seven sequential telephone numbers. The inadvertent

~~Derived From : G-3
Declassify On: 12/29/2016~~

¹ (U) A "United States person" (USP) is defined in Section 101(i) of
the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. §
1801 et seq.) as "a citizen of the United States [or] an alien lawfully
admitted for permanent residence (as defined in section 101(a)(20) of the
Immigration and Naturalization Act)" See also Section 11.W of The
Attorney General's Guidelines for FBI Foreign Intelligence Collection and
Foreign Counterintelligence Investigations.

² The statute permits the FBI to request subscriber information and
telephone toll billing records that are "relevant to an authorized
investigation to protect against international terrorism or clandestine
intelligence activities, provided that such an investigation of a United
States person is not conducted solely on the basis of activities protected
by the first amendment to the Constitution of the United States."

³ (U) In order to avoid any further dissemination of the incorrect
telephone numbers, the phone numbers referenced in this EC will only list
the last four digits.

~~SECRET~~

results had the same area code and initial three digits, but ended with [REDACTED]. A follow-up NSL was then addressed to [REDACTED] requesting toll billing information for these seven errant telephone numbers. [REDACTED] provided the requested information which was initially uploaded into FBI computer systems.

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(U) Immediately upon discovery, the errors were remedied by [REDACTED]. All references to the errant telephone numbers have been removed from FBI computer systems. To prevent future errors, additional quality control steps and software training have been added to the telephone record scanning process. The above-referenced telephone records were some of the first scanned records.

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, this matter is being to the IOB.

⁴ (U) See, id.

- 2 -

~~SECRET~~

NSL VIO-34633

~~SECRET~~

- 3 -

~~SECRET~~

NSL VIO-34634

Key Excerpts from the Unclassified IG Report

The FBI self-identified the inaccurate reporting, and told Congress a year ago

(pg. xvii and 33) : In March 2006, the FBI acknowledged to the Attorney General and Congress that NSL data in the semiannual classified reports may not have been accurate and stated that the data entry delays affected an unspecified number of NSL requests. After the FBI became aware of these delays, it took steps to reduce the impact of the delays to negligible levels for the second half of CY 2005.

The IG Found No Criminal Misconduct

(pg. xxviii, fn.26) : In this report, we use the terms "improper or illegal use" as contained in the Patriot Reauthorization Act. As noted below, the improper or illegal uses of the national security letter authorities we found in our review did not involve criminal misconduct. However, as also noted below, the improper or illegal uses we found included serious misuses of national security letter authority.

No deliberate or intentional violations; but rather, good faith mistakes; confusion

(pg. xxx): Our examination of the 26 possible IOB violations reported to FBI OGC did not reveal deliberate or intentional violations of NSL statutes, the Attorney General Guidelines or internal FBI policy. Although the majority of the possible violations - 22 of 26 - arose from FBI errors, most of them occurred because of typographical errors or the case agent's good faith but erroneous belief that the information requested related to an investigative subject.

(pg. xxxiii:) Our review did not reveal intentional violations of national security letter authorities, the Attorney General Guidelines or internal FBI policy. Rather, we found confusion about the authorities available under the various NSL statutes.

IG found in most cases we sought information we were entitled to

(pg. xlviii and 124): Finally, in evaluating the FBI's use of national security letters, it is important to note the significant challenges the FBI was facing during the period covered by our review and the major organizational changes it was undergoing. Moreover, it is also important to recognize that in most cases the FBI was seeking to obtain information that it could have obtained properly if it had followed applicable statutes, guidelines, and internal policies. We also did not find any indication that the FBI's misuse of NSL authorities constituted criminal misconduct.

FBI seeking information to which it was entitled

(pg. 67): In evaluating this matters, it is important to recognize that in most cases,

the FBI was seeking to obtain information that it could have obtained properly if it had followed applicable statutes, guidelines, and internal policies. We also did not find any indication that the FBI's misuse of NSL authorities constituted criminal misconduct.

Errors were not deliberate attempts to circumvent statutes

(pg. 77): While the errors resulted in the acquisition of information not relevant to an authorized investigation, they did not manifest deliberate attempts to circumvent statutory limitations or Departmental policies and appropriate remedial action was taken.

(pg. 103) (control file issue) We believe that the CAU officials and the EOPS Unit Chief concluded in good faith that the FBI had sufficient predication either to connect these national security letters with existing investigations or to open new investigations in compliance with the Attorney General's NSI Guidelines.

