

From: [redacted] (OGC) (FBI)
Sent: Wednesday, February 07, 2007 10:46 AM
To: [redacted] (OGC) (FBI)

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[redacted]

Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: Frequently Asked Questions about the New IOB Policy

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RECORD IOB

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If you have any examples to include on the "IOB Frequently Asked Questions" list, please forward them to [redacted] and [redacted]. Thanks!

Here is one--

Question--

[redacted]

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Answer--

[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Monday, February 05, 2007 2:55 PM
To: FBI_ALL CDCs; HQ-Div09-NSLB
Subject: Frequently Asked Questions about the New IOB Policy

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RECORD IOB

The EC describing the Revised Procedures for the Submission of Reports of Potential IOB Matters was uploaded into ACS on November 28, 2006, 278 HQ C1229736 Serial 2570. An electronic copy of this EC is attached for your convenience. In light of this recent guidance, it is clear that OGC/NSLB needs a continuing dialogue with all of the field offices regarding IOBs. Within the next few weeks, NSLB hopes to establish a frequently asked question list about IOBs on the OGC website.

If you have any questions about the new policy or IOBs in general, or if there are any reoccurring issues that you would like included in this list, please feel free to contact [redacted] or me.

[redacted]

National Security Law Branch
Office of the General Counsel
(202) 324-[redacted]

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~~SECRET~~
~~RECORD IOB~~



IOB External
Guidance.wpd (37 ..

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

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

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

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/15/2006

To: Counterterrorism
Inspection

Attn: Assistant Director

Attn: Internal Investigation
Section

[Redacted]

Attn: SAC, CDC

From: General Counsel
National Security Law Branch

Contact: SSA [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

Title: ~~(S)~~ [Redacted]

COUNTERTERRORISM DIVISION
INTERNATIONAL TERRORISM OPERATIONS SECTION

SSA [Redacted]
TEA [Redacted]

[Redacted] DIVISION
POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER

b2 ICB #2006 [Redacted]

Synopsis: (U) To report opinion of the Office of the General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB) and to the FBI's Inspection Division. OGC will prepare and deliver the required correspondence. Our analysis follows.

(U) ~~(S)~~

~~Derived From : G-3
Declassify On: X25-1~~

Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 104

(U)

~~SECRET~~

(U) To: Counterterrorism From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-V10, 03/15/2006

(U) ~~(S)~~ Details: The referenced electronic communication (EC) from CTD, ITOS 1, CONUS 1, reported that a 90-day Letterhead Memorandum (LHM) may not have been submitted to OIPR as required by Attorney General Guidelines in effect at the time period in question.

(S) According to ACS, Investigative Case Management System, [redacted]

[redacted] A 90-day Letterhead Memorandum (LHM) for USPER [redacted] was uploaded to ACS on [redacted] within the 90-day time period required for this LHM reporting. However, in [redacted] OGC's National Security Law Unit (NSLU) noticed that it did not have a copy of the 90-day LHM, thus NSLU was unsure whether the 90-day LHM was forwarded to OIPR as required by Attorney General Guidelines.

(U) ~~(S)~~ Although ACS indicates that an LHM was uploaded within the 90 days of the case initiation, there is no record verifying transmittal of the LHM to NSLU or OIPR.²

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(U) ~~(S)~~ On 03/13/2006, OIPR reported that they had no record of receiving a 90-day LHM. However, OIPR did locate two annual notices. One dated [redacted] and received at OIPR [redacted] and one dated [redacted] and received at OIPR [redacted]

(U) There is no indication why this IOB was received for action by NSLE on February 14, 2006, when the EC reporting the possible IOB violation was dated [redacted] and uploaded at that time.

ANALYSIS

(U) ~~(S)~~ Section 2-56 of the NEIEM requires OGC to determine whether the facts related above are required to be reported to the IOB.

¹ Although ACS, [redacted] the opening EC was serialized on 03/08/2002, and the EC reporting this potential IOB indicates the case was opened on 06/12/2002.

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² During the time period in question, LHMs were provided to NSLU in hard copy, and NSLU forwarded a hard copy to OIPR. There was no cover EC used to document transmittal.

~~SECRET~~

To: ~~Counterterrorism~~ From: General Counsel
(U) ~~Rev~~ ~~(S)~~ 278-HQ-C1229736-V10, 03/15/2006

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, requires Inspectors General and General Counsel of Intelligence Community components to report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." 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 guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

~~(S)~~ Section IX.C of the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (in effect in 2002) required reporting to OIPR on the [redacted]

b1 [redacted] Failure to adhere to the
b2 [redacted] was a reportable IOB violation (under current
b7E A.G. Guidelines, this is no longer a reportable IOB violation).

~~(S)~~ In this instance, the available information indicates that an LHM was not filed with OIPR [redacted]

(S) [redacted] as required by the Attorney General Guidelines. ACS indicates a LHM was prepared and uploaded within the requisite [redacted]. However, neither NSLU nor OIPR have a record of receiving the LHM within the requisite [redacted]. Thus, this incident must be reported to the IOB, which this office will do.

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To: Counterterrorism From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/15/2006

LEAD(s) :

Set Lead 1: (Info)

COUNTERTERRORISM

AT FBIHQ

(U) For information only.

Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information only.

Set Lead 3: (Info)

[Redacted]

AT [Redacted]

(U) For information only.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/20/2006

To: Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 15



Attn: SSA [redacted]
SA [redacted]
CDC

Attn: SA [redacted]
CDC

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Inspection

Attn: IIS

From: Office of the General Counsel
NSLE/CTLU1/LN1 Room 3S119

Contact: UC [redacted]

Approved By: Thomas Julie F

Drafted By: [redacted]

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

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

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

~~(U) Derived From : G-3
Declassify On: 20311220~~

~~(U) Reference: (S) 278-HQ-C1229736-VIO serial 1152~~

~~(U) Details: (S) The referenced serial from Counterterrorism Division requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.~~

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To: Counterterrorism From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

(S) Pursuant to an [redacted]

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[redacted] a National Security Letter (NSL) was served for electronic communications transactional information related to email account [redacted] suspected of belonging to FBI subject [redacted]. On or about 10/04/2005, [redacted] received the results of this NSL from [redacted]. However, in addition to providing header and subscriber information, [redacted] accidentally provided [redacted] full content of emails in this account. This was discovered by SA [redacted] (Division) only after examining the CD-ROM received from [redacted]. SA [redacted] reviewed the text of approximately 2-3 emails [redacted]. [redacted] realized that [redacted] had mistakenly provided the full content of the emails, and then immediately ceased reviewing any further emails. It should be noted that, because all of the emails that SA [redacted] reviewed were [redacted] [redacted] mistake did not cause the FBI to gain any additional intelligence information.

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

(U) Section 2.4 of Executive Order 12963 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General

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[redacted]

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To: Counterterrorism From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

in accordance with EO 12833, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U)

~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention, including electronic communication transactional records in the custody of electronic communications service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. NSIG, section V.12.

(U) ~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL on an electronic communications service provider for transactional records. In response to the properly served NSL, the FBI inadvertently obtained information beyond the scope of the NSL (email content information). FBI [redacted] identified the problem, and properly sequestered the email content information.

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

(U) [redacted] should contact the carrier (or coordinate through [redacted] and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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To: Counterterrorism From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

LEAD(s) :

Set Lead 1: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 2: (Action)

[Redacted]

AT [Redacted]

(U) [Redacted] should contact the carrier (or coordinate through [Redacted] and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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Set Lead 3: (Action)

[Redacted]

AT [Redacted]

(U) For information.

Set Lead 4: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

cc: Ms. Thomas

[Redacted]

IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/18/2006

To:

[Redacted]

Attn:

SAC
CDC
SSA
SA

[Redacted]

[Redacted]

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Counterterrorism

Attn: ITOS I/CONUS 2/Team 7

Inspection

Attn: IIS

From: Office of the General Counsel

NSLE

Contact: AGC

[Redacted]

Approved By: Thomas Julie F

Drafted By:

[Redacted]

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

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

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(U) Synopsis: (S) The [Redacted] Division [Redacted] requested that the Office of General Counsel (OGC) review a potential IOB error and determine whether it is reportable to the IOB. It is the opinion of the OGC that this matter need not be reported to the IOB.

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(U) (S) Derived From : G-3
Declassify On: 12/18/2031

(U) Reference: (S) 278-HQ-C1229736-VIO Serial 1385

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

(U) Details: (S) By electronic communication (EC) dated May 16, 2006, the [Redacted] Office reported a possible IOB error in

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To: [redacted] From: Office of the General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-V10, 12/18/2006

(S)

in conjunction with its ongoing counterterrorism investigation of [redacted], a Non-United States Person as that term is used in The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection ("NSIG" or "the Guidelines").¹ In this regard, [redacted] initiated a [redacted]

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[redacted] a request [redacted] was submitted via EC on 05/02/2006. No investigative activity was done [redacted] during [redacted] between [redacted] and reporting of the error on 05/16/2006.

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether [redacted] failure to [redacted] is a matter which must be reported to the ICB. It is not.

(U) Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the ICB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language was adopted verbatim from E.O. 12334, dated 12/04/1981, when the ICB 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 NSIGs, or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations

(U) ~~(S)~~ A "United States person" is defined in section I.C.1.a. of the Guidelines as "an individual who is a United States citizen or an alien lawfully admitted for permanent residence[.]" This regulatory definition is based on the definition of a "United States person" as that term is used section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. § 1801 et seq. The latter states, in pertinent part, that a "United States person" means 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)"

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(U) To: [redacted] From: Office of the General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-V10, 12/19/2006

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of provisions that are essentially administrative in nature need not be reported to the IOB.

