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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/18/2006

To: [Redacted]

Attn: CDC
SSA
SA [Redacted]

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b7C

Counterintelligence

Attn: CD-2A, UG [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSL/CILU/Room 7947

Contact: AGC [Redacted] 202-324-[Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F [Redacted]

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

Drafted By: [Redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO Serial 2450 (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 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: X1~~

Reference: (S) [Redacted]

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b7E **Details:** (S) By electronic communication (EC) dated 03/27/2006, the [Redacted] Field Office [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 04/18/2006

reporting to the IOB.² In our opinion, it does. Our analysis follows.

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(S) In the EC, [redacted] reported that, [redacted]

[redacted]

(U)

~~(S)~~ On 02/09/2006, during the course of the investigation, a case agent forwarded an email to an investigative support specialist (ISS) asking the ISS to create National Security Letters (NSL) for two telephone numbers that were associated with the subject of the investigation. On 02/13/2006, the ISS created NSLs for the two telephone numbers. Due to an inadvertent error, however, one of the telephone numbers was erroneously transcribed.³ The NSL with the erroneous telephone number was forwarded to [redacted]

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(U)

~~(S)~~ On 03/23/2006, the case agent received the toll records on a CD. On 03/24/2006, the case agent opened the toll records and immediately noticed the discrepancy in the telephone number. The case agent promptly notified his supervisor and placed the original CD in a CD box. The CD box was sealed and submitted to the custody of the Chief Division Counsel.

(U)

~~(S)~~ Nothing from the original NSL was uploaded. Specifically, no personal or identifying information on the incorrect telephone number was uploaded into ACS from the NSL return. Further, no ACS checks, [redacted] data base checks were performed on any information from the NSL return.

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(U)

~~(S)~~ EC from [redacted] to OCC dated 03/27/2006 and titled "Possible Intelligence Oversight Board Matter, (IOB) SA [redacted] SSA [redacted]"

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² (U) A "United States person" (USP) is defined in Section 101(i) of FISA (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)"

³ (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document.

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To: [REDACTED] From: Office of the General Counsel
Re: 178-HQ-C1229736-V10, 04/18/2006

Finally, no open source or internet checks were conducted on the information.

(U) ~~(S)~~ A copy of the original NSL and the information received are being maintained by the Chief Division Counsel in his safe.

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSE, and 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 was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) ~~(S)~~ NSLs are administrative subpoenas that allow the FBI to obtain three types of information: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act (ECPA)) (18 U.S.C. § 2709); (2) financial institution records (Right to Financial Privacy Act) (12 U.S.C. § 3414(a)(5)(A)); and (3) credit bureau information (Fair Credit Reporting Act) (15 U.S.C. § 1681u (a), (b)). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. [REDACTED]

b1 (S)

(U) ~~(S)~~ In this situation, the information obtained by the FBI was not relevant to an authorized national security investigation. Due to the incorrect number stated in the NSL, the FBI received telephone toll billing records pertaining to a telephone number that was neither under investigation nor related to an investigation.

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 04/18/2006

Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U)

~~(S)~~ It should be noted that [REDACTED] response in receiving the erroneous information was commendable. Upon receiving the incorrect toll records, the case agent immediately noticed the discrepancy, notified his supervisor, and placed the original CD in a CD box. Proper procedures were then undertaken by sealing the CD box and submitting the box to the Chief Division Counsel's custody. No personal or identifying information on the incorrect telephone number was uploaded into ACS from the NSL return. Further, no ACS checks, [REDACTED] data base checks were performed on any information from the NSL return. Finally, no open source or internet checks were conducted on the information.

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(U) Here, the target's rights were not violated because he was not the subject of the improperly collected information. It is unknown whether the erroneous information received pertained to a United States Person, inasmuch as there has been no review of the information. Nonetheless, based upon the fact that information which may be about a USF was improperly, although inadvertently, collected, and 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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To: [REDACTED] From: Office of the General Counsel
Re: 178-HQ-C1229736-V10, 04/18/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[REDACTED]
AT [REDACTED]

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(U) The CDC should continue to retain custody of the improperly received information. This information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

[REDACTED]
IOE Library

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

(S)

~~(S)~~ By electronic communication (EC) dated March 27, 2006, the Federal Bureau of Investigation (FBI) [REDACTED] Field Office [REDACTED] reported that, [REDACTED]

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[REDACTED] On February 2, 2006, during the course of [REDACTED] investigation, an FBI case agent forwarded an email to an FBI investigative support specialist (ISS) asking the ISS to create National Security Letters (NSL) for two telephone numbers that were associated with the subject of the investigation. On February 13, 2006, the ISS created NSLs for the two telephone numbers. Due to an inadvertent error, however, one of the telephone numbers was erroneously transcribed. The NSL with the erroneous telephone number was forwarded to [REDACTED]

~~(S)~~ Due to the incorrect number stated in the NSL, the FBI received telephone toll billing records pertaining to a telephone number that was neither under investigation nor related to an investigation. The error was discovered upon receipt of the information, and the records were neither reviewed nor used for any investigative purpose. Despite the inadvertent nature of the mistake, the fact remains that information was improperly collected on a telephone number unrelated to an investigation.

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(S)

[REDACTED] The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection.¹ Thus, the matter is being reported to the IOB.

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~Derived from: G-3
Declassify on: X-1~~

~~SECRET~~

(U)

~~(S)~~ Section V.12. authorizes use of National Security Letters in conformity with 18 U.S.C. § 2709 (relating to subscriber information, toll billing records, and electronic communication transactional records). The statute requires that information sought is relevant to an authorized national security investigation.

NSL VIO-31313

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/22/2006

To: [Redacted]

Attn: SSA [Redacted]

SA [Redacted]

b2 Counterintelligence

Attn: CD-2C, SSA [Redacted]

b7E Inspection

Attn: IIS, CRS [Redacted]

b6
b7C

From: Office of the General Counsel
NSLB/CILU/Room 7947

Contact: AGC [Redacted] 202-324 [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

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

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO Serial 1261 (Pending)

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(U) **Synopsis:** (S) It is the opinion of the Office of the General Counsel (OGC) that this matter need not be reported 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) **Administrative:** (S) This electronic communication (EC) contains information from the following documents: (1) a copy of the National Security Letter (NSL) dated 12/07/2005; (2) a copy of the EC dated 12/07/2005 forwarding the NSL to the [Redacted] Field Division to be served on the carrier; (3) a copy of the EC dated 12/21/2005 delivering the results of the NSL to the [Redacted] Field Office [Redacted]; and (4) a copy of the EC dated 02/10/2006 from [Redacted] to OGC reporting a potential IOB matter.

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Reference: b1 (S) [Redacted] (Pending)

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~~Derived From : G-3
Declassify On. 25X1~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/22/2006

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(U)

~~(S)~~ Details: By EC dated 02/10/2006, [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)~~ On 12/07/2005, [redacted] drafted an NSL pursuant to 28 U.S.C. § 2709 seeking toll billing records for a cellular telephone number. Specifically, the NSL sought "the name, address, length of service, and all local and long distance toll records for the following telephone number: [redacted] from date of inception to present." By EC dated 12/07/2005, the NSL was forwarded to the [redacted] Division to be delivered to [redacted]

(S)

(U)

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~~(S)~~ On 12/21/2005, the [redacted] Division forwarded the results of the NSL to [redacted]. Upon receipt of the information, [redacted] reviewed the NSL results and learned that the records included not only the billing records for the subject, who was the current subscriber for the number, but also the billing records for the two prior subscribers. [redacted] subsequently sealed and sequestered the telephone records of the two prior subscribers.

(U) Section 2.4 of Executive Order (EO) 12363, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (AG Guidelines), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/22/2006

(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). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation.

[redacted] the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

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(U)

~~(S)~~ Here, during an authorized investigation,¹ the FBI properly served an NSL on a telephone carrier. In response to the properly served NSL, the FBI obtained information regarding prior subscribers' records that were not relevant to the investigation.² It appears that this information, although lawfully obtained, is not relevant to the investigation and should be segregated to protect the potential privacy interests of United States persons. As already accomplished in this matter, once information not relevant to an authorized investigation is received, the field shall seal and sequester such information.

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12958, 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.

(S)

[redacted]

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² The target's rights were not violated because he was not the subject of the improperly collected information. It is unknown, however, whether the information of prior subscribers' records pertained to a United States Person inasmuch as there has been no review of the information.