FBI has now provided the needed guidance

(pg. 107): Overall, we believe that the FBI has now provided needed guidance and support to field personnel to facilitate production of approval documentation compliant with statutory requirements, Attorney General Guidelines and internal FBI policies. Nonetheless, we believe the FBI should improve its compliance with the internal controls governing its exercise of national security letter authorities...

(pg. 126) We believe that these recommendations, if fully implemented, can improve the accuracy of the reporting of the FBI's use of national security letters and ensure the FBI's compliance with the requirements governing their use.

~~SECRET/NOFORN~~

(U)

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~~(S)~~ Details: As discussed in the electronic communication (EC) from [redacted] cited below,¹ on 7/17/2006, [redacted] of XXXXX, aka XXX XXX, who was and remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA),² [redacted]

[redacted]

(U)

~~(S)~~ During the course of the investigation, [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." The NSL, dated XXX XX, XXXX, was addressed to XXXX XXXXXX and requested subscriber information and the telephone records of the target. XXXX responded with this information.

(U)

~~(S)~~ The error in this instance occurred in July, 2005, after the phone records were received from [redacted]. The NSL results demonstrated one number being subscribed to by the target. This number had the last four digits of [redacted]. However, when the NSL result letter was scanned with optical character recognition (OCR) software, an errant spreadsheet was produced. The spreadsheet indicated that the target had subscribed to seven sequential numbers. The inadvertent results had the same area code and initial three digits, but ended with [redacted]

b2

(U)

~~(S)~~ EC from [redacted] to OCC dated [redacted] and titled "[redacted]"

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

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~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

[REDACTED]

(U) [REDACTED] then requested and initiated an NSL dated October 17, 2005⁴ for the subscriber results of these seven errant telephone numbers. The subscriber information received for these numbers was associated with presumed U.S. Persons. The results of this NSL was received on [REDACTED]. The subscriber information was uploaded on [REDACTED].

b2
b7E

(U) In the course of performing telephone analysis on June 23, 2006, the errors were discovered and expeditiously remedied by the [REDACTED] Field Intelligence Group. The [REDACTED] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers [REDACTED]. By July 13, 2006, all [REDACTED] Division references to the inadvertently uploaded numbers were removed from FBI records, [REDACTED] Automated Case Support (ACS). Subsequently, [REDACTED] confirmed that all references to the seven errant telephone numbers has been removed from Automated Case Management System (ACS)⁵.

(U) To prevent future errors, additional quality control steps have been added to [REDACTED] process. [REDACTED] them was initiated in the [REDACTED] Division in 2005 by a group of analysts, including IA [REDACTED]. The above-referenced telephone records were some of the first [REDACTED] records. Since that time, [REDACTED] control/quality assurance has improved and is only performed by a dedicated and experienced staff.

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(U) Section 2.4 of Executive Order (EO) 12963, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or

³ (U) In order to avoid any further dissemination of the incorrect telephone numbers, the numbers are being abbreviated in this document.

⁴ (U) Since the approving EC, the NSL, and the NSL results all include the incorrect telephone numbers, these documents have been permanently charged out of the FBI's Automated Case Support (ACS) system.

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b7C

⁵ (U) IA [REDACTED] confirmed via telephone on December 26, 2006 that all results have been expunged from ACS.

~~SECRET/NOFORN~~

NSL VIO-34638

SECRET//NOFORN

contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PTOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U)

~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about a United States Person or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

SECRET//NOFORN

NSL VIO-34639

~~SECRET/NOFORN~~

LEAD (s) :

Set Lead 1: (ACTION)

[REDACTED]
AT [REDACTED]

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(U) For review and action deemed appropriate.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

Ms. Thomas

[REDACTED]

IOB Library

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~~SECRET/NOFORN~~

NSL VIO-34640

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/17/2006

To: Inspection
General Counsel

Attn: IIS
Rm. 11861
Attn: NSLB
Rm. 7975

From: [Redacted]

Contact: [Redacted]

Approved By: [Redacted]
Drafted By: [Redacted]

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b6
b7C

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending)
(S) 278- [Redacted] C26391 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
SSA [Redacted]
IA [Redacted]

b2
b7E

Synopsis: (U) [Redacted] Division reports a potential IOB matter involving inadvertent and unauthorized receipt of telephone subscriber information.