(U) ~~(S)~~ [redacted]

(U) ~~(S)~~ Although these provisions are primarily administrative in nature, they were designed, in part, to protect the rights of U.S. persons [redacted]

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(S) Based on the facts presented for our consideration, it is apparent that [redacted] were both *de minimis* and inadvertent, especially since no investigative activity occurred.

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

² [redacted]
[redacted]
[redacted] See NSIG Section [redacted]

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³ See NSIG Section II.D.1. The pertinent circumstance for this matter is whether the subject is "[a]n individual is or may be an international terrorist of an agent of a foreign power." NSIG Section II.B.1.a.

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(U)

To: [redacted] From: Office of the General Counsel
Re: (S) 078-HQ-C1229736-VIC, 12/18/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Info)

[redacted]
AT [redacted]

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(U) For information.

Set Lead 3: (Info)

COUNTERTERRORISM

AT ITOS I/CONJS 2/TEAM 7

(U) For information.

cc: Ms. Thomas

[redacted]

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IOB Library

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~~SECRET~~

(Rev. 01-31-2003)

~~SECRET/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/28/2006

To:

[Redacted]

Attn: SAC
CDC

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Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 16

Inspection

Attn: IIS

From: General Counsel

NSL/ Counterterrorism Law Unit #1/LX1-33119

Contact: UC

[Redacted]

Approved By: Thomas Julie F

[Redacted]

Drafted By:

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

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(S) [Redacted] (Pending)

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(U)

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

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

(U)

(U)

~~Derived From : G-3
Declassify On: 20311228~~

Reference: 278-HQ-C1229736-VIO Serial 1365

Administrative: (S) This document contains information obtained
or derived from an electronic surveillance or physical search
conducted under the Foreign Intelligence Surveillance Act
("FISA"), 50 U.S.C. Section 1806(b). Such information shall not
be used in any criminal or administrative proceeding, including
grand jury proceedings and warrant affidavits, without the prior
written approval of the Attorney General of the United States.
U.S. Person FISA derived information may not be disseminated to a
foreign government without the prior written approval of the
Attorney General of the United States.

(U)

~~SECRET/NOFORN~~

NSL VIO-31125

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b7E To: [redacted] From: General Counsel
Re: ~~(S)~~ 273-HQ-C1229736-V10, 12/27/2006

(U) This communication contains one or more footnotes.
To read the footnotes, download and print the document in Corel
WordPerfect 8.

(U) ~~(S)~~ Details: (S//NF) By electronic communication (EC) dated May 4,
2006 (cited below),¹ the [redacted] Division [redacted] reported a
potential IOB involving a Preservation Letter, sent by [redacted]
requesting a Internet Service Provider (ISP) to preserve
subscriber information, in anticipation of subsequently sending a
National Security Letter (NSL). In response, the provider
provided two (2) compact discs ("CDs") of the communications
content to [redacted]. Although the case agents did not view the
CDs, they believe, based on subsequent FISA coverage, that the
CDs contained IP addresses and communications of persons using an
internet forum.

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(S) [redacted]

[redacted]

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(S//NF) As the case agents in [redacted] anticipated
serving a NSL, they prepared a preservation letter. The
preservation letter was provided to the [redacted] Division
[redacted] and [redacted] served the letter via e-mail on February
22, 2006. Once served with the preservation letter, [redacted]
[redacted] not only preserved the information [redacted]
[redacted] but also recorded the communications evidence on two (2)
CDs and delivered this to the [redacted]. Upon receipt of the two
(2) CDs, [redacted] placed the CDs in a 1A envelope and forwarded it
to [redacted] notified FBIHQ on March 23, 2006 by e-mail
that it had received evidence in response to a preservation
letter. [redacted] has not removed the letters from the [redacted] 1A
envelope and the CDC presently has possession of it.

[redacted]

¹ (U) See EC from the [redacted] Division to the Inspection Division and
General Counsel, dated May 4, 2006, Case ID# 273-HQ-C1229736-V10 Serial
1365, titled "INTELLIGENCE OVERSIGHT BOARD ERROR " hereinafter cited as
[redacted]

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To: [redacted] From: General Counsel
(U) Re: ~~(S)~~ 279-HQ-C1229736-V10, 12/27/2006

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the error described here is a matter which must be reported to the IOB. We believe that the reported activity does not require IOE notification.

(U) Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This has been interpreted to include violations of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection ("Attorney General's Guidelines"), the implementation of which is mandated by Executive Order 12333.

(U) ~~(S)~~ As set forth in [redacted] the Attorney General's Guidelines, use of NSLs in conformity with 18 U.S.C. §2709 is authorized when certain records are sought as part of a [redacted] Investigation. 18 U.S.C. §2709 authorizes the FBI to obtain certain records (including subscriber records) from a wire or electronic communication service provider when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities."

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(U) ~~(S)~~ In this instance, pursuant to an authorized [redacted] investigation, [redacted] properly served a preservation letter requesting an ISP to preserve subscriber information, in anticipation of subsequently serving an NSL for that subscriber information. In response to this properly served preservation request, the provider erroneously provided two (2) CDs containing contents of communications to [redacted] properly sequestered this inadvertently obtained information. [redacted] did not take any unauthorized actions or any actions outside the scope of the investigation under EO 12333.

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

~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

To: [redacted] From: General Counsel
(U) Re: (S) 279-HQ-C1229736-V10, 12/27/2006

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

~~SECRET/NOFORN~~

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To: [redacted] From: General Counsel
(U) Re: ~~(S)~~ 279-HQ-C1229736-V10, 12/27/2006

LEAD(s) :

Set Lead 1: (Action)

[redacted]
AT [redacted]

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

Set Lead 2: (Action)

COUNTERTERRORISM
AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

INSPECTION
AT WASHINGTON, DC

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

cc: Ms. Thomas
[redacted]
IOB Library

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~~SECRET//ORCON/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/21/2006

To: [Redacted]

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

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Counterterrorism
Inspection

Attn: ITOS I/ CONUS 2, TEAM 7
Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/ LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

[Redacted Signature]

Drafted By:

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

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

(U) ~~(S)~~ **Synopsis:** 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 and deliver the necessary correspondence to the IOB.

(U) ~~(S)~~ **Derived From:** G-3
Declassify On: 20311221

(U) ~~(S)~~ **Reference:** 278-HQ-C1229736-VIO Serial 1384

(U) ~~(S)~~ **Administrative:** This document contains information obtained or derived from an electronic surveillance or physical search conducted under the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. Section 1806(b). Such information shall not be used in any criminal or administrative proceeding, including grand jury proceedings and warrant affidavits, without the prior written approval of the Attorney General of the United States. U.S. Person FISA derived information may not be disseminated to a

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/20/2006

foreign government without the prior written approval of the Attorney General of the United States.

Details: (S) [redacted]

[redacted]

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[redacted] Further, prior to [redacted] SA [redacted] contacted the [redacted] and confirmed that [redacted] would cease as scheduled [redacted] (S) Though [redacted] ceased on schedule, the telephone service provider, [redacted] nonetheless sent [redacted]

[redacted]

(U) [redacted] The case agent immediately notified the [redacted] on 05/05/2006 to contact the provider [redacted] to ensure that no more [redacted] was [redacted] sent to [redacted] The case agent then sealed [redacted] in an envelope to be sent to the Office of Intelligence Policy and Review via HQ Counterterrorism Division. On 05/16/2006, [redacted] sent an EC forwarding the sealed envelope containing [redacted] to HQ. OIPR has confirmed for the writer that the sealed envelope containing [redacted] has been received by OIPR and is being forwarded to the FISC for sequestration.

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(S//OC/NF) The case agent has confirmed that none of the telephone contacts [redacted] [redacted] have been stored in its databases and indices. Moreover, according to the FBI, none of the above-mentioned data has been used in any other FBI investigations and no copies of such information are being stored by any means by the FBI.

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To: [REDACTED] From: Office of the General Counsel
Re: 178-HQ-C1229736-V10, 12/20/2006

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ In this situation, the FBI received PR/TT data that was collected by the telecommunications service provider after the expiration of the FISC authority. Consequently, although unintentional and in spite of the diligent efforts by the case agent, unauthorized interception of PR/TT data of U.S. persons occurred. This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

(U) ~~(S)~~ Because the unauthorized PR/TT data material has already been collected, sequestered, sealed and delivered to OIFR for filing with the FISC, there are no action leads to the field or CTD.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

LEAD(s) :

Set Lead 1: (Info)

[redacted]
AT [redacted]

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(U) For information.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

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b7C

cc: Ms. Thomas
[redacted]
IOE Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/28/2006

To:

[Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 13

Inspection

Attn: IIS

From: General Counsel

NSLB/Counterterrorism Law Unit #1/LX1 3S119

Contact: UC

[Redacted]

Approved By: Thomas Julie F

[Redacted]

Drafted By:

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(U) ~~Case #:~~ (S) 278-HQ-C1229736-VIO (Pending)
b7E (S) 278-[Redacted]-C136372 (Pending)

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

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

(U) ~~Derived From:~~ G-3
~~Declassify On:~~ 20311228

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in Corel WordPerfect 8.

Reference: 278-HQ-C1229736-VIO Serial 1425

(U) ~~Details:~~ (S) By electronic communication (EC) dated May 18, 2006 (cited below),¹ the [Redacted] Division [Redacted]

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¹ (U) See EC from the [Redacted] Division to the Inspection Division and General Counsel, dated May 18, 2006, Case ID# 278-HQ-C1229736-VIO Serial 1425, titled "INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR"

~~SECRET~~

b2 To: [redacted] From: General Counsel
b7E (U) Re: ~~(S)~~ 278-HQ-C1229736-V10, 12/18/2006

reported a potential IOE involving a National Security Letter (NSL) issued by [redacted] which, through an error on the part of the provider, yielded cellular telephone subscriber information belonging to the wrong number, a number which was not the subject of an FBI national security investigation.