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 05/22/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

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[REDACTED]
AT [REDACTED]

(U) With respect to the information that was improperly received from the carrier, please seal it and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

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[REDACTED]

IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/19/2006

To: [Redacted]

Attn: SSA [Redacted]
SA [Redacted]

Counterintelligence

Attn: CD-2C, SSA [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLB/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO Serial 1254 (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 need not be reported 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) **Administrative:** (S) This electronic communication (EC) contains information from the following documents: (1) a copy of the National Security Letter (NSL) dated 10/25/2005; (2) a copy of the EC dated 10/25/2005 forwarding the NSL to the [Redacted] Field Division to be served on the carrier; (3) a copy of the EC dated 02/01/2006 delivering the results of the NSL to the [Redacted] Field Office [Redacted] and (4) a copy of the EC dated 03/13/2006 from [Redacted] to OGC reporting a potential IOB matter.

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Reference: (S) [Redacted] (Pending)

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

~~SECRET~~

DATE: 11-21-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4(c)
DECLASSIFY ON: 11-21-2032

~~SECRET~~

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/19/2006

(T) [REDACTED]
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~~(S)~~ Details: [REDACTED] By EC dated 03/13/2006, [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)~~ On 10/25/2005, [REDACTED] drafted an NSL pursuant to: 28 U.S.C. § 2709 seeking toll billing records for a cellular telephone number. Specifically, the NSL sought "the name, address, length of service, and thereafter, all local and long distance toll billing records associated with the following telephone number: [REDACTED] from date of inception to present." By EC dated 10/25/2005, the NSL was forwarded to the [REDACTED] Division to be delivered to [REDACTED]

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~~(S)~~ On 02/01/2006, the [REDACTED] Division forwarded the results of the NSL to [REDACTED]. The results arrived in two formats, paper and CD. Upon receipt of the information, [REDACTED] reviewed the paper format. The paper copy detailed the subject's telephone records and identified the subject as the user of the cellular telephone number. [REDACTED] assumed that the CD contained the same information.

(U)

~~(S)~~ However, on 03/13/2006 [REDACTED] viewed the contents from the CD and learned that the CD contained more information than the paper copy. The information contained in the disk included the records of prior subscribers for that same telephone number. Upon the discovery of this additional information not relevant, although lawfully obtained, the case agent sealed the disk in an envelope and informed her supervisor and the Chief Division Counsel (CDC) of the incident. Currently, the disk remains in a sealed envelope.

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National

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b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/19/2006

Security Investigations and Foreign Intelligence Collection (AG Guidelines), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOE. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOE may review them upon request.

(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). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. [redacted]

b1

[redacted] the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

(U) ~~(S)~~ Here, during an authorized investigation,¹ the FBI properly served an NSL on a telephone carrier. In response to the properly served NSL, the FBI obtained information regarding prior subscribers' records that were not relevant to the investigation.² It appears that this information, although lawfully obtained, is not relevant to the investigation and should be segregated to protect the potential privacy interests

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(S)

[redacted]

² The target's rights were not violated because he was not the subject of the improperly collected information. It is unknown, however, whether the information of prior subscribers' records pertained to a United States Person inasmuch as there has been no review of the information.

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/19/2006

of United States persons. As already accomplished in this matter, once information not relevant to an authorized investigation is received, the field shall seal and sequester such 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 need not be reported to the IOE. A record of this decision should be maintained in the control file for future review by the Counsel to the IOE.

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 05/19/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

b2
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[redacted]

AT [redacted]

(U) With respect to the information that was improperly received from the carrier, please seal it and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

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[redacted]

IOB Library

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

(U)

~~(S)~~ By electronic communication dated March 29, 2006, the Federal Bureau of Investigation (FBI) [REDACTED] Field Office reported that, on November 23, 2004, the FBI submitted a National Security Letter (NSL) seeking telephone toll billing records relating to a certain target to [REDACTED]. Due to a typographical error, the telephone number on the NSL was erroneously transcribed. On February 4, 2005, the telephone records were opened and it was determined that they were not the target's records. [REDACTED] immediately ceased review of the telephone records.

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~~(S)~~ Due to the incorrect number stated in the NSL, the FBI received telephone toll billing records pertaining to a telephone number that was neither under investigation nor related to an investigation. The error was discovered upon receipt of the information, and the records were neither reviewed nor used for any investigative purpose. Despite the inadvertent nature of the mistake, the fact remains that information was improperly collected on a telephone number unrelated to an investigation. The overcollection was a violation of Section V.12. 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: G-3
Declassify on: 25X-1~~

~~SECRET~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 12-03-2007

NSL VIO-31329



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)

b2

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: X1~~

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

~~SECRET~~

NSL VIO-31330

~~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-31331

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/05/2006

To: [Redacted]

Attn: SSA [Redacted]
SA [Redacted]

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Counterintelligence

Attn: CD-2E, SSA [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLB/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

(U)

Case ID #: (S) 278-HQ-C1229736-VIO Serial 1289 (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: X1~~

Reference: (S) [Redacted] (Pending)

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Details: (S) By electronic communication (EC) dated 03/29/2006, the [Redacted] Field Office [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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(S) EC from [Redacted] to OGC dated 03/29/2006 and titled "SSA [Redacted] SA [Redacted] Division; IOB."

~~SECRET~~

DATE: 12-03-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4(c)
DECLASSIFY ON: 12-03-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

b2 To: [redacted] From: Office of the General Counsel
b7E Re: 178-HQ-C1229736-V10, 05/05/2006

(U)

b2 (S) On 11/23/2004, a [redacted] case agent submitted a
b7E National Security Letter (NSL) seeking telephone toll billing records
b4 of a certain target to [redacted]. Due to a typographical error, the
b7D telephone number on the NSL was erroneously transcribed.² On
02/04/2005, the telephone records were opened and it was determined
that they were not the target's records. The telephone records were
destroyed without further review.³

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) (S) NSLs are administrative subpoenas that allow the FBI to obtain three types of information: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act (ECPA)) (18 U.S.C. § 2709); (2) financial institution records (Right to Financial Privacy Act) (12 U.S.C. § 3414(a)(5)(A)); and (3) credit bureau information

² (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document.

(U) (S) On 03/27/2006 [redacted] realized that this incident constituted an IOB violation and promptly reported the matter to OGC, the Inspection Division, and the Counterintelligence Division.

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/05/2006

(Fair Credit Reporting Act) (15 U.S.C. § 1681u (a), (b)). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. [REDACTED] the NSIG provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

b1

(U)

~~(S)~~ In this situation, due to the incorrect number stated in the NSL, the FBI received telephone toll billing records pertaining to a telephone number that was neither under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Here, the target's rights were not violated because he was not the subject of the improperly collected information. It is unknown whether the erroneous information received pertained to a United States Person, inasmuch as there has been no review of the information. Nonetheless, based upon the fact that information which may be about a USF was improperly, although inadvertently, collected, and 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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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/05/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Information)

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[REDACTED]
AT [REDACTED]

(U) In the future, when improper data resulting from an NSL is received, the data should be sequestered and given to the CDC. The information should remain sealed and sequestered in the CDC's safe until further direction from OGC. It is anticipated that OGC will provide guidance regarding improperly collected NSL information in the near future.

cc: Ms. Thomas

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[REDACTED]
IOB Library

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NSL VIO-31335

~~SECRET~~

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

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(U)

(S) By electronic communication dated April 27, 2006, the Federal Bureau of Investigation (FBI), [REDACTED] Field Office, reported a possible Intelligence Oversight Board (IOB) matter. The FBI reported that, on November 16, 2005, the FBI drafted a National Security Letter (NSL) pursuant to 18 U.S.C. § 2709 seeking electronic communication transactional records from the internet service provider [REDACTED]. The NSL requested the name, address, length of service, and email header information for the subject of the investigation. The NSL specifically directed that [REDACTED] not include message content or subject fields in its response.

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(U) (S) The FBI served the NSL on [REDACTED] and [REDACTED] provided the results to the FBI. On April 26, 2006, the FBI reviewed the results of the NSL. Upon review of the NSL results, the FBI learned that [REDACTED] response exceeded the scope of the NSL. Specifically, in addition to providing the email header information, [REDACTED] improperly provided the "subject" field of each email transaction. The FBI immediately sealed and sequestered the information and placed it in a safe. The FBI did not enter any information into the case file. Moreover, the FBI plans to notify the internet service provider of its error to avoid future mistakes.

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(U)

(S) Here, an error on the part of [REDACTED] resulted in the unintentional acquisition of information through an NSL. Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of Executive Order 12863, the carrier's mistake must be reported to the IOB.

DECLASSIFIED BY 65179/DMH/KSR/RM
ON 12-06-2007

~~Derived from: G-3
Declassify on: 25X1~~

~~SECRET~~

NSL VIO-31336



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)

b2

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: 25X1~~

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

~~SECRET~~

NSL VIO-31337

~~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-31338

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/25/2006

To: [Redacted]

Attn: SAC [Redacted]
ADC
SSA
SA

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Counterintelligence

Attn: CD-4, A/SC [Redacted]

Inspection

Attn: IIS, CR3 [Redacted]

From: Office of the General Counsel
NSL/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F

[Redacted Signature]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

[Redacted Name]

(U)

Case ID #: (S) 278-HQ-C1229736-VIO Serial 1363 (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.

