

642

Precedence: ROUTINE

Date: 05/12/2004

To: Inspection

Attn: Inspection Management Unit
Room 7837

General Counsel

Attn: National Security Law Unit

From: [Redacted]

DATE: 07-05-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

Contact: SA [Redacted]

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Approved By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

b1 Case ID #: (U) 278-HQ-C1229736-VIO (Pending)
b2 (S) [Redacted] (Pending)

b7E Title: (U) SSA [Redacted]
b6 SA [Redacted]
b7C [Redacted] DIVISION;
IOB

Synopsis: (U) This communication reports a potential Intelligence Oversight Board matter.

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

(U) Enclosure(s): ~~(S)~~ Original electronic communication from [Redacted] to [Redacted] dated 4/30/2004 with information from [Redacted] attached.

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(U) Details: ~~(S)~~ The purpose of this electronic communication is to report a potential IOB matter involving a National Security Letter requested by SA [Redacted] FBI [Redacted] as well as to satisfy the requirements set forth by the 3/8/2004 electronic communication regarding the revised procedures for the submission of potential intelligence oversight board reports.

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(S) ~~(S)~~ 1. Identification of the substantive investigation in which the questionable activity occurred: [Redacted]

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Case ID : 278-HQ-C1229736-VIO Serial : 464

(S) [Redacted] 278 [Redacted] -C136372 [Redacted]

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105/05/04

263-0-0-224

(S) 2

[Redacted]

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(U) ~~(S)~~ 3. Identification of the subject's status as a United States person or non-U.S. person: NONUSPER

(U) ~~(S)~~ 4. Legal authority: Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code, Section 2709 (as amended, October 26, 2001).

~~(S)~~ 5. Statement of error: On 03/09/2004, a National Security Letter (NSL) electronic communication request was submitted by SA [Redacted] FBI [Redacted]. The request was addressed to [Redacted]

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[Redacted] The NSL requested the name, address, length of service, and local and long distance toll billing records for the phone number [Redacted]

(S) [Redacted] Due to a typographical error, the telephone number on the accompanying National Security Letter was erroneously typed [Redacted]

(S) ~~(S)~~ The 04/30/2004, the enclosed electronic communication from [Redacted] to [Redacted] with along with the information from [Redacted] was mailed to [Redacted] regarding telephone number [Redacted]

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(U) ~~(S)~~ On 05/06/2004, the envelope was opened and the error was discovered.

(U) ~~(S)~~ A CD sent by [Redacted] has been enclosed in a 1A envelope to the file.

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~~SECRET~~

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Page 1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 07-05-2007
CLASSIFIED BY 65179/DHK/ESR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

BY COURIER

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

Dear General Scowcroft:

This letter forwards for your information a self-explanatory enclosure entitled Intelligence Oversight Board (IOB) Matter, [redacted] Division, IOB Matter 2004 [redacted] (U)

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

Enclosure

- 1 - AD Szady
- 1 - DGC Thomas
- 1 - UC [redacted]
- 1 - 278-HQ-C1229736-VIO-

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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Case ID : 278-HQ-C1229736-VIO

Serial : 690

~~SECRET~~

NSL VIO-4677

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. Gonzalez
Attorney General
U.S. Department of Justice
Room 5111
- 1 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[redacted] DIVISION
IOB MATTER 2004 [redacted] (U)

(S) The [redacted] Division [redacted] of the Federal Bureau of Investigation ("FBI") has reported that it issued a National Security Letter (NSL) for records for cellular telephone number [redacted]. The FBI served that NSL on [redacted] and received the results of the NSL, including the name, address, length of service, and local and long distance toll billing records associated with the cellular telephone service. Due to a typographical error, the NSL was issued for the cellular

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telephone records of a telephone that is neither relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, nor that is related to the subject of a national security investigation.

(U) ~~(S)~~ Issuance of this NSL was not authorized by law, since 18 U.S.C. 2709 only authorizes the FBI to seek relevant records from a wire or electronic communication service provider when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." In addition issuance of this NSL was not authorized by the Attorney General's Guidelines since Section V.12 of the Attorney General's Guidelines authorizes use of NSLs only in conformity with 18 U.S.C. 2709, and when the telephone records are sought [redacted]

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[redacted] (U) This matter has been reported to the FBI's Inspection Division for appropriate action.