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(S) [redacted]
[redacted] On August 23, 2005, [redacted] served an NSL on an employee of [redacted] the cellular telephone provider, to obtain toll records and subscriber information for cellular telephone number [redacted] which were relevant to [redacted] [redacted] complied with the NSL but provided subscriber information for another telephone number which is not the subject of a national security investigation.

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(U) ~~(S)~~ On August 23, 2005, SA [redacted] made telephonic contact with [redacted] employee to obtain the correct subscriber information. [redacted] then sent the correct subscriber information via facsimile to [redacted] at [redacted] RA. SA [redacted] shredded the incorrect subscriber information on August 23, 2005 and subsequently no information was uploaded into FBI databases.

(U)

~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the error described here is a matter which must be reported to the IOB. We believe that the reported activity does not require IOE notification

(U) Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This has been interpreted to include violations of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection ("Attorney

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hereinafter cited as [redacted] ET."
(S) [redacted]

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(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-V10, 12/19/2006

General's Guidelines"), the implementation of which is mandated by Executive Order 12333.

(U) ~~(S)~~ As set forth in [redacted] the Attorney General's Guidelines, use of NSLs in conformity with 18 U.S.C. § 2709 is authorized when certain records are sought as part of a [redacted] investigation. 18 U.S.C. § 2709 authorizes the FBI to obtain certain subscriber and toll billing records from a wire communication service provider when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities."

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(U) ~~(S)~~ In this instance, pursuant to an authorized [redacted] investigation, [redacted] properly served an NSL requesting relevant subscriber information and toll billing records from a wire communication service provider. In response to this properly served NSL, the provider erroneously provided subscriber information for an unrelated telephone number which was not requested in the NSL and was not relevant [redacted] [redacted] contacted the provider, then shredded the inadvertently obtained information.

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

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(U) Since [redacted] already contacted the provider and shredded the inadvertently obtained material, there is no longer a need for an action lead to [redacted]

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~~SECRET~~

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b7E To: [redacted] From: General Counsel
Re: ~~127~~ 278-HQ-CI229736-VIO, 12/19/2006

LEAD(s) :

Set Lead 1: (Info)

[redacted]
[redacted]
AT [redacted]

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(U) For information.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

cc: Ms. Thomas

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[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/20/2006

To:

[Redacted]

Attn: SAC
CDS

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Counterterrorism
Inspection

Attn: ITOS 1, CONUS 2, TEAM 5
Attn: IIS

From: Office of the General Counsel
NSLB/CTLU1/LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By:

[Redacted]

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

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

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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 and deliver
the necessary correspondence to the IOB.

(U) ~~(S)~~ Derived From : G-3
Declassify On: 20311220

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO serial 1454

(U) Administrative: ~~(S)~~ This document contains information obtained
or derived from an electronic surveillance or physical search
conducted under the Foreign Intelligence Surveillance Act
("FISA"), 50 U.S.C. Section 1806(b). Such information shall not
be used in any criminal or administrative proceeding, including
grand jury proceedings and warrant affidavits, without the prior
written approval of the Attorney General of the United States.
U.S. Person FISA derived information may not be disseminated to a
foreign government without the prior written approval of the
Attorney General of the United States.

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Details: ~~(S)~~ The referenced serial from [Redacted] requested
that OGC review the facts of the captioned matter and determine

~~SECRET/NOFORN~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CLE29736-VIO, 12/20/2006

whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is required to report this matter to the IOB.

(S) [redacted]

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[redacted]

(S) SA [redacted] and SA [redacted] were working closely with ITOS I, CONUS II to obtain an emergency FISA search warrant for [redacted]. The following is the chain of events in which an IOE error may have occurred:

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(U) ~~(S)~~ At 3:44 p.m. [redacted] IA [redacted] ITOS I, CONUS II, contacted SA [redacted] via telephone, to advise authorization had been obtained [redacted]

(S) [redacted]

[redacted]

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(U) ~~(S)~~ At 4:20 p.m., SA [redacted] received a phone call from IA [redacted] indicating authorization of the FISA search warrant had been a mis-communication between her and the OTPR attorney, and it was not yet fully approved. IA [redacted] was advised the search had already been conducted, following the verbal approval she had previously given. SA [redacted] immediately telephonically advised A/SSA [redacted] who reported the error to [redacted] Executive Management.

(U) ~~(S/NF)~~ At 7:10 p.m., a telephone call was received by SA [redacted] from SSA [redacted] ITOS I, CONUS II, indicating verbal authorization had been granted [redacted]

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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(S)

[redacted] and instructed [redacted] to do so at this time. [redacted] advised FBI HQ this [redacted]
[redacted]
[redacted] FBI HQ insisted [redacted] and at 7:17 p.m., [redacted] was terminated, as [redacted]
[redacted]

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(S/NF)

(S)

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

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

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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(U) ~~(S)~~ The NSIG provide that investigative techniques authorized pursuant to [redacted] investigation include: [redacted]

[redacted]

(U) ~~(S)~~ In this instance, during an authorized [redacted] investigation, FBI [redacted] conducted a physical search [redacted] based upon an erroneous belief that the FBI had obtained emergency oral authority from the Attorney General for such a search, pursuant to the provisions of FISA. Since a physical search [redacted] was conducted without FISA authority, [redacted]

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[redacted] the physical search was a violation of the NSIG. Accordingly, this incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12963, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

(U) ~~(S)~~ [redacted] should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to OIPR for appropriate disposition by the FISC.

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LEAD (s) :

Set Lead 1: (Action)

~~(S)~~ There is no information to indicate that [redacted] was applicable in this case. [redacted] In this case, the subsequent FISA warrant [redacted]

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[redacted]

~~SECRET/NOFORN~~

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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[REDACTED]
[REDACTED] AT [REDACTED]
(U) [REDACTED] should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to OIPR for appropriate disposition by the FISC.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) The FBIHQ substantive unit should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to OIPR for appropriate disposition by the FISC.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

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cc: Ms. Thomas
[REDACTED]
IOE Library

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~~SECRET/NOFORN~~

~~SECRET~~

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[REDACTED] FIELD OFFICE
IOB MATTER 2006 [REDACTED] (U)

(U)

~~(S)~~ By electronic communication dated June 21, 2006, the Federal Bureau of Investigation (FBI) [REDACTED] Field Office reported that, during an authorized investigation of a non-U.S. Person, the FBI conducted a physical search [REDACTED] based upon an erroneous belief that the FBI had obtained emergency oral authority from the Attorney General for such a search, pursuant to the provisions of FISA.

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(U)

~~(S)~~ The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIC) provide that investigative techniques authorized pursuant to [REDACTED] investigation include: [REDACTED]

[REDACTED] In this instance, since a physical search [REDACTED] was conducted without FISA authority, [REDACTED] the physical search was a violation of the NSIC. Thus, the matter is being reported to the IOB.

(U) ~~(S)~~ The inadvertently obtained material was sequestered and will be filed with the Foreign Intelligence Surveillance Court.

Derived from: G-3
Declassify on: 20311220

~~SECRET~~

DECLASSIFIED BY 65179 DMH/KSR/MAJ
ON 12-19-2007

NSL VIO-31143



U.S. Department of Justice

Federal Bureau of Investigation

~~SECRET~~

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: 20311220~~

~~SECRET~~

NSL VIO-31144

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

~~SECRET~~

NSL VIO-31145

~~SECRET//NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/22/2006

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To:

[Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 2, TEAM 7

Inspection

Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/ LX1 Room 3S119

Contact: UC

[Redacted]

Approved By: Thomas Julie F

Drafted By:

[Redacted]

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

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

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

(U)

~~Derived From : G-3
Declassify On: 20311222~~

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO serial 1490

(U) Administrative: ~~(S)~~ This document contains information obtained or derived from an electronic surveillance or physical search conducted under the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. Section 1806(b). Such information shall not be used in any criminal or administrative proceeding, including grand jury proceedings and warrant affidavits, without the prior written approval of the Attorney General of the United States. U.S. Person FISA derived information may not be disseminated to a foreign government without the prior written approval of the Attorney General of the United States.

~~SECRET//NOFORN~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/22/2006

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(U) ~~(S)~~ Details: The referenced serial from [redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is required to report this matter to the IOB.

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(S) [redacted]
[redacted] Pursuant to [redacted] issued an NSL for accounts associated with [redacted] to [redacted]. In response to the NSL, an e-mail address associated with [redacted] was identified by [redacted]. However, results from another NSL requesting subscriber information for that e-mail address revealed that the e-mail address did not belong to the subject [redacted]. Accordingly, no further investigation was done on that e-mail address.

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(S/NF) During the FISA application process for [redacted] OIPR Attorney [redacted] requested [redacted] [redacted] responded with [redacted] e-mail addresses from the original NSL, and inadvertently included [redacted].

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(S/NF) Several days after the FISA order authorizing [redacted] was implemented, [redacted] reviewed [redacted] information and discovered that [redacted] [redacted] was not associated with the FISA target [redacted]. Upon discovering the error, TFO [redacted] immediately notified ITOS I, CONUS II and OIPR Attorney [redacted].

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(U) ~~(S)~~ As directed, all hard copy information concerning that e-mail address has been destroyed and removed from all FBI [redacted] computers. One compact disk containing all files [redacted] was forwarded to SSA [redacted] of ITOS I, CONUS II.