Reference: (S) [Redacted] Pending)

(U)

~~Derived From : G-3
Declassify On: 25X1~~

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(U)

Details: (S) By electronic communication (EC) dated 04/27/2006, the [Redacted] Field Office [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants

DATE: 12-03-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4(c)
DECLASSIFY ON: 12-03-2032

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~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229/36-V10, 05/25/2006

reporting to the IOB.² As explained below, in our opinion, the FBI is required to report this matter to the IOB.

(U) ~~(S)~~ On 11/16/2005 [redacted] drafted a National Security Letter (NSL) pursuant to 18 U.S.C. § 2709 seeking electronic communication transactional records from the internet service provider [redacted]. The NSL requested the name, address, length of service, and email header information for the subject of the investigation. The NSL specifically directed that [redacted] not include message content or subject fields in its response. The NSL was forwarded to the [redacted] Field Office [redacted] to be delivered to [redacted]. On 01/03/2006, [redacted] served the NSL on [redacted]. On 03/02/2006, [redacted] forwarded the results of the NSL to [redacted].

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(U) ~~(S)~~ On 04/26/2006, [redacted] reviewed the results of the NSL. Upon review of the NSL results, WFO learned that [redacted] response exceeded the scope of the NSL. Specifically, in addition to providing the email header information, [redacted] improperly provided the "subject" field of each email transaction. [redacted] immediately sealed and sequestered the information and placed it in a safe. [redacted] did not enter any information into the case file. Moreover, [redacted] through [redacted] plans to notify the internet service provider of its error to avoid future mistakes.

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) ~~(S)~~ EC from [redacted] to OGC dated 04/27/2006 and titled "Potential Intelligence Oversight Board Violation Regarding an Internet Service Provider (ISP) National Security Letter (NSL)."

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/25/2006

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (AG Guidelines), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U)

~~(S)~~ 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). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation.

[redacted] the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

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(U)

~~(S)~~ Here, an error on the part of [redacted] resulted in the unintentional acquisition of information. It should be noted that [redacted] response in receiving the unsolicited material was commendable. Upon learning that [redacted] provided information beyond the scope of the NSL, [redacted] sealed and sequestered the excess information. Moreover, [redacted] then undertook

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/25/2006

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steps to prevent this mistake from reoccurring by notifying
[redacted] of its error.

(U)

~~(S)~~ Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of E.O. 12963, the carrier's mistake must be reported to the IOE. OGC will prepare a cover letter and a memorandum to report this matter to the IOE.

LEAD (s) :

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/25/2006

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

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[REDACTED]

AT

[REDACTED]

(U) With respect to the information that exceeded the scope of the NSL, please seal it and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

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[REDACTED]

IOB Library

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INTELLIGENCE OVERSIGHT BOARD MATTER b7E

[REDACTED] FIELD OFFICE
IOE MATTER 2006 [REDACTED] (U)

(U)

~~(S)~~ By electronic communication dated April 19, 2006, the Federal Bureau of Investigation (FBI), [REDACTED] Office, reported a possible Intelligence Oversight Board (IOB) matter. The FBI reported that, pursuant to 28 U.S.C. § 2709, it drafted a National Security Letter (NSL) seeking toll billing records for a certain telephone number. The NSL also listed an address and requested records from a specific date to present. The FBI served the NSL on [REDACTED], and [REDACTED] provided the result to the FBI.

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(U)

~~(S)~~ Upon review of the NSL results, the FBI learned that [REDACTED] response exceeded the scope of the NSL. The target's telephone number is owned by the target's employer, [REDACTED]. [REDACTED] The target's employer owns multiple telephone numbers managed under one account number. In addition to providing the target's telephone records, [REDACTED] erroneously provided the FBI with records relating to all of the employer's telephone numbers managed under the one account number. The FBI sealed and sequestered the additional information that exceeded the scope of the NSL and placed the excess information in a safe.

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(U)

~~(S)~~ Here, during an authorized investigation, an error on the part of [REDACTED] resulted in the unintentional acquisition of information. Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of Executive Order 12963, the carrier's mistake must be reported to the IOE.

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DECLASSIFIED BY 65179/DMH/KSR/RW
ON 12-03-2007

~~Derived from: G-3
Declassify on: 25X1~~

~~SECRET~~

NSL VIO-31344



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)

b2

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: 25X1~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 12-03-2007

~~SECRET~~

NSL VIO-31345

~~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-31346

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/23/2006

To: [Redacted]

Attn: ADC [Redacted]
SSA [Redacted]
SA [Redacted]

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Counterintelligence

Attn: CD-1 [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

(U) **Case ID #:** (S) 078-HQ-C1229736-VTO Serial 1355 (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.

Reference: (S) [Redacted] (Pending)

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

(U) **Details:** (S) By electronic communication (EC) dated 04/19/2006, the [Redacted] Office [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants

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DATE: 12-06-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4(c)
DECLASSIFY ON: 12-06-2032

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
NSL ~~VIOLATION~~ OTHERWISE

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/23/2006

reporting to the IOB.² As explained below, in our opinion, the FBI is required to report this matter to the IOB.

(U)

~~(S)~~ On 09/29/2005, [redacted] drafted a National Security Letter (NSL) pursuant to 28 U.S.C. § 2709 seeking toll billing records for a certain telephone number. The NSL requested the name, address, length of service, and local and long distance toll billing records for certain individuals who were likely related to a specific telephone number. The NSL also listed an address and requested records from [redacted]. The NSL was forwarded to the [redacted] Division to be delivered to [redacted]. By EC dated 10/04/2005, the [redacted] Division forwarded the results of the NSL to [redacted].

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(U)

~~(S)~~ Upon review of the NSL results, [redacted] learned that [redacted] response exceeded the scope of the NSL. The target's telephone number is owned by the target's employer, [redacted].

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[redacted] The target's employer owns multiple telephone numbers managed under one account number. In addition to providing the target's telephone records, [redacted] erroneously provided [redacted] with records relating to all of the employer's telephone numbers managed under the one account number. [redacted] sealed and sequestered the additional information that exceeded the scope of the NSL and placed the excess information in a safe. Currently, the excess information remains sequestered in a safe until further direction from OGC.

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive

(U)

~~(S)~~ EC from [redacted] to OGC dated 04/19/2006 and titled "National Security Letter Matter; Overproduction by Telephone Company Personnel; Notification of Potential IOB Matter."

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/23/2006

Order or Presidential Directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (AG Guidelines), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) ~~(S)~~ 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). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation.

[REDACTED] the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/23/2006

~~(S)~~ (U)
Here, during an authorized investigation,² an error on the part of [redacted] resulted in the unintentional acquisition of information. It should be noted that [redacted] response in receiving the unsolicited material was commendable. Upon learning that [redacted] provided information beyond the scope of the NSL, [redacted] sealed and sequestered the excess information.³

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~~(S)~~ (U)
Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of E.O. 12863, the carrier's mistake must be reported to the IOB. OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

LEAD (s) :

(U)

[redacted]

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~~(S)~~ (U)
³ The target's rights were not violated because he was not the subject of the improperly collected information. It is unknown whether the information received pertained to a United States Person, inasmuch as there has been no review of the information.

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 178-HQ-C1229736-V10, 05/23/2006

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[redacted] FIELD OFFICE

AT [redacted]

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(U) With respect to the information that was improperly received from the carrier, please seal it and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

[redacted]

IOB Library

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

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(U) [REDACTED] (S) By electronic communication dated June 8, 2006, the Federal Bureau of Investigation (FBI), [REDACTED] Field Office, reported a possible Intelligence Oversight Board (IOB) matter. The FBI reported that, on April 27, 2006, during an authorized [REDACTED] investigation, the FBI issued a National Security Letter (NSL) pursuant to 18 U.S.C. § 2709. The NSL was issued to [REDACTED] and requested the subscriber, address, length of service, and toll record information associated with US person [REDACTED] and two telephone numbers from [REDACTED]

(U) [REDACTED] (S) On June 5, 2006, [REDACTED] received the requested information, along with the telephone records of a previously unknown individual. Upon receiving the information concerning the previously unknown individual, the case agent in [REDACTED] performed preliminary checks in ACS and open source internet queries in an attempt to ascertain the relevance of the information. However, all such checks were negative, and it was later determined that [REDACTED] erroneously provided the unknown individual's information in the same package as [REDACTED]. The unknown individual's information was later sequestered in the Chief Division Counsel's safe, and no personal identifying information concerning her was ever entered into ACS.

(U) [REDACTED] (S) Here, an error on the part of [REDACTED] resulted in the unintentional acquisition of information through an NSL. Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of Executive Order 12863, the carrier's mistake must be reported to the IOB.