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

Details: (U) [Redacted] Division reports a potential intelligence oversight board (IOB) matter involving inadvertent receipt of unauthorized telephone subscriber information. Intelligence Analyst (IA) [Redacted] inadvertently added phone numbers to toll records that were entered [Redacted]. In this instance, the FBI sought telephone subscriber records for telephone numbers believed to be used by the investigative subject due to electronic data errors.

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(U) (S) The error occurred during July, 2005, after phone records received via National Security Letter (NSL) were scanned [Redacted]

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~~SECRET~~

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-V10, 07/17/2006

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(S)

output to Microsoft Excel, where a series of seven additional numbers not related to the case were inadvertently added to the toll records to be uploaded. The telephone numbers created were sequential to the original target number, [redacted]

[redacted]
[redacted] A routine quality control check conducted by IA [redacted] did not initially catch the errors.

b1
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(U) Subsequently, subscriber information for the seven inadvertently added phone numbers was requested via an NSL dated October 17, 2005. The subscriber information received for these numbers was associated with presumed U.S. Persons.

(U) In the course of performing telephone analysis on June 23, 2006, the errors were discovered and expeditiously remedied by the [redacted] Field Intelligence Group. The [redacted] point of contact at FEHQ was asked to remove the inadvertently uploaded numbers [redacted]. By July 13, 2006, all [redacted] Division references to the inadvertently uploaded numbers were removed from FBI records, [redacted] Automated Case Support (ACS). Only one related record from the [redacted] division remains in ACS, and this will be modified to exclude the unauthorized subscriber information.

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(U) To prevent future errors, additional quality control steps have been added to [redacted] process. The process of [redacted] was initiated in the [redacted] Division in 2005 by a group of analysts, including IA [redacted]. The above-referenced telephone records were some of the first [redacted] records. Since that time, [redacted] quality control/quality assurance has improved and is only performed by a dedicated and experienced staff.

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~~SECRET~~

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(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/17/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Request IIS take appropriate action as necessary, in response to this potential IOB matter reported by the [REDACTED] Division. It is further requested that the resulting IOB matter be counted as one potential violation.

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Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Request NSLB take appropriate action as necessary, in response to this potential IOB matter reported by the [REDACTED] Division. It is further requested that the resulting IOB matter be counted as one potential violation.

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/17/2006

To: Inspection
General Counsel

Attn: IIS
Rm. 11861
Attn: NSLB
Rm. 7975

From: [Redacted]

Contact: [Redacted]

b2
b7E
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b7C

Approved By: [Redacted]
Drafted By: [Redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO (Pending)
~~(S)~~ 278-[Redacted]-C26391 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
SSA [Redacted]
IA [Redacted]

Synopsis: (U) [Redacted] Division reports a potential IOB matter involving inadvertent and unauthorized receipt of telephone subscriber information.

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

Details: (U) [Redacted] Division reports a potential intelligence oversight board (IOB) matter involving inadvertent receipt of unauthorized telephone subscriber information. Intelligence Analyst (IA) [Redacted] inadvertently added phone numbers to toll records that were entered [Redacted].
[Redacted] In this instance, the FBI sought telephone subscriber records for telephone numbers believed to be used by the investigative subject due to electronic data errors.

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(U) ~~(S)~~ The error occurred during July, 2005, after phone records received via National Security Letter (NSL) were scanned

[Redacted]

b2

~~SECRET~~

(S)

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/17/2006

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(S)

output to Microsoft Excel, where a series of seven additional numbers not related to the case were inadvertently added to the toll records to be uploaded. The telephone numbers created were sequential to the original target number. [redacted]

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[redacted] A routine quality control check conducted by IA [redacted] did not initially catch the errors.

(U) Subsequently, subscriber information for the seven inadvertently added phone numbers was requested via an NSL dated October 17, 2005. The subscriber information received for these numbers was associated with presumed U.S. Persons.

(U) In the course of performing telephone analysis on June 23, 2006, the errors were discovered and expeditiously remedied by the [redacted] Field Intelligence Group. The [redacted] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers [redacted]. By July 13, 2006, all [redacted] Division references to the inadvertently uploaded numbers were removed from FBI records, [redacted] and Automated Case Support (ACS). Only one related record from the [redacted] Division remains in ACS, and this will be modified to exclude the unauthorized subscriber information.

b2
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(U) To prevent future errors, additional quality control steps have been added to the [redacted] process. The process of [redacted] was initiated in the [redacted] Division in 2005 by a group of analysts, including IA [redacted]. The above-referenced telephone records were some of the first [redacted] records. Since that time, [redacted] quality control/quality assurance has improved and is only performed by a dedicated and experienced staff.