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities,

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/22/2006

the IOB has been given authority to review the FEI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

~~(U)~~ ~~(S)~~ The NSIG provide that authorized investigative techniques for [redacted] national security investigations [redacted]
[redacted]

~~(U)~~ ~~(S)~~ In this situation, the FBI and OIER inadvertently included an email account not associated with the FBI subject in a FISA application. [redacted]

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[redacted] in violation of the NSIG. This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

~~(U)~~ ~~(S)~~ Because the inadvertently captured information has already been collected, sequestered, sealed and delivered to CTD,

~~SECRET//NOFORN~~

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To: [REDACTED] From: Office of the General Counsel
Re: T78-HQ-C1229736-V10, 12/22/2006

ITCS1, there is no action lead to the field. If not already done, CTD, ITCS1 should ensure that all inadvertently captured information is delivered to OIPR for appropriate disposition by the FISC.

LEAD(s) :

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/22/2006

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Set Lead 1: (Info)

[redacted]
AT [redacted]

(U) For information.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) The FBIHQ substantive unit should ensure that all inadvertently captured information is delivered to OIPR for appropriate disposition by the FISC.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

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cc: Ms. Thomas
[redacted]
IOE Library

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~~SECRET//NOFORN~~

(Rev. 01-31-2003)

~~SECRET//NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/22/2006

To: [Redacted]

Attn: SAC
CDC

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Counterterrorism
Inspection

Attn: ITOS 1, CONUS 2, TEAM 7
Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/ IX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

(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 and deliver the necessary correspondence to the IOB.~~

(U)

~~Derived From : G-3
Declassify On: 20311222~~

(U)

(U) **Reference:** (S) ~~278-HQ-C1229736-VIO serial 1490~~

Administrative: (S) ~~This document contains information obtained or derived from an electronic surveillance or physical search conducted under the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. Section 1806(b). Such information shall not be used in any criminal or administrative proceeding, including grand jury proceedings and warrant affidavits, without the prior written approval of the Attorney General of the United States. U.S. Person FISA derived information may not be disseminated to a foreign government without the prior written approval of the Attorney General of the United States.~~

~~SECRET//NOFORN~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/22/2006

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Details: (S) [redacted]
[redacted]
[redacted] Pursuant to [redacted] issued an NSL for accounts associated with [redacted] addressed to [redacted]. In response to the NSL, an e-mail address associated with [redacted] was identified by [redacted]. However, results from another NSL requesting subscriber information for that e-mail address revealed that the e-mail address did not belong to the subject [redacted]. Accordingly, no further investigation was done on that e-mail address.

(S/NF) During the FISA application process for [redacted] OIPR Attorney [redacted] requested [redacted] [redacted] responded with [redacted] [redacted] from the original NSL, and inadvertently [redacted]

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(S/NF) Several days after the FISA order authorizing [redacted] was implemented, [redacted] discovered that [redacted] [redacted] was not associated with the FISA target [redacted]. Upon discovering the error, TFO [redacted] immediately notified ITOS I, CONUS II and OIPR Attorney [redacted].

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(U) ~~(S)~~ As directed, all hard copy information concerning that e-mail address has been destroyed and removed from all FEI [redacted] computers. One compact disk containing all files relating to the e-mail address was forwarded to SSA [redacted] of ITOS I, CONUS II.

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence

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To: [redacted] From: Office of the General Counsel
Re: 178-HQ-C1229736-V10, 12/22/2006

Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ The NSIG provide that authorized investigative techniques for [redacted] national security investigations include

[redacted]

(U) ~~(S)~~ In this situation, the FBI and OIGP inadvertently included an email account not associated with the FBI subject in a FISA application. This resulted in [redacted]

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[redacted] that was not associated with the FBI subject, in violation of the NSIG. This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

(U) ~~(S)~~ Because the inadvertently captured information has already been collected, sequestered, sealed and delivered to CTD, ITOS1, there is no action lead to the field. If not already done, CTD, ITOS1 should ensure that all inadvertently captured

~~SECRET//NOFORN~~

To: [REDACTED] From: Office of the General Counsel
Re: T78-HQ-C1229736-V10, 12/22/2006

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information is delivered to OIPR for appropriate disposition by the FISC.

LEAD(s) :

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~~SECRET//NOFORN~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-01229736-VIO, 12/22/2006

Set Lead 1: (Info)

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[redacted]
AI [redacted]

(U) For information.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) The FBIHQ substantive unit should ensure that all inadvertently captured information is delivered to OIPR for appropriate disposition by the FISC.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

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cc: Ms. Thomas
[redacted]
IOB Library

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~~SECRET//NOFORN~~

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[REDACTED] FIELD OFFICE
IOB MATTER 2006-[REDACTED] (U)

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(U)

~~(S)~~ By electronic communication dated July 5, 2006, the Federal Bureau of Investigation (FBI) [REDACTED] Field Office reported that the FBI and the Office of Intelligence Policy and Review (OIPR) inadvertently included an email account not associated with the FBI subject in a Foreign Intelligence Surveillance Act (FISA) application. This resulted in [REDACTED]

[REDACTED] was not associated with the FBI subject. The [REDACTED] material was sequestered and will be filed with the Foreign Intelligence Surveillance Court.

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~~(U)~~ ~~(S)~~ The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provide that authorized investigative techniques for [REDACTED] national security investigations [REDACTED]

[REDACTED] that was not associated with the FBI subject violated the NSIG. Thus, the matter is being reported to the IOB.

~~Derived from G-3
Declassify on: 2031222~~

~~SECRET~~

DECLASSIFIED BY 65179 dmh/ksr/maj
ON 12-19-2007

NSL VIO-31156



U.S. Department of Justice

Federal Bureau of Investigation

~~SECRET~~

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: 20311222

~~SECRET~~

NSL VIO-31157

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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
U.S. Department of Justice
Room 6150

~~SECRET~~

NSL VIO-31158

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/20/2006

To: [Redacted]

Attn: SAC
CDC

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Counterterrorism
Inspection

Attn: ITOS 1, CONUS 2, TEAM 6
Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

b2

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

(U) ~~Derived From : G-3
Declassify On: 20311220~~

(U) Reference: (S) 278-HQ-C1229736-VIO serial 1505

b2 b7E (U) Details: (S) The referenced serial from [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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(S) [Redacted]

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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Security Letter (NSL) dated 12/01/2005 [redacted] was submitted to [redacted] requesting the identification of any e-mail addresses used by the subject (subscriber information). In addition to the e-mail subscriber information, [redacted] provided history logs, which were not requested in the original NSL dated 12/01/2005 (electronic communication transactional records). The [redacted] case agent conferred with the CDC and it was decided that [redacted] should include in their response that [redacted] willingly provided the history logs.

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(U) ~~(S)~~ Two NSLs were subsequently issued for information that was provided on the history logs. There were no responsive records for the first NSL (issued to [redacted]). In response to the second NSL, [redacted] was able to provide information relating to the IP address. The results of this NSL were stored in a 1-A envelope and were not uploaded into ACS.

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(U) ~~(S)~~ In May 2006, the case agent was informed that the history logs were an over collection of records. [redacted] history logs were turned over to CDC [redacted] on 06/20/2006 to be sequestered. Only the subscriber account information that was requested in the original NSL to [redacted] was copied from these logs and placed in a 1-A envelope.

(U) ~~(S)~~ The case agent believed that the results received from the issuance of the previously mentioned NSLs to [redacted] also needed to be sequestered. Since [redacted] did not have any data for the phone number that was requested, nothing needed to be sequestered regarding that NSL. [redacted] did provide information pertaining to the one IP address that was collected from the history logs. The original results were removed from the 1-A and copied, with this second IP address blacked out. The first IP address information is being stored in the 1-A. The original results were turned over to CDC [redacted] on 07/07/2006.

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(U) ~~(S)~~ None of the NSL results that were acquired from [redacted] or [redacted] were uploaded into ACS or any other FBI databases.

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(U) ~~(S)~~ Since electronic communication transactional records can lawfully be obtained with an NSL, [redacted] served an NSL, dated 04/11/2006, to [redacted] requesting transactional data [redacted]. The second IP address that was provided in [redacted] (that is being sequestered) was provided in these results. [redacted] may submit

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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another NSL in an attempt to gain IP information relating to this address. [REDACTED] submitted another NSL to [REDACTED] dated 05/16/2006 requesting transactional logs from the date of inception through [REDACTED] and anticipates that the first telephone number mentioned in [REDACTED] will be provided within these results. At that time another NSL will be submitted to the communication carrier to whom the number was resold.

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

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

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention, including subscriber information and electronic communication transactional records in the custody of electronic communications service providers (Electronic

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

Communications Privacy Act, 18 U.S.C. § 2709). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. NSTG, section V.12.

(U) ~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL on an electronic communications service provider requesting subscriber information. In response to the properly served NSL, the FBI inadvertently obtained information beyond the scope of the NSL (electronic communication transactional records). FBI [redacted] identified the problem, and properly sequestered the electronic communication transactional records.

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

(U) [redacted] should contact the electronic communications service provider and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. Alternatively, since electronic communication transactional records can lawfully be obtained with an NSL, [redacted] may serve an NSL for the electronic communication transactional records received from the electronic communications service provider.

LEAD(s) :

Set Lead 1: (Action)

[redacted]
AT [redacted]

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

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-CIC29736-VIO, 12/20/2006

Alternatively, since electronic communication transactional records can lawfully be obtained with an NSL, [REDACTED] may serve an NSL for the electronic communication transactional records received from the electronic communications service provider.