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 12-06-2007

~~Derived from: G-3
Declassify on: 25X1~~

~~SECRET~~

NSL VIO-31352

~~SECRET~~

- 2 -

~~SECRET~~

NSL VIO-31353



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)

b2

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: 25X1~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 12-03-2007

~~SECRET~~

NSL VIO-31354

~~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-31355

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/12/2006

To: [Redacted]

Attn: CDC
SSA
SA [Redacted]

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b6
b7C

Counterintelligence

Attn: CD-2, [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julia E [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

(U)

Case ID #: (S) 078-HQ-C1229736-VIO Serial 1394

(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 must be reported to the Intelligence Oversight Board (IOB). OGC will prepare and deliver the necessary correspondence to the IOB.

Reference:

(S) [Redacted]

(U)

~~Derived From : O-3
Declassify On: 25X1~~

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(U)

Details: (S) By electronic communication (EC) dated 05/16/2006, the [Redacted] Field Office [Redacted] requested that OGC review the facts of the captioned matter and determine whether it

~~SECRET~~

DATE: 12-03-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4.(c)
DECLASSIFY ON: 12-03-2032

NSL VIO-31356

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 178-HQ-C1229736-V10, 06/12/2006

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

(U) ~~(S)~~ On 04/14/2005, during an authorized investigation,¹ the FBI issued a National Security Letter (NSL)

.....
¹ (S) [redacted]
[redacted]

(continued...)

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 06/12/2006

pursuant to 18 U.S.C. § 2709. The NSL was issued to [redacted] and requested the subscriber, address, length of service, and toll record information for a telephone number for the period [redacted]

(U)

[redacted] received a disk containing the NSL results in July 2005. In April 2006, when the NSL results were being uploaded into the FBI application system [redacted] learned that [redacted] response exceeded the scope of the NSL. Specifically, while the NSL requested information from [redacted] the NSL results dated back to [redacted]. The case agent immediately advised that only the information from the time period of [redacted] as requested by the NSL, should be uploaded into the system. The NSL results prior to [redacted] were neither reviewed nor uploaded. A copy of the NSL results that exceeded the scope of the NSL are being maintained in the Chief Division Counsel's safe.

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(U) Section 2.4 of Executive Order (EO) 12963, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (AG Guidelines), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the

(S)

¹(...continued)

[redacted]

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~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 178-HQ-C1229736-V10, 06/12/2006

protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) ~~(S)~~ 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). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation.

[redacted] the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

b1

(U) ~~(S)~~ Here, an error on the part of [redacted] resulted in the unintentional acquisition of information. It should be noted that [redacted] response in receiving the unsolicited material was commendable. Upon learning that [redacted] provided information beyond the scope of the NSL, [redacted] sequestered the excess information and placed it in the CDC's safe.

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(U) ~~(S)~~ Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of E.O. 12963, the carrier's mistake must be reported to the IOB. OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

~~SECRET~~

~~SECRET~~

To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 06/12/2006

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LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

~~SECRET~~

5

NSL VIO-31360

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 06/12/2006

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

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[redacted] FIELD OFFICE
AT [redacted]

(U) With respect to the information that exceeded the scope of the NSL, please seal it and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

[redacted]

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IOB Library

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/15/2006

To: [Redacted]

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

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Counterintelligence

Attn: CD-2A, [Redacted]
UC [Redacted]
SSA [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F

[Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

(U) Case ID #: (S) 278-HQ-C1229736-VIO Serial 1424 (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 need not be reported 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: 25X1~~

(U) Administrative: (S) This electronic communication (EC) contains information from the following documents: (1) a copy of the National Security Letter (NSL) dated 01/20/2006 to [Redacted] (2) a copy of the EC dated 01/20/2006 forwarding the NSL to the [Redacted] Field Division to be served on the carrier; and (3) a copy of the EC dated 06/01/2006 from the [Redacted] Field Office [Redacted] to OGC reporting a potential IOB matter.

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DATE: 12-06-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4(c)
DECLASSIFY ON: 12-06-2032

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

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(U)

~~(S)~~ Reference:

(S)

[redacted]

~~(S)~~ By EC dated 06/01/2006, [redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOE. As explained below, in our opinion, the FBI is not required to report this matter to the IOE.

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(U)

~~(S)~~ On 01/20/2006, [redacted] drafted an NSL pursuant to 18 U.S.C. § 2709 seeking subscriber and toll billing records for two telephone numbers. Specifically, the NSL sought "the name, address, length of service, and all local and long distance toll billing records associated" with the two telephone numbers from "[i]nception of the account to the present." By EC dated 01/20/2006, the NSL was forwarded to the [redacted] Division to be delivered to [redacted]

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(U)

~~(S)~~ On 02/15/2006, [redacted] received the results of the NSL on a disk. The case agent reviewed the results from the NSL on 02/28/2006. With respect to one telephone number, [redacted] received information pertaining solely to the target.

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(U)

~~(S)~~ With respect to the second telephone number, however, [redacted] received NSL results pertaining to two

~~SECRET~~

To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

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subscribers: the target and another individual.¹ The case agent

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CLE29736-VIO, 06/15/2006

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~~(S)~~

With respect to this telephone number,

[redacted]

(continued...)

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~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-GL-29736-VIO, 06/15/2006

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¹(...continued)
received telephone records dated from [redacted]

(continued...)

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~~SECRET~~

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To: From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

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¹(...continued)
that were associated with the target. With respect to this same
(continued...)

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CLE29736-VIO, 06/15/2006

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¹(...continued)
telephone number, [redacted] also received records dated (continued...)

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~~SECRET~~

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CLE29736-VIO, 06/15/2006

1(...continued)

[redacted] that were associated with another

(continued...)

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~~SECRET~~

~~SECRET~~

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

brought this to the attention of both her supervisor and the Chief Division Counsel (CDC). The case agent also sequestered the telephone records of the individual who was not the subject of the investigation.

(U) Section 2.4 of Executive Order (EO) 12963, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOE intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (AG Guidelines), or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOE may review them upon request.

(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). ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation.

¹(...continued)
individual unrelated to the investigation.

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~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

b1 [redacted] the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

(U) ~~(S)~~ Here, during an authorized investigation,² the FBI properly served an NSL on a telephone carrier. In response to the properly served NSL, the FBI obtained information regarding another subscriber's records that were not relevant to the investigation.³ It appears that this information, although lawfully obtained, is not relevant to the investigation and should be segregated to protect the potential privacy interests of United States persons. Once information not relevant to an authorized investigation is received, the field shall seal and sequester such 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 need not be reported to the IOE. A record of this decision should be maintained in the control file for future review by the Counsel to the IOE.

² (U) [redacted]

(U) ~~(S)~~ The target's rights were not violated because he was not the subject of the improperly collected information. It is unknown, however, whether the information associated with the other subscriber pertained to a United States Person inasmuch as there has been no review of the information.

~~SECRET~~

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

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[redacted]
AT [redacted]

(U) With respect to the information that was improperly received from the carrier, please seal it and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

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[redacted]
IOE Library

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/04/2006

To: [Redacted]

Attn: [Redacted]

CDR
SSRA
SA

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Counterterrorism
Inspection

Attn: ITOS I/CONUS IV, [Redacted]

Attn: IIS, [Redacted]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F [Redacted]

Drafted By: [Redacted]

(U)

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

(U)

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

b2

(U)

Synopsis: (S) The [Redacted] RA

requested that the Office of the General Counsel (OGC) review several incidents and determine whether they warrant reporting to the Intelligence Oversight Board (IOB). It is the opinion of OGC that two of the incidents do not need to be reported to the IOB. Rather, this EC should be maintained in the control file for periodic review by Counsel to the IOB. The remaining incidents, however, must be reported to the IOB. OGC will prepare and deliver the necessary correspondence to the IOB. Our analysis follows.

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(U)

~~Derived From: G-3
Declassify On: 25X1~~

(U)

Administrative: (S) This electronic communication (EC) contains information from: (1) the ECs dated 05/18/2006 and 06/23/2006 from [Redacted] to OGC reporting a potential IOB matter; and (2) automated case support (ACS).

DATE: 12-06-2007
CLASSIFIED BY: 65179/DNH/KSR/Rw
REASON: 1.4(c)
DECLASSIFY ON: 12-06-2032

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

NSL VIO-31373

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 10/04/2006

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Reference: (S) [redacted]
(S) 278-HQ-C1229736-VIO Serial 1446
(S) 278-HQ-C1229736-VIO Serial 1482

Details: (S) By ECs dated 05/18/2006 and 06/23/2006, [redacted] requested that CGC review several incidents and determine whether they warrant reporting to the IOE. [redacted]

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[redacted] the case agent submitted an EC requesting [redacted] Due to an administrative oversight, however, approval from the Acting Special Agent in Charge was not obtained, and [redacted]

(S)

(S) On 05/11/2006, the case agent noticed that the [redacted] The case agent immediately reported the issue to the [redacted] and to the [redacted] Division [redacted] CDC. In addition, the case agent expeditiously contacted OGC to discuss this matter. The case agent also sequestered all of the improperly obtained NSL results, and forwarded them to the [redacted] CDC. Finally, the case agent sought SAC authority [redacted]

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(S)

(S)

(1) [redacted] Division [redacted] served a National Security Letter (NSL) on [redacted] on 04/28/2006 seeking subscriber information for telephone numbers [redacted]

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[redacted] The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted] The results from this NSL were opened [redacted] However, the NSL results were not analyzed, copied, or entered into any databases. The NSL results were sealed and sequestered by the [redacted] CDC.