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

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/21/2005

To: [Redacted]

Attn: ASAC - [Redacted]

SSA [Redacted]
SA [Redacted]

Counterintelligence

Attn: CD-1

Inspection

Attn: Inspection Division

From: General Counsel

National Security Law Branch/CILU/ HO room 7975

Contact: UC [Redacted]

Approved By: Thomas Julie F

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

Case ID #: (S) 278-HQ-C1229736-VIO-689 (Pending)
(S) [Redacted] (Pending)

Title: (S) SSA [Redacted]
SA [Redacted] Division
IOB 2004- [Redacted]

DATE: 07-05-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

Synopsis: (S) It is the opinion of the Office of General Counsel (OGC) that the above referenced matter must be reported to the IOB and to the FBI's Inspection Division. OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.

Derived From: G-3
Declassify On: 02/21/2030

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

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NSL VIO-4680

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(U) b2 To: [redacted] From: General Counsel
b7E Re: (S) 278-HQ-C1229736-VIO, 02/21/2005

(U) Details: (S) By electronic communication (EC) dated May 12, 2004 (cited below),¹ the [redacted] Division [redacted] reported a potential IOB involving a National Security Letter (NSL) requested by [redacted] which, through typographical error, sought information about a cellular telephone number belonging to a person who was not the subject of an FBI national security investigation.

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[redacted]

[redacted] That NSL requested the name, address, length of service, and local and long distance toll billing records. Due to a typographical error, the NSL, which was prepared at the [redacted] Division and signed by the Special Agent in Charge, sought records for cellular telephone number [redacted].

(S) [redacted] By EC dated March 9, 2004, [redacted] requested that the [redacted] Division serve the above-mentioned NSL on [redacted]. That EC listed the subject's cellular telephone number correctly, but the attached NSL contained the incorrectly typed cellular telephone number.⁵ [redacted] Division served the NSL on [redacted] on April 5, 2004, received the results of the NSL request on April 22, 2004, and forwarded the results to [redacted] attached to EC [redacted].

(S)

¹ (U) See EC from the [redacted] Division to the Inspection Division and General Counsel, dated May 12, 2004, Case ID# 278-HQ-C1229736-VIO Serial 464, titled "SSA [redacted] SA [redacted] Division; IOB" hereinafter cited as [redacted] EC."

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² (U) See [redacted] EC.

³ (U) See [redacted] EC. It is unclear from the information submitted whether this typographical error was contained in the case agent's request for the NSL, or if it was first made in the preparation of the NSL itself. Since it was the case agent's duty to review the NSL for accuracy prior to his sending the NSL to the [redacted] Division for service, this fact is of no consequence to this opinion.

⁴ (S) See [redacted] EC titled [redacted]

⁵ (U) Id.

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~~SECRET~~

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(U)

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2005

(S)

[redacted] The results of the NSL include the name, address, length of service, and local and long distance toll billing records associated with cellular telephone service of a person who is not the subject of an FBI national security investigation. Upon receipt of the results of the NSL, [redacted] discovered the error.⁷

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(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters which must be reported to the IOB. They must.

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

~~(S)~~

[redacted]

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⁶ (S) See [redacted] EC titled [redacted]

[redacted]

(U) See [redacted] EC.

~~SECRET~~

~~SECRET~~

(U) b2 To: [redacted] From: General Counsel
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2005

(U) Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

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~~SECRET~~

(U)

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-CI229736-VIO, 02/21/2005

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LEAD(s):

Set Lead 1: (Info)

[redacted]

AT [redacted]

(U) Read and clear.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

◆◆

~~SECRET~~

Precedence: ROUTINE

Date: 02/21/2005

To: [Redacted]

Attn: ASAC [Redacted]
Squad [Redacted]
SSA [Redacted]
SA [Redacted]

Counterintelligence

Attn: CD-1

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Inspection

Attn: Inspection Division

From: General Counsel

National Security Law Branch/CILU/ HQ room 7975

Contact: UC [Redacted]

Approved By: Thomas Julie F

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending)
b1 (S) [Redacted] (Pending)

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Title: (S) SSA [Redacted]
SA [Redacted] Division

DATE: 07-05-2007
CLASSIFIED BY 65179/DMH/ESP/RN
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

(U) b7C IOB 2004 [Redacted] b2

(U) Synopsis: (S) It is the opinion of the Office of General Counsel (OGC) that the above referenced matter must be reported to the IOB and to the FBI's Inspection Division. OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.

(U) (S) Derived From : G-3
Declassify On: 02/21/2030

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

(U) Details: (S) By electronic communication (EC) dated My 12, 2004 (cited below), il the [Redacted] Division [Redacted] reported a potential IOB involving a National Security Letter (NSL) requested by [Redacted] which, through typographical error, sought information about a cellular telephone number belonging to a person who was not the subject of an FBI national security investigation.