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Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

cc: Ms. Thomas
[REDACTED]
IOE Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/20/2006

To: [Redacted]

Attn: SAC
CDC

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Counterterrorism

Attn: ITOS 1, CONUS 2, TEAM 6

Inspection

Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

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

(U) (S) ~~Derived From : G-3
Declassify On: 20311220~~

(U) Reference: (S) 278-HQ-C1229736-VIO serial 1506

(U) Details: (S) The referenced serial from [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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(S)

[Redacted]

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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[redacted] Security Letter (NSL) dated 06/08/2006 [redacted] was submitted to [redacted] for toll records relating to one telephone number, [redacted] and subscriber information relating to another telephone number, [redacted]. The results were received from the [redacted] field office with an EC dated 06/29/2006. Included in the results were toll records for [redacted] for a time period that was not requested. In addition, [redacted] provided toll records for [redacted] when only subscriber information was requested. On 07/10/2006 the additional toll records were given to CDC [redacted] to be sequestered. The subscriber information and toll records that were requested in the NSL, are stored in a 1-A.

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(S) None of the aforementioned toll records were entered into [redacted] or ACS. The additional toll records that were provided for [redacted] were already requested in a previous NSL, therefore they were already entered [redacted]

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CI229736-VIO, 12/20/2006

unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12833, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention, including subscriber information and toll billing records in the custody of wire communication service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. NSIG, section V.10.

(U) ~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL on a wire communication service provider requesting subscriber information and toll billing records. In response to the properly served NSL, the FBI inadvertently obtained information beyond the scope of the NSL (toll billing records for a period of time not requested, and toll billing records in response to a request for only subscriber information). FBI [redacted] identified the problem, and properly sequestered the toll billing records.

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

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(U) [redacted] should contact the wire communication service provider and ask whether the improperly or

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. Alternatively, since toll billing records may lawfully be obtained with an NSL, [redacted] may serve an NSL for the toll billing records if they relevant to the authorized investigation.

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LEAD(s) :

Set Lead 1: (Action)

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[redacted]
AT [redacted]

~~SECRET~~

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-CIC29736-VIO, 12/20/2006

b2 (U) [redacted] should contact the wire communication
b7E service provider and ask whether the improperly or
unintentionally acquired information should be returned or
destroyed with appropriate documentation to the file.
Alternatively, since toll billing records may lawfully be
obtained with an NSL, [redacted] may serve an NSL for the toll
billing records if they relevant to the authorized investigation.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

b6 cc: Ms. Thomas
b7C [redacted]
IOB Library

♦♦

~~SECRET~~

~~SECRET~~

DATE: 12-07-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 12-07-2032

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/20/2006

To: [Redacted]

Attn: SAC
CDS

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Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 16

Inspection

Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

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

~~(U)~~ ~~(S)~~ **Derived From:** G-3
Declassify On: 20311220

~~(U)~~ ~~(S)~~ **Reference:** 278-HQ-C1229736-VIO serial 1548

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b7E ~~(U)~~ ~~(S)~~ **Details:** The referenced serial from [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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(S) [Redacted]

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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(S) [redacted] on 02/06/2006, a National Security Letter (NSL) was issued by the [redacted] Division directing [redacted] to provide "to the Federal Bureau of Investigation (FBI) the names, addresses, and length of service and electronic communications transactional records, to include existing transaction/activity logs and all electronic mail (e-mail) header information (not to include message content and/or subject fields), for the below listed email address holder(s):

[redacted]

(S) On 03/17/2006, [redacted]

provided account records and two CD-Roms containing copies of the files pertaining to the subject [redacted] to SA [redacted] Division, which he forwarded to SA [redacted] On 04/03/2006, SA [redacted] sent a lead and forwarded

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the data contained in the two CD's to [redacted] IA [redacted] loaded the data into a standalone computer [redacted] IA [redacted] then [redacted] The remaining data was left on the standalone computer [redacted] Because the excess data contained information [redacted] it believed that the [redacted] may have provided content information, which was not requested and specifically excluded in the NSL.

[redacted]

[redacted]

[redacted]

(U)

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~~(S)~~ On 07/14/2006, [redacted] SSA [redacted] discovered the oversight and notified Unit Chief [redacted] On 07/17/2006, UC [redacted] contacted ITOS 1 [redacted] Unit Chief [redacted] who in turn notified [redacted] Division. Based on the discovery, [redacted] SSA [redacted] has indicated that the excess data will be removed from the standalone computer, sequestered, and stored pending further determination.

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention, including subscriber information and electronic communication transactional records in the custody of electronic communications service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. NSIG, section V.12.

(U) ~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL on an electronic communications service provider requesting subscriber information and electronic communication transactional records. In response to the properly served NSL, the FBI inadvertently obtained information beyond the scope of the NSL (email content information). The FBI identified the problem, and properly sequestered the content information.

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

(U) [redacted] should contact the electronic communications service provider and ask whether the improperly or

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/20/2006

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unintentionally acquired information should be returned or destroyed with appropriate documentation to the file, and coordinate with ECPs accordingly.

LEAD(s) :

Set Lead 1: (Action)

[redacted]
AT [redacted]
(U) [redacted]

[redacted] should contact the electronic communications service provider and ask whether the improperly or unintentionally acquired information should be returned or

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 12/20/2006

destroyed with appropriate documentation to the file, and coordinate with EOPs accordingly.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

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cc: Ms. Thomas
[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/20/2006

To: [Redacted]

Attn: SAC
CDC

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Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 13

Inspection

Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/ LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

(U)

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

(U)

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

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(U)

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

(U)

~~Derived From : G-3
Declassify On: 20311220~~

(U)

Reference: (S) 278-HQ-C1229736-VIO serial 1648

(U)

Administrative: (S) This document contains information obtained or derived from an electronic surveillance or physical search conducted under the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. Section 1806(b). Such information shall not be used in any criminal or administrative proceeding, including grand jury proceedings and warrant affidavits, without the prior written approval of the Attorney General of the United States. U.S. Person FISA derived information may not be disseminated to a foreign government without the prior written approval of the Attorney General of the United States.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/20/2006

Details: (S/NF) [redacted]

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[redacted]

[redacted]

SA [redacted] contacted [redacted] personnel immediately. [redacted] then sought contact with appropriate personnel [redacted]

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

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(S) [redacted]
[redacted]
[redacted]

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/20/2006

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(S) (U) ~~(S)~~ In this situation, the FBI implemented court-ordered [redacted] and inadvertently [redacted] information that was not associated with [redacted] specified in the court order, thereby exceeding the scope of the court order. This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

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(U) ~~(S)~~ [redacted] should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to OIPR for appropriate disposition by the FISC.

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LEAD (s) :

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/20/2006

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Set Lead 1: (Action)

[redacted]

AT [redacted]

(U) [redacted] should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to OIPR for appropriate disposition by the FISC.

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Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) The FBIHQ substantive unit should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to OIPR for appropriate disposition by the FISC.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

cc: Ms. Thomas
[redacted]
IOE Library

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

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(U) ~~(S)~~ By electronic communication dated September 13, 2006, the Federal Bureau of Investigation (FBI) [redacted] Field Office reported that the FBI implemented court-ordered [redacted] and inadvertently obtained [redacted] information that was not associated with [redacted] the court order, thereby exceeding the scope of the court order. The inadvertently intercepted material was sequestered and will be filed with the Foreign Intelligence Surveillance Court.

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(U) ~~(S)~~ The overcollection was a violation of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection. Thus, the matter is being reported to the IOB.

~~Derived from: 6-3
Declassify on: 10311200~~

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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 2007-" (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: 20320110~~

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NSL VIO-31179

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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
U.S. Department of Justice
Room 6150

~~SECRET~~

NSL VIO-31180

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/10/2007

To: [Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 1, TEAM 2

Inspection

Attn: IIS

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From: Office of the General Counsel
NSL/CTLU1/ LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

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(U) ~~(S)~~ **Synopsis:** 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 and deliver the necessary correspondence to the IOB.

(U)

~~Derived From : G-3
Declassify On: 20320110~~

(U) ~~(S)~~ **Reference:** 278-HQ-C1229736-VIO serial 2572

(U) ~~(S)~~ **Administrative:** This document contains information obtained or derived from an electronic surveillance or physical search conducted under the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. Section 1806(b). Such information shall not be used in any criminal or administrative proceeding, including grand jury proceedings and warrant affidavits, without the prior written approval of the Attorney General of the United States. U.S. Person FISA derived information may not be disseminated to a foreign government without the prior written approval of the Attorney General of the United States.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 01/10/2007

Details: (S//NF) [redacted]

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[redacted]

(S) [redacted] failed to advise [redacted]. Therefore, there was an over collection [redacted]. However, none of this over collection was reviewed or analyzed.

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~~(S)~~ No personal or identifying information was uploaded into ACS. Additionally, no ACS checks, [redacted] data base checks were run on any of this information.

(U) [redacted]

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 01/10/2007

other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(S) In this situation, the FBI inadvertently exceeded the scope of a FISA court order [redacted]

[redacted]

[redacted]

[redacted] This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

(U) ~~(S)~~ [redacted] should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to OIPR for appropriate disposition by the FISC.

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LEAD(s) :

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 01/10/2007

Set Lead 1: (Action)

[redacted]

AT [redacted]

(U) [redacted] should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to OIPR for appropriate disposition by the FISC.

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Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) The FBIHQ substantive unit should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to OIPR for appropriate disposition by the FISC.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

cc: Ms. Thomas
[redacted]
IOE Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/08/2006

To: [Redacted]

Attn: SAC [Redacted]
SRA [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLB/CTLU1/LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

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

(U) ~~(S)~~ Derived From : G-3
Declassify On: 20311208

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO serial 1806

(U) Details: ~~(S)~~ The referenced serial from [Redacted] requested that
OGC review the facts of the captioned matter and determine whether
it warrants reporting to the IOB. As explained below, in our
opinion, the FBI is not required to report this matter to the IOB.

(S) On 10/03/2006, TFO [Redacted] served [Redacted]

b6 [Redacted] an NSL for [Redacted] e-mail account
b7C requesting electronic communications transactional information.
b1 Upon viewing the information provided by [Redacted] in response to the
b7D NSL, TFO [Redacted] determined that the content of the e-mail
messages was included with the header and footer information. TFO

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/08/2006

[REDACTED] advised SRA [REDACTED] of the situation. Contact was made with [REDACTED] Division Counsel [REDACTED] who provided details on how to report the incident and handle the material.