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~~SECRET~~

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(U)

To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/17/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Request IIS take appropriate action as necessary, in response to this potential IOB matter reported by the [REDACTED] Division. It is further requested that the resulting IOB matter be counted as one potential violation.

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b7E

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Request NSLB take appropriate action as necessary, in response to this potential IOB matter reported by the [REDACTED] Division. It is further requested that the resulting IOB matter be counted as one potential violation.

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~~SECRET~~

(01/26/1998)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

DATE: 12-05-2007
CLASSIFIED BY 65179 DMH/KSR/ch
REASON: 1.4 (c)
DECLASSIFY ON: 12-05-2032

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/09/2006

To: [Redacted]
Counterterrorism
Inspection

Attn: SAC, CDC
Attn: AD
Attn: IIS

b2
b7E
b6
b7C

From: General Counsel
Counterterrorism Law Unit II/LX-1 3S100

Contact: [Redacted]

Approved By: Thomas, Julie F

Drafted By: [Redacted]

(U)

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

(U)

Title: ~~(S)~~ SA [Redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER,
IOB 2006 [Redacted]

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(U)

Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB). OGC will prepare a cover letter and a letterhead memorandum for the General Counsel and the Assistant Director, Inspection Division (INSD), for submission to the IOB. Submission of this matter to the OPR is a matter within the cognizance of the IIS.

(U)

~~(S)~~ Derived from : G-3
Declassify On: X-1

(U)

Reference: 278-HQ-C1229736-VIO-1093 ~~(S)~~

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in WordPerfect 6.1.

Details: (U) Referenced communication from the [Redacted] Field Office [Redacted], dated 12/14/2005, requested that OGC review

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~~SECRET~~

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(U) To: [redacted] From: General Counsel
Re: 278-HQ-01229736-VIO-1093 (S), 01/09/2006

the facts of the captioned matter and determine whether it warrants reporting to the IOE. In our opinion, it does. Our analysis follows.

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(S) [redacted] As discussed in the electronic communication (EC) from [redacted] dated [redacted] [redacted] who was and remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA),² [redacted]

~~(S)~~ During the course of the investigation, [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." The NSL, dated March 13, 2006, was addressed to [redacted] and requested what was intended to be subscriber information and the telephone records of the target, [redacted]. His telephone number was believed to be [redacted]. However, the number was mistakenly written with one number changed, so that the NSL was issued for the wrong telephone number.³ Records for

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b1
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(S) [redacted] His telephone number was believed to be [redacted]. However, the number was mistakenly written with one number changed, so that the NSL was issued for the wrong telephone number.³ Records for

b2 (U) [redacted] EC from [redacted] to OCG dated 12/14/2005 and titled "Special Agent (SA) [redacted] Possible Intelligence Oversight Board (IOE) Matter - International Terrorism Related."

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document. Since the EC approving the NSL and the NSL itself include the incorrect telephone

~~SECRET~~

(U) To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO-1093-~~(S)~~, 01/09/2006

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that telephone number were provided by the telephone company to the [redacted] Division of the FBI, which forwarded the information to [redacted] via an EC dated 6/23/2005.⁴ Upon receipt of the records, the case agent realized his mistake. The records from [redacted] were destroyed. Further, serials created before the mistake was discovered and which referenced the incorrect phone number and information have been permanently charged out of the FBI's Automated Case Support system. By EC dated 07/01/2005, this matter was reported to OGC and the [redacted] Division and notice was given of the destruction of the NSL return information.⁵ It was reported as a possible IOB violation by EC dated 12/14/2005.⁶

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(U) Section 2.4 of Executive Order (EO) 12963, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOE 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 NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S.

number, these documents have been permanently charged out of the FBI's Automated Case Support (ACS) system.

⁴ (U) 66F-HQ-C1303375, Serial 53874; [redacted]
[redacted] Since this document contains the incorrect telephone number and the name of the subscriber of that telephone number, these three file copies of the document have been permanently charged out of ACS.

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(S) ~~(U)~~ See [redacted] 66F-HQ-C1303375. This document includes the incorrectly written telephone number. However, this document has not been deleted from ACS because the document itself reveals the mistaken nature of the telephone number, and provides a record for the fact that the information was obtained and then destroyed.