(S)

(2) The [redacted] Division served an NSL on [redacted] on 04/28/2006 seeking subscriber information for telephone numbers [redacted] The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted]

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 10/04/2006

[redacted]
[redacted] stated that it was not the carrier for the number requested and no results were returned.

(S)

(3) [redacted] received NSL results from the [redacted] Divisions. The results were provided in response to NSLs seeking subscriber information for telephone numbers [redacted]. The NSLs had all been served prior [redacted].

(S)

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(4) [redacted] served an NSL on [redacted] on 05/04/2006 seeking subscriber information for telephone numbers [redacted]. The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted]. The results from this NSL were not reviewed, analyzed, copied, or entered into any databases. The NSL results were sealed and sequestered by the [redacted] CDC;

(S)

(5) The [redacted] Division [redacted] served an NSL on [redacted] on 05/02/2006. The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted]. [redacted] stated that it was not the carrier for the number requested and no results were returned; and

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(6) [redacted] received NSL results from the [redacted] Divisions. The results were provided in response to NSLs seeking subscriber information for telephone numbers [redacted]. The NSLs had all been served prior [redacted].

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOE intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language was adopted verbatim from EO 12834, dated 10/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 10/04/2006

(U) 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.

(S) [redacted]

[redacted]

(U) ~~(S)~~ With regard to conducting investigative activities in the absence of [redacted] investigation, [redacted] the NSIG provide in pertinent part:

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The FBI may, [redacted] engage in the following activities to investigate or collect information relating to threats to the national security, including information on individuals, groups, and organization of possible investigative interest, and information concerning possible targets of international terrorism, espionage, foreign computer intrusion, or other threats to national security:

2. [redacted]

[redacted] (S)

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b7E

To: [redacted] From: Office of the General Counsel
Re: T78-HQ-C1229736-V10, 10/04/2006

(S) [redacted]
[redacted]
[redacted] Thus, there was no violation of the NSIG when [redacted] received and analyzed NSL results from other divisions where the NSLs had been properly served prior to [redacted]. Accordingly, reviewing these legally obtained NSL results [redacted] is not reportable to the IOB.

(S) [redacted]
[redacted] Due to an administrative oversight, [redacted] The FBI served NSLs for toll billing records on 04/28/2006, 05/02/2006, and 05/04/2006 [redacted]. It was improper for the FBI to serve the NSLs on these dates. Because [redacted] investigation is required before an NSL may be served, serving these NSLs in the absence of [redacted] investigation must be reported to the IOB. The information that was received in response to the 04/28/2006, 05/02/2006, and 05/04/2006 NSLs has been sealed and sequestered within the CDC's safe.

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(S) It should be noted, however, that once the case agent recognized that [redacted] his response was commendable. The case agent immediately reported the issue to the [redacted] SSRA and to the [redacted] CDC. In addition, the case agent expeditiously contacted OGC to discuss this matter. The case agent also sequestered all of the improperly obtained NSL results, and forwarded them to the CDC. Finally, the case agent sought SAC authority [redacted]

(S) Nevertheless, the NSLs that were served on 04/28/2006, 05/02/2006, and 05/04/2006 in the absence of a [redacted] investigation contravened the NSIG and must be reported to the IOB. In accordance with the reporting requirements of Section 1.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB. However, reviewing the NSL results obtained from properly served NSLs 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~~

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 10/04/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Information)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Information)

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[REDACTED]
AT [REDACTED]

(U) As already accomplished, the information that was received in response to the NSLs that were served on 04/28/2006, 05/02/2006, and 05/04/2006 should be sealed and sequestered within the CDC's safe. The information should remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

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[REDACTED]

IOE Library

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~~SECRET~~

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

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(U)

~~(S)~~ By electronic communications dated May 18, 2006 and June 23, 2006, the Federal Bureau of Investigation (FBI), [REDACTED] Field Office, reported [REDACTED]

[REDACTED] Due to an administrative oversight, [REDACTED] investigation was not [REDACTED]. Believing that [REDACTED] investigation had been properly [REDACTED] the FBI served four National Security Letters (NSLs) on April 28, 2006, May 2, 2006, and May 4, 2006. The results from these NSL were not analyzed, copied, or entered into any databases. Further, the NSL results were sealed and sequestered by the FBI.

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(U)

~~(S)~~ Under the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, effective October 31, 2003, [REDACTED] investigation must be initiated before an NSL may be served.

[REDACTED] Here, [REDACTED] Believing that [REDACTED] investigation had [REDACTED] the FBI served four NSLs on April 28, 2006, May 2, 2006, and May 4, 2006. It was improper for the FBI to serve the NSLs in the absence of a [REDACTED] and thus, this matter is being reported to the IOB.

~~Derived from: G-3
Declassify on: 25X1~~

~~SECRET~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 12-06-2007

NSL VIO-31379



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)

b2

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: 25X1~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 11-21-2007

~~SECRET~~

NSL VIO-31380

~~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-31381

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/31/2006

To: [Redacted]

Attn: [Redacted]

CDC [Redacted]
SSRA [Redacted]
SA [Redacted]

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Counterterrorism

Attn: ITOS I/CONUS IV, [Redacted]

Inspection

Attn: IIS, [Redacted]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F. [Redacted]

Drafted By: [Redacted]

(U)

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

(U)

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

b2

(U)

Synopsis: (S) The [Redacted] Field Office, [Redacted] requested that the Office of the General Counsel (OGC) review several incidents and determine whether they warrant reporting to the Intelligence Oversight Board (IOB). It is the opinion of OGC that two of the incidents do not need to be reported to the IOB. Rather, this EC should be maintained in the control file for periodic review by Counsel to the IOB. The remaining incidents, however, must be reported to the IOB. OGC will prepare and deliver the necessary correspondence to the IOB. Our analysis follows.

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(U)

~~Derived From : G-3
Declassify On: 25X1~~

Administrative: (S) This electronic communication (EC) contains information from: (1) the ECs dated 05/18/2006 and 06/23/2006 from [Redacted] to OGC reporting a potential IOB matter; and (2) automated case support (ACS).

~~SECRET~~

DATE: 12-07-2007
CLASSIFIED BY: 65179/DMH/KSR/RM
REASON: 1.4 (c)
DECLASSIFY ON: 12-07-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE
NSL VIO-31382

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~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 08/31/2006

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Reference: (S) [redacted]
(S) 278-HQ-C1229736-VIO Serial 1446
(S) 278-HQ-C1229736-VIO Serial 1482

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Details: (S) By ECs dated 05/18/2006 and 06/23/2006, [redacted] requested that CGC review several incidents and determine whether they warrant reporting to the IOE. [redacted]

[redacted]
[redacted] On 04/21/2006, the case agent submitted an EC requesting [redacted] Due to an administrative oversight, however, approval from the Acting Special Agent in Charge was not obtained, and [redacted]

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(S) [redacted] On 05/11/2006, the case agent noticed that the [redacted] The case agent immediately reported the issue to the [redacted] and to the [redacted] Division [redacted] CDC. In addition, the case agent expeditiously contacted OGC to discuss this matter. The case agent also sequestered all of the improperly obtained NSL results, and forwarded them to the [redacted] CDC. Finally, the case agent sought SAC authority to [redacted]

[redacted]
(S) [redacted]

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(S) (1) [redacted] Division [redacted] served a National Security Letter (NSL) on [redacted] on 04/28/2006 seeking subscriber information for telephone numbers [redacted]. The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted]. The results from this NSL were opened before [redacted]. However, the NSL results were not analyzed, copied, or entered into any databases. The NSL results were sealed and sequestered by the [redacted] CDC.

(S)

(2) The [redacted] Division served an NSL on [redacted] on 04/28/2006 seeking subscriber information for telephone numbers [redacted]. The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted].

~~SECRET~~

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~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 08/31/2006

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(S) [redacted] stated that it was not the carrier for the number requested and no results were returned.

(S) (3) [redacted] received NSL results from the [redacted] Divisions. The results were provided in response to NSLs seeking subscriber information for telephone numbers [redacted]. The NSLs had all been served prior [redacted].