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(U) There were no reports written or leads set as a result of obtaining these records. Efforts are currently underway to separate the header and footer information from content. The original disk will then be forwarded to the [REDACTED] Division Counsel or FBIHQ as directed.

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

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

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/08/2006

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

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(U) ~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL on an electronic communications service provider. In response to the properly served NSL, the FBI obtained information beyond the scope of the NSL (email content information). FBI [REDACTED] identified the problem, and properly sequestered the email content information. There were no reports written or leads set as a result of the email content information.

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

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(U) The [REDACTED] Field Office should contact the provider and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/08/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Action)

[redacted]
AT [redacted]

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(U) The [redacted] Field Office should return the improperly or unintentionally acquired information to the provider, or destroy the information with appropriate documentation to the file.

cc: Ms. Thomas
[redacted]
IOE Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/13/2006

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To: [Redacted]

Attn: SAC
CDC

Counterterrorism
Inspection

Attn: ITOS 1, CONUS 2, TEAM 8
Attn: IIS

From: Office of the General Counsel
NSL/CTLU1/LN1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

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

(U) ~~(S)~~ **Derived From:** G-3
Declassify On: 20311213

(U) ~~(S)~~ **Reference:** 278-HQ-C1229736-VIO serial 1668

(U) ~~(S)~~ **Details:** The referenced serial from [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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(S) [Redacted]
[Redacted] Notification of the [Redacted]
[Redacted] Investigation [Redacted] was due [Redacted] but was not
provided until [Redacted]. The delay in the notification was due
to oversight by the assigned case agent. The authorization period

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

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[redacted] lapsed [redacted] was re-authorized on [redacted] by the SAC [redacted] extending it until [redacted]. No investigative activity occurred during the lapse of authorization period. [redacted] authorization for [redacted] ended. FBIHQ extended [redacted] on [redacted] for the period [redacted]. On [redacted] FBIHQ extended authorization [redacted] [A check of ACS on [redacted] indicated that no investigative activity occurred during any of these lapses.]

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

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

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

(U) ~~(S)~~ As provided in [redacted] the NSIG, a "field office shall notify FBI Headquarters [FBIHQ] within ten working days of the initiation by the field of [redacted] investigation." After receiving the notice from the field office, FBIHQ shall provide notice to the Office of Intelligence Policy and Review (OIPR) and to the Criminal Division. OIPR shall then notify the Attorney General and Deputy Attorney General. The FBI shall also provide the notice of initiation to any relevant United States Attorney's office, subject to authorization by the Criminal Division, in an espionage case. This requirement applies to both U.S. persons and non-U.S. persons.

~~(S)~~ With regard [redacted] investigation, [redacted] of the NSIG provides in pertinent part that:

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~~(S)~~

[redacted]

All extensions shall be in writing and include the justification for the extension.

...

(Emphasis added.)

~~(S)~~ In this instance, there are several issues to consider. First, the initial notice of case initiation was filed approximately 60 days late. Although late, this initial notice did afford the Department of Justice opportunity to exercise oversight of the investigation. [redacted]

(S)

were lapses in time [redacted]

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b7E

To: From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

However, no investigative activity occurred during the lapses of authorization.

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

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

LEAD(s) :

Set Lead 1: (Info)

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b7E

[redacted]
AT [redacted]

(U) For information.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

b6
b7C

cc: Ms. Thomas
[redacted]
IOB Library

◆◆

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/13/2006

To: [Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 3, TEAM 12

Inspection

Attn: IIS

From: Office of the General Counsel
NSLB/CTLU1/LX1 Room 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

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

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

~~(S)~~ **Derived From :** G-3
Declassify On: 20311213

(U) ~~(S)~~ **Reference:** 278-HQ-C1229736-VIO serial 1806

(U) ~~(S)~~ **Details:** The referenced serial from [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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(S) Pursuant to [Redacted]
[Redacted]
[Redacted] TEO [Redacted] served [Redacted]
[Redacted] a National Security Letter (NSL) for [Redacted] e-mail account requesting electronic communications transactional information.

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~~SECRET~~

To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

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(S)

Upon viewing the information provided by [REDACTED] in response to the NSL, TFO [REDACTED] determined that the content of the e-mail messages was included with the header and footer information. TFO advised SRA [REDACTED] of the situation. Contact was made with [REDACTED] Division Counsel [REDACTED] who provided details on how to report the incident and handle the material.

b2
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(U) There were no reports written or leads set as a result of obtaining these records. Efforts are currently underway to separate the header and footer information from content. The original disk will then be forwarded to the [REDACTED] Division Counsel or FBIHQ as directed.

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

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

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(S) NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. NSIG, section V.10.

(U)

~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL on an electronic communications service provider. In response to the properly served NSL, the FBI obtained information beyond the scope of the NSL (email content information). FBI [redacted] identified the problem, and properly sequestered the email content information. There were no reports written or leads set as a result of the email content information.

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(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12963, it is our opinion that this error is not reportable to the IOB. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

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

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

LEAD(s) :

Set Lead 1: (Info)

b2
b7E

[redacted]
AT [redacted]

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

b6
b7C

cc: Ms. Thomas
[redacted]
IOB Library

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~~SECRET~~

~~SECRET//NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/2/2007

To: [Redacted]

Attn: SAC

Counterterrorism

Attn: ITOS 1/CONUS 1/Team 3

Inspection

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

b2
b7E
b6
b7C

From: General Counsel

National Security Law Branch/CTUL 1/LX-1 3S-100

Contact: [Redacted]

Approved By: Thomas Julie F

[Redacted]

Drafted By:

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

Title: (U) Intelligence Oversight Board (IOB) Matter 2006-[Redacted] b2

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

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

b1 (U) ~~(S)~~ **Reference:** 278-HQ-C1229736-VIO Serial 1255 (Pending)
b2 (S) [Redacted] (Pending)
b7E

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

(U) ~~(S)~~ **Details:** By electronic communication (EC) dated March 24, 2006 and referenced above, the [Redacted] Division [Redacted] reported to the Counterterrorism Division and the Office of the General Counsel's National Security Law Branch (NSLB) this potential IOB matter.

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(S) [Redacted]

~~SECRET//NOFORN~~

b2 To: [redacted] From: General Counsel
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/1/2007

authorized in accordance with the Attorney General Guidelines.

(S)

[redacted]

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(S)

[redacted]

(S) [redacted] drafted a National Security Letter (NSL) on February 7, 2006 to [redacted] the following verbiage: "provide to the Federal Bureau of Investigation (FBI), the name, address, length of service, long distance provider and toll records for the last 12 months which are associated with the following telephone number:

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[redacted]

(S) [redacted] received results on March 21, 2006 indicating telephone number [redacted] relates to [redacted] number [redacted] and subscribed to by [redacted]

[redacted] In addition to the information specifically requested for telephone number [redacted] took a broad reading of the NSL and provided information regarding three additional telephone numbers associated with [redacted] account number [redacted] and provided toll record information for two of those three telephone numbers. All of the information received was relevant to an authorized national security investigation. [redacted] will issue a second NSL for the additional information.

ANALYSIS

(U)

~~(S)~~ As required by Executive Order (E.O.) 12363 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the surveillance errors described here are matters that

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(U)

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/1/2007

should be reported to the IOB. We believe that the reported activity does not require IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.¹ For the FBI, the Office of the General Counsel (OGC) submits reports to the IOB.²

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(U) ~~(S)~~ The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (NSIG) provide that "all lawful investigative techniques may be used [redacted] investigations." NSIG (Introduction) at 4. Section 2-56 of the NFIFM identifies as reportable to the IOB unauthorized investigations, the use of unlawful methods and techniques, exceeding the authorized scope of permitted activities, and failing to adhere to minimization requirements.³

(U)

~~(S)~~ See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The Inspection Division is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U)

~~(S)~~ See id. at 4.

(U)

~~(S)~~ See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) unauthorized investigations; (4) use of methods or techniques other than those authorized in the conduct of [redacted] investigations; (5) initiating a form

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107 To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/1/2007

(U) ~~(S)~~ In this instance, due to a broad reading of an NSL by the telephone company, [redacted] received information on several telephone numbers associated with the subject of the NSL (all on the same account), even though [redacted] did not specifically request information for these numbers. All of the information received was relevant to an authorized national security investigation. [redacted] will issue a second NSL for the additional records. The broad reading of the NSL by the telephone company does not need be reported to the IOB.

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(U) ~~(S)~~ OGC requests that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.

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b7E (U) To: [redacted] From: General Counsel
Re: [redacted] 278-HQ-C1229736-VIO, 10/2/2007

LEAD (s) :

Set Lead 1: (Discretionary)

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b7E

[redacted]
AT [redacted]

(U) For review and action deemed appropriate.

Set Lead 2: (Information)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

(U) As provided in the Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, retain a record of the report of a potential IOB matter for three years for possible review by the Counsel to the IOB, together with a copy of the OGC opinion concerning the basis for the determination that IOB notification is not required.