⁵ (U) See 278-HQ-C1229736-VIO-1093, addressed to OGC.

~~SECRET~~

~~SECRET~~

(U) To: [REDACTED] From: General Counsel
Re: 278-HQ-01229736-VIO-1093 (S), 01/09/2006

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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)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about a United States Person or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12963, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

~~SECRET~~

~~SECRET~~

(U)

To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO-1093-~~(S)~~, 01/09/2006

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LEAD(s) :

Set Lead 1: (ACTION)

[redacted]
AT [redacted]

b2
b7E

(U) For review and action deemed appropriate.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

[redacted]

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~~SECRET~~

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Details: (U) Referenced communication from the [redacted] Field Office [redacted], dated 12/14/2005, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOE. In our opinion, it does. Our analysis follows.

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~~(S)~~ As discussed in the electronic communication (EC) from [redacted] cited below,¹ [redacted] who was and remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA).² [redacted]

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(U) ~~(S)~~ During the course of the investigation, [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." The NSL, dated March 13, 2005, was addressed to [redacted] and requested what was intended to be subscriber information and the telephone records of the target, XXXXX. His telephone number was believed to be (XXX)-XXX-XXXX. However, the number was mistakenly written with one number changed, so that the NSL was issued for the wrong telephone number.³ Records for that telephone number were provided by the telephone company to the

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b6
b7C

(U) ~~(S)~~ EC from [redacted] to OGC dated 12/14/2005 and titled "Special Agent (SA) [redacted] Possible Intelligence Oversight Board (IOE) Matter - International Terrorism Related."

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document. Since the EC approving the NSL and the NSL itself include the incorrect telephone number, these documents have been permanently charged out of the FBI's Automated Case Support (ACS) system.

[redacted] Division of the FBI, which forwarded the information to [redacted] via an EC dated 6/23/2005.⁴ Upon receipt of the records, the case agent realized his mistake. The records from [redacted] were destroyed. Further, serials created before the mistake was discovered and which referenced the incorrect phone number and information have been permanently charged out of the FBI's Automated Case Support system. By EC dated 07/01/2005, this matter was reported to OGC and the [redacted] Division and notice was given of the destruction of the NSL return information.⁵ It was reported as a possible IOE violation by EC dated 12/14/2005.⁵

b2
b7E
b4
b7D

(S) ⁴ ~~(S)~~ 66F-HQ-C1303375, Serial 53874; [redacted]

Since this document contains the incorrect telephone number and the name of the subscriber of that telephone number, these three file copies of the document have been permanently charged out of ACS.

(S) ⁵ ~~(S)~~ See [redacted] 66F-HG-C1303375. This document includes the incorrectly written telephone number. However, this document has not been deleted from ACS because the document itself reveals the mistaken nature of the telephone number, and provides a record for the fact that the information was obtained and then destroyed.

⁶ (U) See 273-HQ-C1229736-VIC-1093, addressed to OGC.

b1
b2
b7E



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

~~SECRET~~

BY COURIER

Mr. Stephen Friedman
Chairman, Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum, entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, IOB Matter 2006-[redacted]" (U)

b2
b7E

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

Enclosure

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

~~Derived from : 3-2~~
~~Declassify on: X25-1~~

~~SECRET~~

NSL VIO-34686

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

1 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 4303

~~SECRET~~

NSL VIO-34687

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 00/00/2006

To: General Counsel
NSLE

Attn: Julie Thomas
Deputy General Counsel,

[COUNTERTERRORISM/
COUNTERINTELLIGENCE/CYBER] Attn: [UNIT]

[REQUESTING OFFICE] Attn: SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] Attn: SA [CASE AGENT]
[SQUAD] [X]

[DELIVERING DIVISION] Attn: SSA [SQUAD SUPERVISOR]
(if using personal service) [SQUAD] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

(U) Case ID #: ~~(S)~~ [CASE FILE NUMBER] (Pending)

(U) Title: ~~(S)~~ [SUBJECT]
[AKA] [ALIAS (IF APPLICABLE)]
IT/FCI - [FOREIGN POWER];
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL) for telephone subscriber information;

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NSL VIO-34688

~~SECRET~~

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

provides reporting data; and, if necessary, transmits the NSL for delivery to the wire communications service provider.