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(S) (4) [redacted] served an NSL on [redacted] on 05/04/2006 seeking subscriber information for telephone numbers [redacted]. The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted]. The results from this NSL were not reviewed, analyzed, copied, or entered into any databases. The NSL results were sealed and sequestered by the [redacted] CDC;

(S) (5) The [redacted] Division [redacted] served an NSL on [redacted] on 05/02/2006. The NSL had been drafted and delivered to [redacted] by [redacted] prior [redacted]. [redacted] stated that it was not the carrier for the number requested and no results were returned; and

(S) (6) [redacted] received NSL results from the [redacted] Divisions. The results were provided in response to NSLs seeking subscriber information for telephone numbers [redacted]. The NSLs had all been served prior [redacted].

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOE intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language was adopted verbatim from EO 12834, dated 10/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 08/31/2006

(U) 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.

(S)

[redacted]

(U) ~~(S)~~ With regard to conducting investigative activities in the absence of [redacted] investigation, [redacted] the NSIG provide in pertinent part:

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The FBI may [redacted] engage in the following activities to investigate or collect information relating to threats to the national security, including information on individuals, groups, and organization of possible investigative interest, and information concerning possible targets of international terrorism, espionage, foreign computer intrusion, or other threats to national security:

2.

[redacted]

(S)

~~SECRET~~

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 08/31/2006

(S) [REDACTED]
[REDACTED] the FBI is permitted to analyze its own records, including properly received NSL results. Thus, there was no violation of the NSIG when [REDACTED] received and analyzed NSL results from other divisions where the NSLs had been properly served prior to [REDACTED]. Accordingly, reviewing these legally obtained NSL results in the absence of a preliminary investigation is not reportable to the IOB.

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(S) [REDACTED]
[REDACTED] Due to an administrative oversight, [REDACTED] The FBI served NSLs for toll billing records on 04/28/2006, 05/02/2006, and 05/04/2006 in the absence of [REDACTED] investigation. It was improper for the FBI to serve the NSLs on these dates. Because [REDACTED] investigation is required before an NSL may be served, serving these NSL in the absence of [REDACTED] investigation must be reported to the IOB. The information that was received in response to the 04/28/2006, 05/02/2006, and 05/04/2006 NSLs has been sealed and sequestered within the CDC's safe.

(S) It should be noted, however, that once the case agent recognized that [REDACTED] his response was commendable. The case agent immediately reported the issue to the [REDACTED] SSRA and to the [REDACTED] CDC. In addition, the case agent expeditiously contacted OGC to discuss this matter. The case agent also sequestered all of the improperly obtained NSL results, and forwarded them to the CDC. Finally, the case agent sought SAC authority [REDACTED]
[REDACTED]

(S) Nevertheless, the NSLs that were served on 04/28/2006, 05/02/2006, and 05/04/2006 in the absence of a [REDACTED] investigation contravened the NSIG and must be reported to the IOB. In accordance with the reporting requirements of Section 1.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB. However, reviewing the NSL results obtained from properly served NSLs 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~~

~~SECRET~~

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 08/31/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate. Additionally, 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 certain incidents, for three years for possible review by the Counsel to the IOB.

Set Lead 2: (Information)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Information)

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[REDACTED]

AT [REDACTED]

(U) As already accomplished, the information that was received in response to the NSLs that were served on 04/28/2006, 05/02/2006, and 05/04/2006 should be sealed and sequestered within the CDC's safe. The information should remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

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[REDACTED]

IOB Library

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/06/2006

To: [Redacted]

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

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Counterintelligence

Attn: CD-1A, [Redacted]
CD-1D, [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F. [Redacted]

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)

~~Derived From: G-1
Declassify On: 25X1~~

(U)

Administrative: (S) This electronic communication (EC) contains information from: (1) the EC dated 07/03/2006 from the [Redacted] Field Office [Redacted] to OGC reporting a potential IOB matter; (2) automated case support (ACS); and (3) email communications between [Redacted] and OGC dated 08/30/2006; 08/31/2006; and 09/05/2006.

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b1

Reference:

(S) [Redacted]

~~SECRET~~

DATE: 12-07-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4(c)
DECLASSIFY ON: 12-07-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE
NSL VIC 31388

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CIE29736-VIO, 09/06/2006

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~~(S)~~ By EC dated 07/03/2006, [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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(U)

(S) [redacted]
[redacted] Following the initiation of [redacted] investigation, [redacted] conducted [redacted] with the [redacted] to determine the target's telephone number. During [redacted] the case agent wrote down the telephone number as follows: [redacted]

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(S)

~~(S)~~ Based upon the telephone number written down [redacted] pursuant to 18 U.S. C. § 2709(c), [redacted] served a National Security Letter (NSL) dated 04/27/2006 requesting the name, address, length of service and local and long distance toll billing records for telephone number [redacted]. Upon receipt of the telephone records, it was determined that they were unlikely associated with the subject.

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~~(S)~~ After it was determined that the telephone records were not associated with the target, [redacted] compared the telephone number in the NSL with the telephone number that had been written on a piece of paper [redacted]. The telephone number obtained [redacted] was the same as the telephone number in the NSL. [redacted] does not know whether the wrong telephone number was given to the FBI, or whether the case agent wrote the incorrect telephone number on the piece of paper [redacted]. A subsequent [redacted] established that the correct telephone number of the subject is [redacted].

(S)

(U) Section 2.4 of Executive Order (EO) 12363, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB 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 EC 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 09/06/2006

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 11/04/1981, 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.

(U) ~~(S)~~ The standard for issuing an NSL is relevance to an authorized investigation to protect against international terrorism or clandestine intelligence activities provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the First Amendment of the Constitution of the United States. The subject of the NSL does not need to be the target of the investigation, provided that the information is relevant to an authorized investigation.

(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).

(U) ~~(S)~~ ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll/billing information from telephone carriers that is relevant to an authorized national security investigation.

b1 [redacted] the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

(U) ~~(S)~~ Here, during an authorized investigation, the FBI obtained a telephone number [redacted] that was believed to be the telephone number of the target. In other words, the telephone number received was believed to be relevant to an authorized [redacted] investigation. Based upon the information obtained [redacted] the FBI served

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 09/06/2006

an NSL requesting information about such telephone number. At the time that the NSL was served, the FBI believed that it was seeking information that was relevant to an authorized investigation. Upon receipt of the telephone records, the FBI learned that it received information unlikely associated with the subject.

(U) (S) Although the FBI learned that the telephone number was not associated with the target, the FBI had, in fact, requested information through an NSL that was believed to be relevant to an authorized investigation based upon information received during a lawful [REDACTED] Although lawfully obtained, because the information obtained through the NSL is not associated with the target, if not already accomplished, the information should be sequestered to protect the potential privacy interests of United States persons.

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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 need not be reported to the IOE. A record of this decision should be maintained in the control file for future review by the Counsel to the IOE.

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~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CIE29736-VIO, 09/06/2006

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)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[redacted]
AT [redacted]

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(U) With respect to the information obtained through the NSL that is not associated with the target, if not already accomplished, please seal the information and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

cc: Ms. Thomas

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[redacted]

IOB Library

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~~SECRET~~

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/14/2006

To: [Redacted]

Attn: SAC [Redacted]
ASAC [Redacted]

SSA [Redacted]
SA [Redacted]

Attr: CDC [Redacted]
ADC [Redacted]

Attn: IIS, [Redacted]

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Inspection

From: Office of the General Counsel

NSL/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(U)

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

DATE: 11-21-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-21-2032

(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: 25X1~~

(U)

Reference: (S) 278-HQ-C1229736-VIO Serial 1633(Pending)

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(S) [Redacted] (Pending)
(S) [Redacted] (Pending)
(S) [Redacted] (Pending)
(S) [Redacted] (Pending)

(U)

Details: (S) By EC dated 08/14/2006, the [Redacted] Field Office requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/14/2006

explained below, in our opinion, the FBI is not required to report this matter to the IOB.

(U) ~~(S)~~ On 08/02/2006, during the course of authorized foreign counterintelligence investigations,¹ the FBI served three National Security Letters (NSLs) pursuant to the Fair Credit Reporting Act (FCRA), 15 U.S.C. §§ 1681u(a) and (b). The FBI served the NSLs on [redacted]

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[redacted] In the NSLs, the FBI requested consumer identifying information and financial institution listings.

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~~(S)~~ On 08/03/2006, [redacted] provided the results of the NSLs to the FBI. In response to the NSLs, [redacted] provided complete credit reports regarding the subjects of the investigations.

[redacted] Division Associate Division Counsel [redacted] became aware of the NSL result. [redacted] informed the case agent that section 1681(v) of the FCRA permits the FBI to serve NSLs on credit reporting companies requesting complete credit reports only in counterterrorism matters, but not in counterintelligence investigations. [redacted] further

(S)

(1) [redacted]

(2) [redacted]

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(3) [redacted]

(4) [redacted]

(S)

~~SECRET~~

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/14/2006

explained that the FBI properly served the NSLs and requested lawful information.