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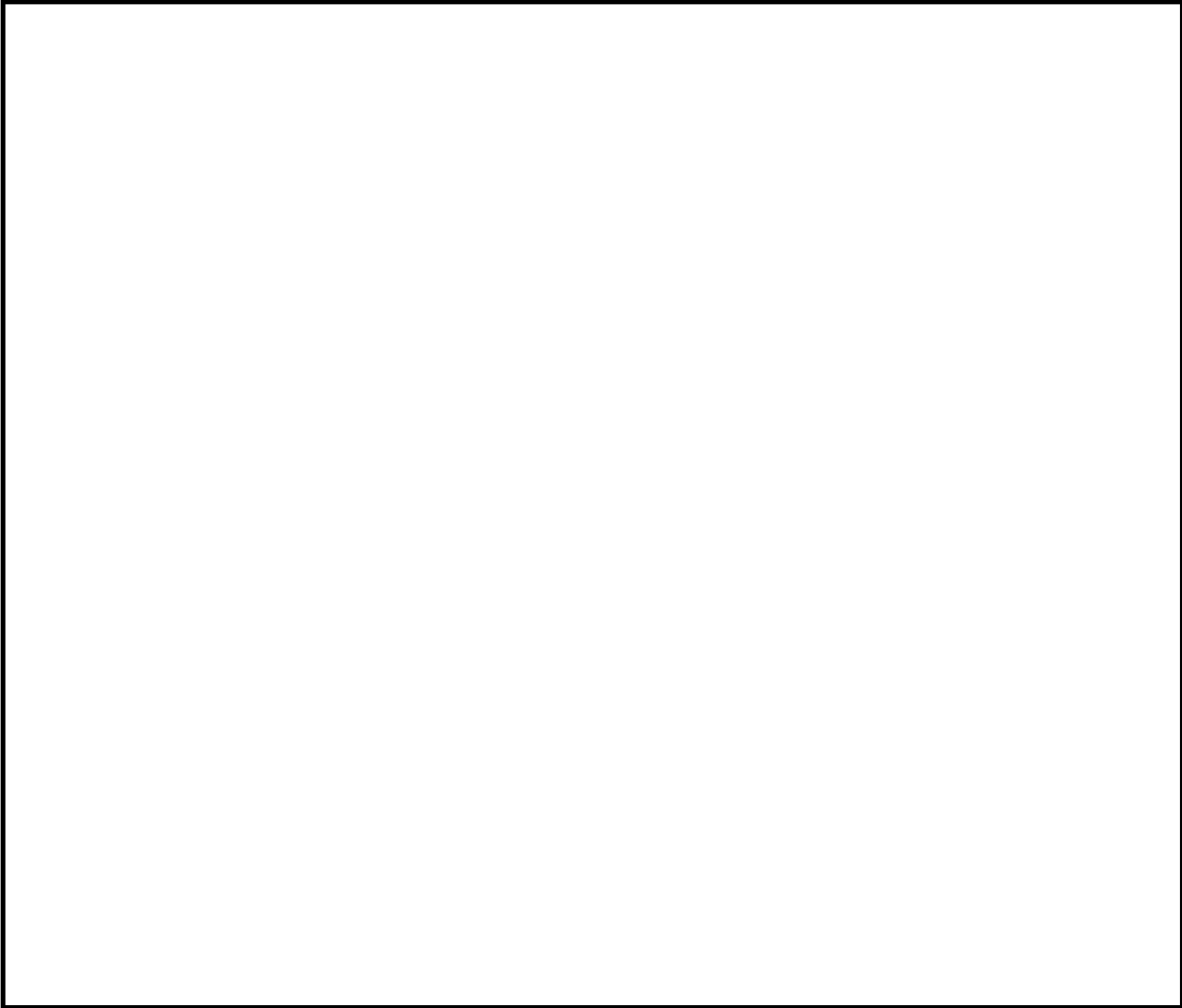
Message.txt
MessageFrom: [redacted] (OGC) (FBI) b6
Sent: Tuesday, December 14, 2004 11:18 AM b7C
To: [redacted] (OGC) (FBI); [redacted] (ITD) (FBI); [redacted]
[redacted] (OGC) (FBI)
Subject: FW: 207208 letter

UNCLASSIFIED
NON-RECORD

my comments, for info of TLU

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, December 14, 2004 11:16 AM
To: [redacted] (OGC) (FBI); [redacted] b6
[redacted] (FBI); THOMAS, JULIE F. (OGC) (FBI); KELLEY, PATRICK W. (OGC) b7C
(FBI); [redacted] (FBI)
Subject: RE: 207208 letter

UNCLASSIFIED
NON-RECORD



b5
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Message.txt

[Redacted]

b5
b6
b7C

Thanks. [Redacted]

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

From: [Redacted] (OGC) (FBI) b6
Sent: Friday, December 10, 2004 9:45 AM b7C
To: [Redacted] (OGC) (FBI)
Subject: Fw: 207208 letter

UNCLASSIFIED
NON-RECORD

FYI

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

From: [Redacted] (ITD) (FBI)
Sent: Monday, November 15, 2004 8:05 PM b6
To: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); THOMAS, b7C
JULIE E. (OGC) (FBI); KELLEY, PATRICK W. (OGC) (FBI)
Cc: [Redacted] (ITD) (FBI)
Subject: RE: 207208 letter

UNCLASSIFIED
NON-RECORD

Unless I hear back otherwise, given everyone's comments, I will reply back to [Redacted] that FBI OGC is reviewing the matter [Redacted]

[Redacted]

b5
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PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT PRIOR OGC APPROVAL

[Redacted]

Associate General Counsel - Unit Chief

[Redacted]

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

From: [Redacted] (OGC) (FBI) b6
Sent: Monday, November 15, 2004 11:43 AM b7C

Message.txt
To: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] [redacted] b6
[redacted] (ITD) (FBI) b7C
Subject: RE: 207208 letter

UNCLASSIFIED
NON-RECORD

Since the pony [redacted] sent refers to [redacted], let me see what I can find out b6
from my end. b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, November 15, 2004 10:46 AM
To: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] b6
[redacted] (ITD) (FBI) b7C
Subject: Fw: 207208 letter

UNCLASSIFIED
NON-RECORD b6
b7C

[redacted] comments.
-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, November 15, 2004 10:35 AM b6
To: [redacted] (OGC) (FBI) b7C
Subject: RE: 207208 letter

UNCLASSIFIED
NON-RECORD

I have never seen this. I agree with [redacted] [redacted]

[redacted]

b6
b7C
b5

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, November 15, 2004 9:10 AM b6
To: [redacted] (OGC) (FBI) b7C
Subject: Fw: 207208 letter

UNCLASSIFIED
NON-RECORD

What do you think?
-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Monday, November 15, 2004 8:36 AM b6
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) b7C
Subject: Fw: 207208 letter

UNCLASSIFIED

Message.txt

NON-RECORD

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b7C

Dear [redacted]

Please note the attachments from [redacted] Is this letter one we have approved? Please advise,

Julie

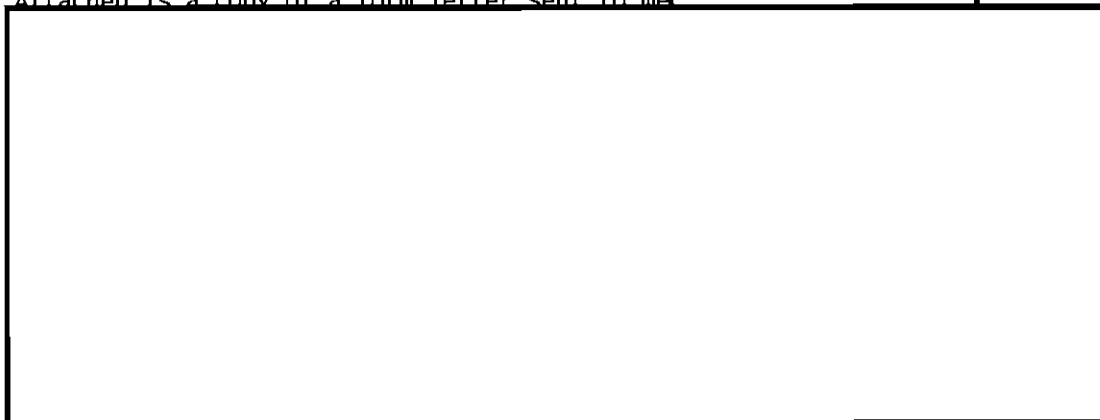
-----Original Message-----

From: [redacted] (ITD) (FBI)
Sent: Friday, November 12, 2004 4:01 PM
To: THOMAS JULIE E (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
KELLEY PATRICK W. (OGC) (FBI); [redacted] (ITD) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI)
Subject: FW: 207208 letter

b6
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UNCLASSIFIED
NON-RECORD

Attached is a copy of a form letter sent to me [redacted]



b5
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b2

Is this an OGC/NSLB approved letter?