(U) ~~(S)~~ ~~Derived From: G-3~~
~~Declassify On: [10 years from date of EC]~~

(U) [FULL/PRELIMINARY] Investigation Instituted: ~~(S)~~ [00/00/2006]

(U) Reference: ~~(S)~~ [CASE FILE NUMBER Serial XXX]

Enclosures: (U) Enclosed for [DELIVERING DIVISION of OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax] is an NSL dated [00/00/2006], addressed to [COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting telephone subscriber information.

(U) Details: ~~(S)~~ A [FULL/PRELIMINARY] [INTERNATIONAL TERRORISM/FOREIGN COUNTERINTELLIGENCE] investigation of subject, a [U.S. PERSON/NON-USPER], was authorized in accordance with Attorney General Guidelines because ~~[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency].~~ This telephone subscriber information is being requested to [Fully state the relevance of the requested records to the investigation].

(U) ~~(S)~~ This electronic communication documents the [APPROVING OFFICIAL's] approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on [NUMBER OF] telephone number(s) from [telephone company #1]; the [NUMBER OF] telephone number(s) from [telephone company #2], etc.

(U) Arrangements should be made with the wire communications service provider to provide the records [personally to an employee of the DELIVERING DIVISION OR through use of a delivery service or secure fax to OFFICE OF ORIGIN] within [NUMBER OF] business days of receipt of this request. The wire communications service provider should neither send the

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(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, 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.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs]

(U) Information received from a wire communication service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, and, with respect to dissemination to an agency of the United States, only if such

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(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to [CASE AGENT, telephone number (000) 000-0000].

~~SECRET~~

~~SECRET~~

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

LEAD (s):

Set Lead 1:

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLB is requested to record the appropriate information needed to fulfill the Congressional reporting requirements for NSLs.

Set Lead 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3:

[DELIVERING DIVISION - if using personal service]

AT [CITY, STATE]

(U) Deliver the enclosed NSL as indicated above. Upon receipt of requested information, [DELIVERING DIVISION] is requested to submit results to the [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

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~~SECRET~~

~~SECRET~~

DATE: 12-05-2007
CLASSIFIED BY: 65179 DMH/KSR/cb
REASON: 1.4(c)
DECLASSIFY ON: 12-05-2032

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 00/00/2006

To: General Counsel

Attn: Julie Thomas
Deputy General Counsel, NSLE

[COUNTERTERRORISM/
COUNTERINTELLIGENCE/CYBER]

Attn: [UNIT]

[REQUESTING OFFICE]

Attn: SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN]

Attn: SA [CASE AGENT]
[Squad] [X]

[DELIVERING DIVISION]
(if using personal service)

Attn: SSA [SQUAD SUPERVISOR]
[Squad] [X]

From: [DRAFTING DIVISION]

[APPROVING OFFICIAL]

Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

(U) Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

Case ID #: ~~(S)~~ [CASE FILE NUMBER] (Pending)

(U) Title: ~~(S)~~ [SUBJECT]
[AKA] [ALIAS IF APPLICABLE]
[IT/FCI - FOREIGN POWER];
[OO: OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an ECEA National Security Letter (NSL) for toll billing records; provides reporting data; and, if necessary, transmits the NSL for delivery to the wire communications service provider.

~~SECRET~~

NSL VIO-34693

~~SECRET~~

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

(U) ~~(S)~~ Derived From: G-3
Declassify On: [10 years from date of EC]

(U) [FULL/PRELIMINARY] Investigation Instituted: ~~(S)~~ [00/00/2006]

(U) Reference: ~~(S)~~ [CASE FILE NUMBER Serial XXX]

Enclosures: (U) Enclosed for [DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax] is an NSL dated [00/00/2006], addressed to [COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting the name, address, length of service and local and long distance toll billing records for the phone number(s) listed.

~~(S)~~ (U) Details: ~~(S)~~ A [FULL/PRELIMINARY] [INTERNATIONAL TERRORISM/FOREIGN COUNTERINTELLIGENCE] investigation of subject, a [USPER/NON-USPER], was authorized in accordance with the Attorney General Guidelines because [Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]. These toll billing records are being requested to [Fully state the relevance of the requested records to the investigation].