(U)

(S) In response to the properly served NSLs, however, [REDACTED] erroneously provided information beyond the scope of the NSLs. Through no fault of the FBI, the FBI obtained complete credit reports pertaining to subjects of foreign counterintelligence investigations. When the case agent received the NSL results, he immediately sealed and sequestered them. This excess information currently is sequestered in the safe of the [REDACTED] Chief Division Counsel.

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(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 Executive Order 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

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/14/2006

administrative violations must be reported as potential IOB matters.

(U) 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 are 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). In addition to FCRA, 15 U.S.C. §§ 1681u(a) and (b) information (financial institutions and consumer identifying information), under 15 U.S.C. 1681u(c), if certain factors are met, the FBI is able to obtain full consumer reports in both counterintelligence and international terrorism investigations by an ex parte court order.

(U)

~~(S)~~ Here, during the course of several authorized foreign counterintelligence investigations, the FBI served three NSLs. The NSLs requested lawful information and were properly served. In response, [redacted] provided the FBI with information outside the scope of the NSLs and with information that was not permitted under 15 U.S.C. §§ 1681u(a) and (b). In other words, an error on the part of [redacted] resulted in the unintentional acquisition of information by the FBI.

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~~(S)~~ The carrier's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive. [redacted] should contact [redacted] and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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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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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/14/2006

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]
(U) For information.

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Set Lead 3: (Action)

[redacted]
AT [redacted]

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

cc: Ms. Thomas
[redacted]
IOB Library

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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: X1~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 11-21-2007

~~SECRET~~

NSL VIO-31398

~~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

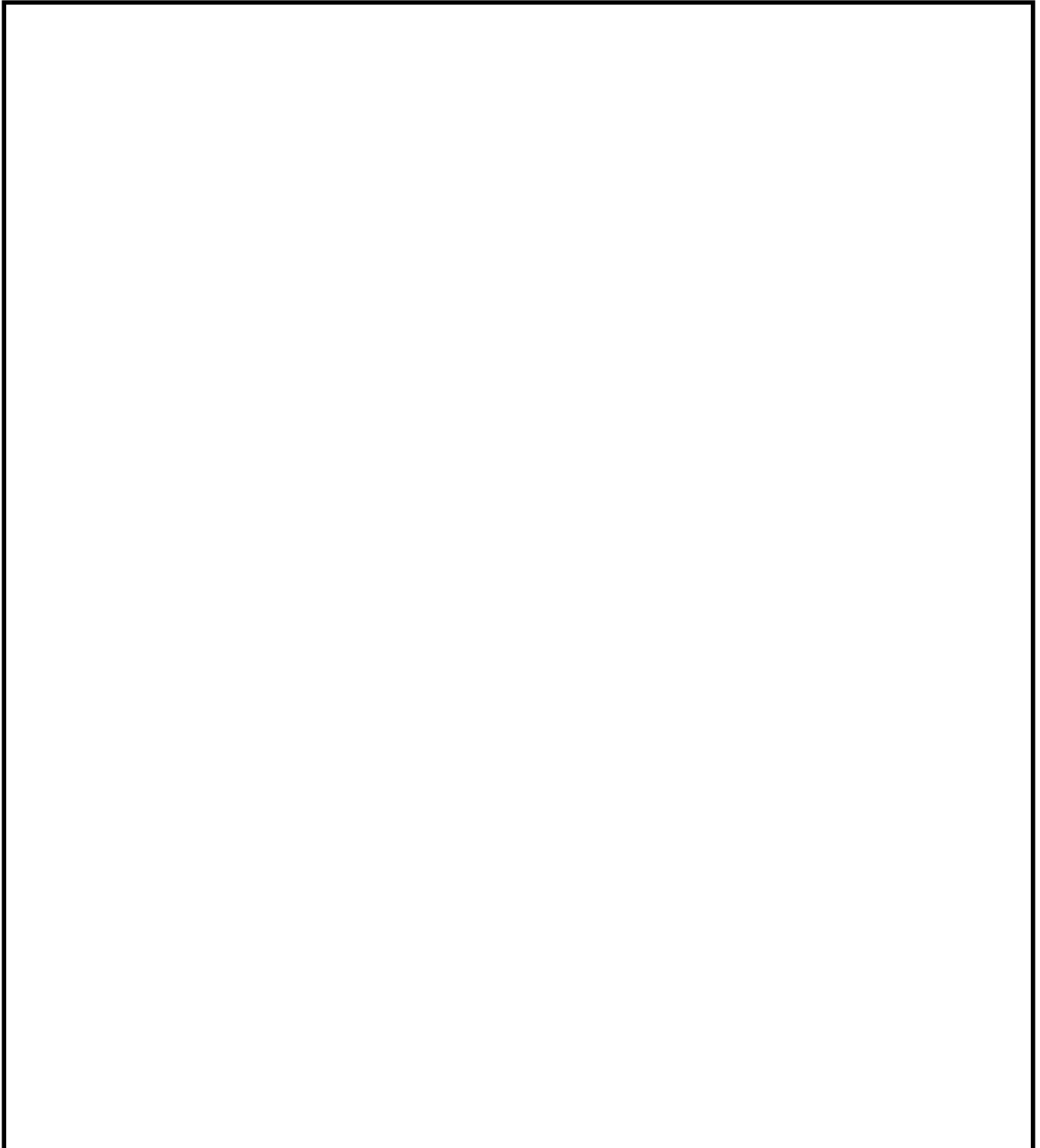
- 1 - The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Room 5111

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

~~SECRET~~

NSL VIO-31399

~~SECRET~~--DRAFT-- POLICY TO BE DISSEMINATED TO ALL DIVISIONS



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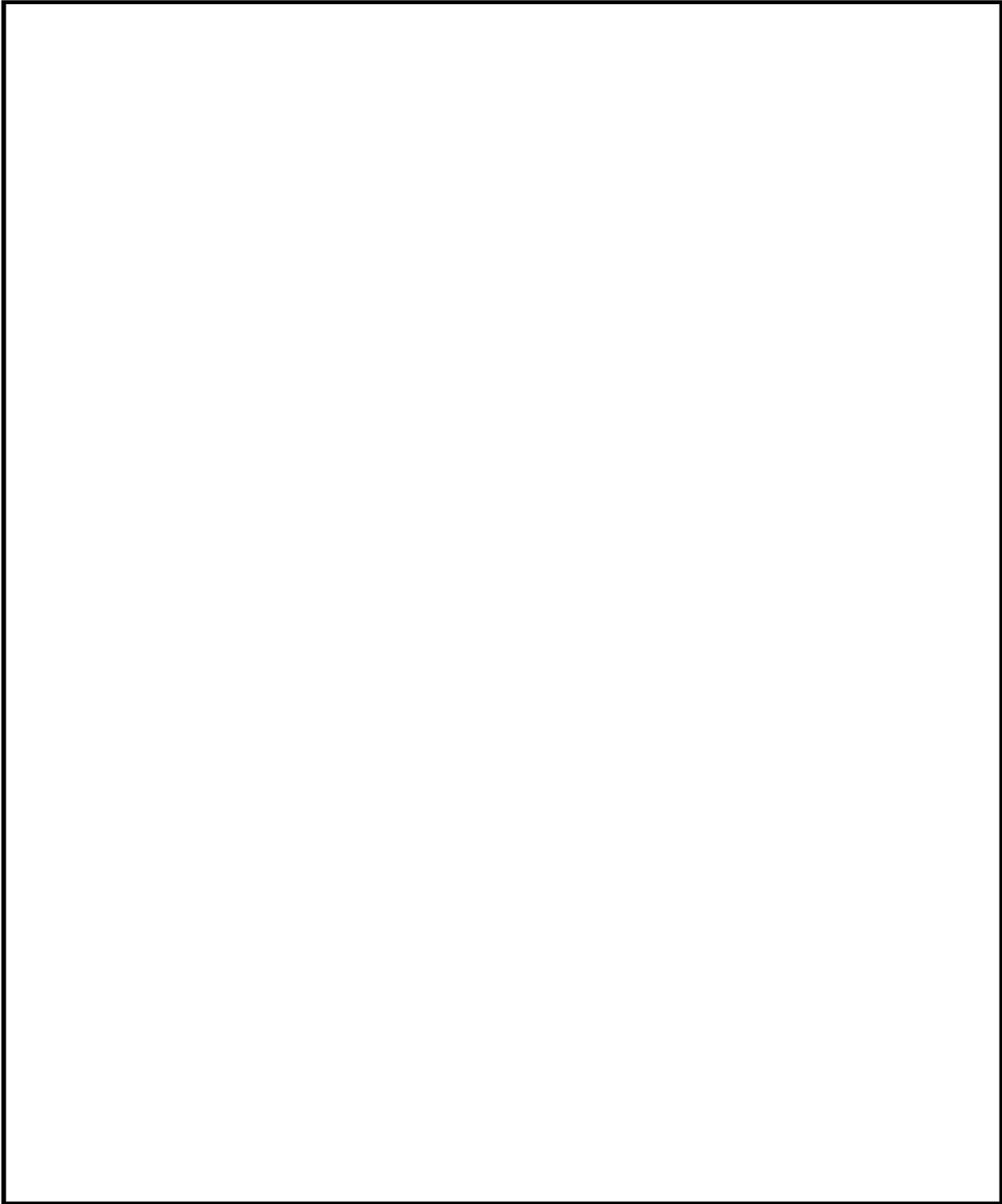
DATE: 12-06-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 12-06-2032