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

[redacted]

Associate General Counsel - Unit Chief



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

From: [redacted] (ITD) (CON)
Sent: Friday, November 12, 2004 8:59 AM
To: [redacted] (ITD) (FBI)
Subject: 207208 letter

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Message.txt

UNCLASSIFIED
NON-RECORD

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~~SECRET~~

DATE: 12-11-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4(c)
DECLASSIFY ON: 12-11-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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[Redacted] (CTD) (FBI)
Sent: Friday, December 08, 2006 10:19 AM
To: [Redacted] (CTD)(FBI); [Redacted] (OGC) (FBI); [Redacted]
[Redacted] (OGC) (FBI)
Cc: [Redacted] (CTD)(FBI); [Redacted] (CTD) (FBI)

b1 b7A
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b7E (S)
b5
b6
b7C

Subject: RE: [Redacted] NSL
SECRET//NOFORN
RECORD [Redacted]

Thanks for the input. [Redacted] I will
advise [Redacted]
[Redacted]

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b7D

-----Original Message-----
From: [Redacted] (CTD)(FBI)
Sent: Friday, December 08, 2006 9:25 AM
To: [Redacted] (OGC) (FBI); [Redacted] (CTD) (FBI); [Redacted] (OGC) (FBI)
Cc: [Redacted] (CTD)(FBI); [Redacted] (CTD) (FBI)
Subject: RE: [Redacted] NSL

SECRET//NOFORN
RECORD [Redacted]

b1 b7A
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b7D
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b7C

I don't know if this helps you but [Redacted]
[Redacted]

[Redacted]
Communications Analysis Unit (CAU)
FBIHQ Room # 4315
Office: 202 [Redacted]

b6
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-----Original Message-----
From: [Redacted] (OGC) (FBI)
Sent: Friday, December 08, 2006 9:04 AM
To: [Redacted] (CTD) (FBI); [Redacted] (OGC) (FBI)
Cc: [Redacted] (CTD)(FBI); [Redacted] (CTD) (FBI); [Redacted] (CTD)(FBI)
Subject: RE: [Redacted] NSL

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

b1 b7A
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The problem is [Redacted]
[Redacted]

NSL VIO-31259

~~SECRET~~

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

From: [redacted] (CTD) (FBI)
Sent: Thursday, December 07, 2006 4:33 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (CTD)(FBI); [redacted] (CTD) (FBI); [redacted] (CTD)(FBI)
Subject: FW: [redacted] NSL

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(S) **SECRET//NOFORN**
RECORD [redacted]

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[redacted]

(S) Attached is an NSL that HQ drafted from CTD website [redacted]
[redacted] It was served
by FBI [redacted] and results were obtained by [redacted] Division. After review of the
results of the NSL [redacted] please advise [redacted]
[redacted] Division [redacted]

[redacted] Have we addressed this issue before [redacted]

<< File: NSL [redacted].wpd >>
FYI: [redacted] is the FBI [redacted] contact who serves NSLs addressed [redacted]

Thanks
[redacted]

b6
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b7D

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

From: [redacted] (FBI)
Sent: Thursday, December 07, 2006 4:04 PM
To: [redacted] (CTD) (FBI); [redacted] (OGA)
Subject: [redacted] NSL

(S) **SECRET//NOFORN**
RECORD [redacted]

[redacted]

I hope this makes sense...call me if you have questions.

[redacted]

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(S) [redacted]

NSL VIO-31260

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b7D
b2
b7E

(S)

(S)

By the way [redacted] just got off the phone with [redacted] she said [redacted]
[redacted]

Thank you,

[redacted]
Intelligence Analyst
[redacted]

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~
~~DECLASSIFY ON: 20311207~~
~~SECRET//NOFORN~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFY ON: 20311207~~
~~SECRET//NOFORN~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~
~~DECLASSIFY ON: 20311207~~
~~SECRET//NOFORN~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFY ON: 20311207~~
~~SECRET//NOFORN~~

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

~~SECRET~~

~~Investigations~~
~~DECLASSIFY ON: 20311207~~
~~SECRET//NOFORN~~

NSL VIO-31262

~~SECRET~~

b6
b7C

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 20, 2007 12:59 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI)
Subject: RE: IOB Example

~~SECRET~~
RECORD IOB

Per Julie (this a.m.) this needs to be reported as a potential IOB and records sequestered

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 20, 2007 12:03 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: RE: IOB Example

This is a difficult issue. My understanding of the issue [redacted]
[redacted]
[redacted] I agree with [redacted] I think [redacted]
[redacted]
[redacted] I think that this is a policy issue, though, and that Julie should make the final
call [redacted]
[redacted]

b5
b6
b7C

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 20, 2007 11:23 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: IOB Example

~~SECRET~~
RECORD IOB

b5
b6
b7C

I think [redacted]
[redacted]
[redacted] do you have any thoughts on this?

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, March 19, 2007 12:21 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: RE: IOB Example

~~SECRET~~
RECORD IOB

b5
b6
b7C

[redacted] Do you believe [redacted]
[redacted] Sorry for so many questions. [redacted]

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, March 19, 2007 10:36 AM

b6
b7c

To: [redacted] (OGC) (FBI)
Subject: IOB Example

~~SECRET~~
~~RECORD IOB~~

<< File: 2003-56.wpd >> << File: 2003-56LHM.wpd >> << File: 2003-56ltr.wpd >>

~~DERIVED FROM: Multiple Sources~~
~~DECLASSIFY ON: 20320319~~
~~SECRET~~

~~DERIVED FROM: Multiple Sources~~
~~DECLASSIFY ON: 20320319~~
~~SECRET~~

~~DERIVED FROM: Multiple Sources~~
~~DECLASSIFY ON: 20320319~~
~~SECRET~~

~~DERIVED FROM: Multiple Sources~~
~~DECLASSIFY ON: 20320319~~
~~SECRET~~

b6
b7C
b2
b7E

From: [redacted] (OGC) (FBI)
Sent: Thursday, January 11, 2007 1:27 PM
To: [redacted] (FBI)
Subject: RE: NSL Overcollection?
SENSITIVE BUT UNCLASSIFIED
NON-RECORD

b5

[redacted]

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

b6
b7C
b2
b7E

From: [redacted] (FBI)
Sent: Thursday, January 11, 2007 1:21 PM
To: [redacted] (OGC) (FBI)
Subject: NSL Overcollection?

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Hi [redacted]

[redacted]

b6
b7C
b5
b6
b7C
b2
b7E

I do not believe there has been an IOB violation, but the SA wants to know [redacted]
[redacted] Please advise.

Thanks.
[redacted]

SENSITIVE BUT UNCLASSIFIED

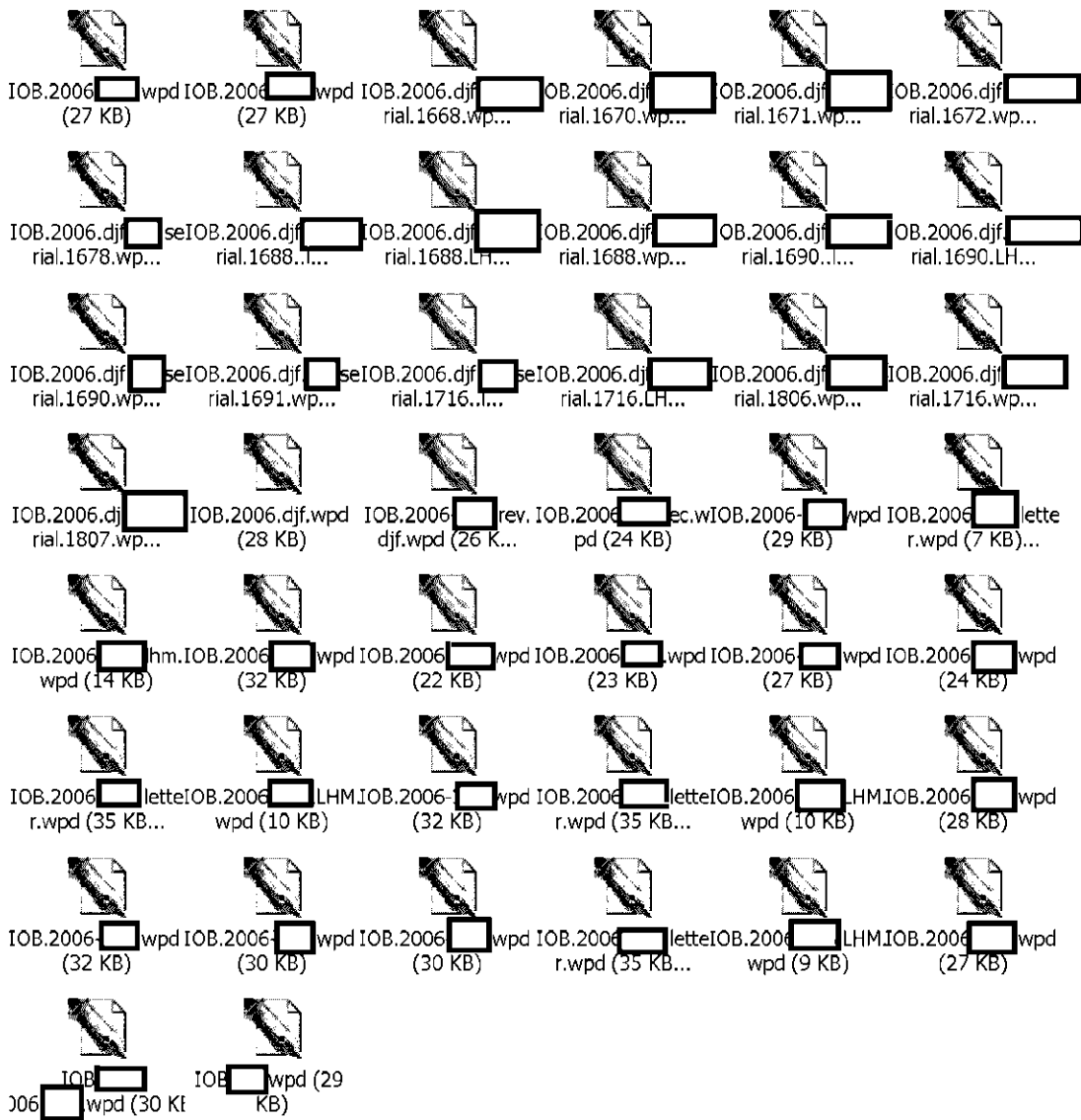
SENSITIVE BUT UNCLASSIFIED

From: [redacted] (OGC) (FBI)
Sent: Friday, February 09, 2007 9:47 AM
To: [redacted] (OGC) (FBI)
Subject: Response to OIG request re item #5-- FBI's decisions whether to report IOBs (some attachments are classified SECRET)

b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] these are IOB documents-- but the best thing to do would be to download all serials in the IOB subfile from ACS rather than collect these piecemeal from the lawyers, because the drafts we have may have been changed before being uploaded into ACS as finals. Make sense?



b2
b7E

SENSITIVE BUT UNCLASSIFIED

NSL VIO-31267