(U) ~~(S)~~ This electronic communication documents the [APPROVING OFFICIAL's] approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks local and long distance toll billing records for [NUMBER OF] telephone number(s) from [telephone company #1]; [NUMBER OF] telephone number(s) from [telephone company #2], etc. [In the case of multiple phone numbers to the same telephone company, if you know how many different persons attach to those phone numbers, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

~~SECRET~~

NSL VIO-34694

~~SECRET~~

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

(U) Arrangements should be made with the wire communications service provider to provide the records [personally to an employee of the DELIVERING DIVISION OR through use of a delivery service or secure fax to OFFICE OF ORIGIN] within [NUMBER OF] business days of receipt of this request. The wire communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, 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.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

~~SECRET~~

~~SECRET~~

(U)

To: [DELIVERING DIVISION]

From: [DRAFTING DIVISION]

Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

(U) Information received from a wire communication service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to [CASE AGENT, telephone number (000) 000-0000].

~~SECRET~~

(U)

~~SECRET~~

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

LEAD (s):

Set Lead 1:

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSL is requested to record the appropriate information needed to fulfill the Congressional reporting requirements for NSLs.

Set Lead 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3:

[DELIVERING DIVISION - if using personal service]

[AT [CITY, STATE]]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the wire communications service provider, [DELIVERING DIVISION] is requested to submit results to the [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

◆◆

~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 00/00/2006

To: General Counsel

Attn: Julie Thomas
Deputy General Counsel, NSLE

[COUNTERTERRORISM/
COUNTERINTELLIGENCE/CYBER]

Attn: [UNIT]

[REQUESTING OFFICE]

Attn: SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN]

Attn: SA [CASE AGENT]
[Squad] [X]

[DELIVERING DIVISION]
(if using personal service)

Attn: SSA [SQUAD SUPERVISOR]
[Squad] [X]

From: [DRAFTING DIVISION]

[APPROVING OFFICIAL]

Contact: [CASE AGENT, telephone number (000)000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST, FIRST, MIDDLE: INITIALS]

(U)

Case ID #: [CASE FILE NUMBER] (Pending)

~~(S)~~

(U)

Title: [SUBJECT]
[AKA [ALIAS] (IF APPLICABLE)]
[FCI/IT - FOREIGN POWER]
[OO: OFFICE OF ORIGIN]

~~(S)~~

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL) for electronic communications transactional records; provides reporting data; and, if necessary, transmits the NSL for delivery to the electronic communications service provider.

(U)

~~(S)~~

~~Derived From: G-3~~

~~SECRET~~

~~SECRET~~

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

Declassify On: [10 Years from date of EC]

(U) [FULL/PRELIMINARY] Investigation Instituted: ~~(S)~~ [00/00/2006]

(U) Reference: ~~(S)~~ [CASE FILE NUMBER SERIAL XXX]

Enclosure(s): (U) Enclosed for [DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax] is an NSL dated [00/00/2006], addressed to [COMPANY POC NAME], [TITLE, (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting the names, addresses, lengths of service, and electronic transactional records for the [e-mail/IP] address holder(s) listed.

(U) Details: ~~(S)~~ A [FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM] investigation of subject, a [U.S. PERSON/NON-U.S. PERSON], was authorized in accordance with the Attorney General Guidelines because [Give a full explanation of the justification for opening and maintaining the investigation on the subject. Barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]. These electronic communications transactional records are being requested to [Fully state the relevance of the requested records to the investigation].

(U) ~~(S)~~ This electronic communication documents the [APPROVING OFFICIAL'S] approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks electronic communication transactional records on [NUMBER OF] [e-mail/IP address(es)] from [ISP #1]; [NUMBER OF] [e-mail/IP address(es)] from [ISP #2], etc. [In the case of multiple addresses to the same ISP, if you know how many different persons attach to those addresses, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the electronic communications service provider to provide the records [personally to an employee of the DELIVERING division OR through use of a delivery service or secure fax to OFFICE OF ORIGIN] within [NUMBER OF] business days of receipt of this request. The electronic communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

~~SECRET~~

~~SECRET~~

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

DISCLOSURE PROVISIONS

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, 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.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received from an electronic communications service provider may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to [CASE AGENT, telephone number (000) 000-0000].

~~SECRET~~

~~SECRET~~

#1082884

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2006]

LEAD(s) :

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLE is requested to record the appropriate information needed to fulfill the Congressional reporting requirements for NSLs.

Set Lead 2: (Info)

[COUNERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear.

Set Lead 3: (Action)

[DELIVERING DIVISION - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the electronic communication service provider, [DELIVERING DIVISION] is requested to submit results to [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

◆◆

~~SECRET~~