~~SECRET~~

NSL VIO-31405

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~--DRAFT-- POLICY TO BE DISSEMINATED TO ALL DIVISIONS



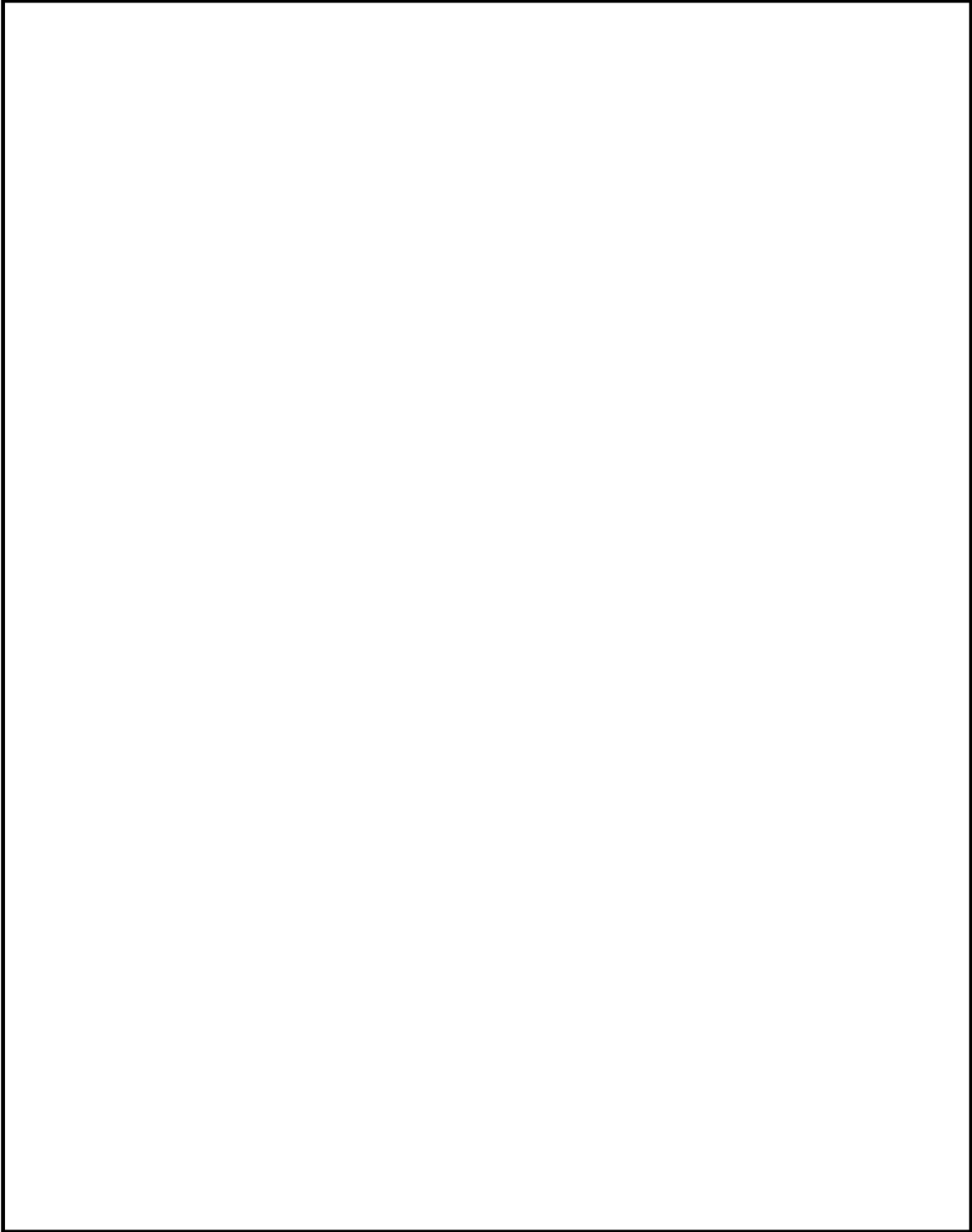
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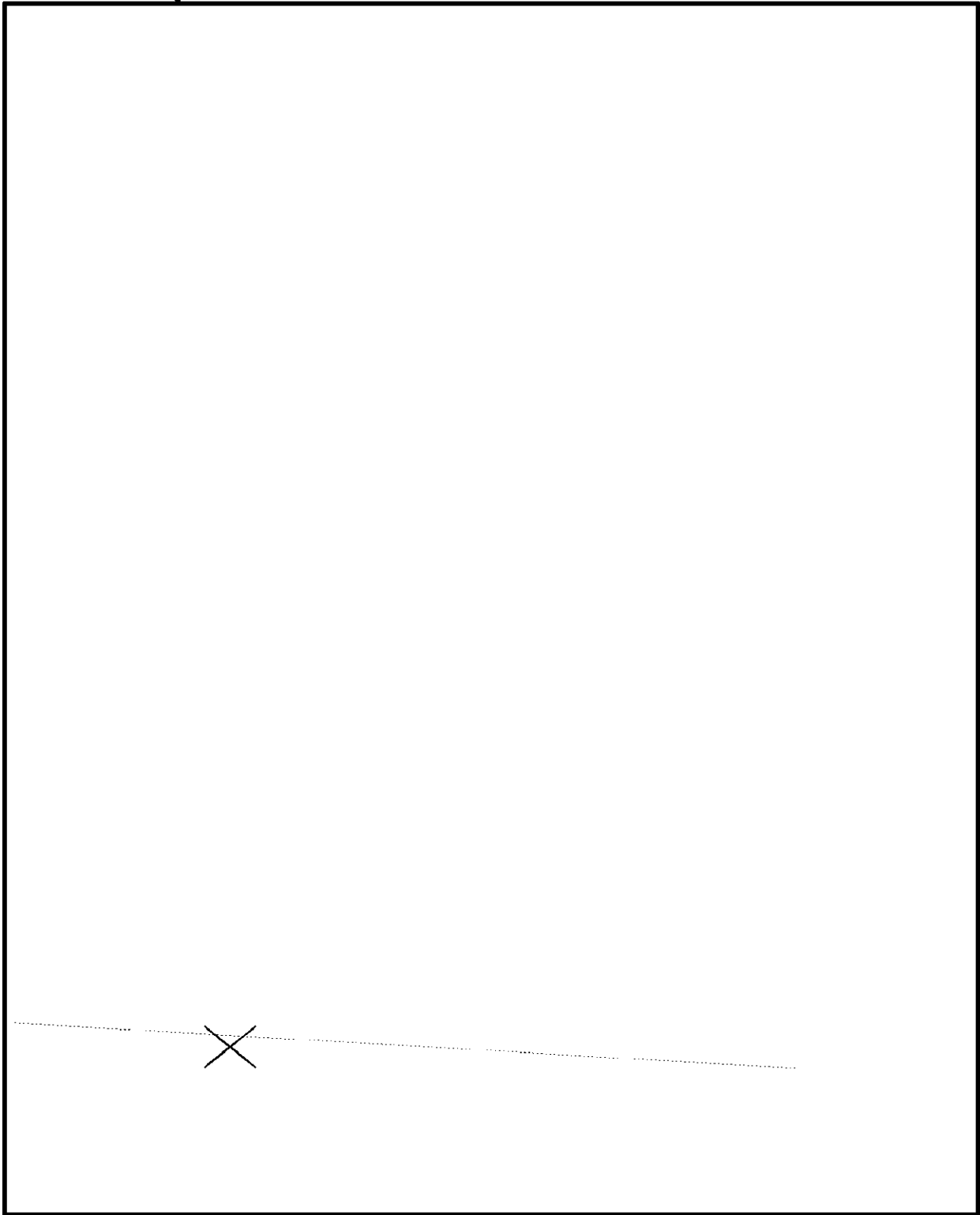
NSL VIO-31406

~~SECRET~~--DRAFT-- POLICY TO BE DISSEMINATED TO ALL DIVISIONS



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~~SECRET~~



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