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b1 (S) [Redacted]
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b1 Case ID : 278-HQ-C1229736-VIO Serial : 689

b2 (S)
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~~SECRET~~

NSL FBI INVEST: (M)
OPR UC INITIALS: _____

DATE: 3/20/05
OIG/DOJ INVEST: _____

(S) [redacted]

[redacted] As part of that investigation, on March 9, 2004, case agent SA [redacted] requested an NSL for the subject's cellular telephone, [redacted]. That NSL requested the name, address, length of service, and local and long distance toll billing records. Due to a typographical error, the NSL, which was prepared at the [redacted] Division and signed by the Special Agent in Charge, sought records for cellular telephone number [redacted]. By EC dated March 9, 2004, [redacted]

(S) [redacted] requested that the [redacted] Division serve the above-mentioned NSL on [redacted]. That EC listed the subject's cellular telephone number correctly, but the attached NSL contained the incorrectly typed cellular telephone number.i5' [redacted] Division served the NSL on [redacted] on April 5, 2004, received the results of the NSL request on April 22, 2004, and forwarded the results to [redacted] attached to

(S) EC [redacted] The results of the NSL include the name, address, length of service, and local and long distance toll billing records associated with cellular telephone service of a person who is not the subject of an FBI national security investigation. Upon receipt of the results of the NSL, [redacted] discovered the error.i7'

(U) (S) As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters which must be reported to the IOB. They must.

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

(S) [redacted]
[redacted]
[redacted] 18 U.S.C. 2709

authorizes the FBI to seek relevant records from a wire or electronic communication service provider when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." Here, issuance of an NSL which requested records for telephone number [redacted] was neither authorized by law, nor was it (S) authorized by the Attorney General's Guidelines, since that telephone number is not relevant to a counterintelligence investigation.

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(U) Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

****FOOTNOTES****

i1': (U) See EC from the [redacted] Division to the Inspection Division and General Counsel, dated May 12, 2004, Case ID# 278-HQ-C1229736-VIO Serial

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464, titled "SSA [redacted] SA [redacted] [redacted] Division; IOB" hereinafter cited as [redacted] EC."

i2': (U) See [redacted] EC.

i3': (U) See [redacted] EC. It is unclear from the information submitted whether this typographical error was contained in the case agent's request for the NSL, or if it was first made in the preparation of the NSL itself. Since it was the case agent's duty to review the NSL for accuracy prior to his sending the NSL to the [redacted] Division for service, this fact is of no consequence to this opinion.

i4': (S) See [redacted] EC titled [redacted]

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i5': (U) Id.

i6': (S) See [redacted] EC titled [redacted]

i7': (U) See [redacted] EC.

LEAD(s):

Set Lead 1: (Info)

[redacted]

AT [redacted]

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(U) Read and clear.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

~~SECRET~~

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Page 4

(U) For review and action deemed appropriate.

Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

~~SECRET~~

NSL VIO-4688

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/22/2005

To: General Counsel

Attn: NSLB

ALL INFORMATION CONTAINED
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From: Inspection

Internal Investigations Section IPU, Room 11102

Contact: CRS [redacted]

Approved By: [redacted]

DATE: 07-05-2007
CLASSIFIED BY 65179/DMH/KSR/
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

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Drafted By: [redacted]

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 642

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

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

Reference: (S) [redacted]
278-HQ-C1229736-VIO Serial 464
OGC # 2004 [redacted]

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division, dated 5/12/2004, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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Precedence: PRIORITY

Date: 09/15/2004

To: General Counsel

Attn: National Security Law Branch
Room 7975

From: Counterintelligence

CD-1 Section, CD-1D Unit, Room 4230

Contact: OS [redacted]

DATE: 07-05-2007
CLASSIFIED BY 65179/DNH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-05-2032

Approved By: [redacted]

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Drafted By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

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

Title: (U) PRESIDENT'S INTELLIGENCE OVERSIGHT
BOARD (IOB);
b1
b2 POTENTIAL IOB ERROR OR VIOLATION

b7E
b7A (S)

[redacted]

b2 Synopsis: (U) Report from FBI, [redacted] of a potential IOB
b7E violation.

(U)

~~(S)~~ Derived From: G-3
Declassify On: X25-1
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b7E (S) [redacted]

Reference

(U) Enclosure (S) Enclosed for OGC/NSLB is one (1) copy of the
above-referenced [redacted] serial; one (1) original magneto
optical disk (MO) along with one (1) original and one (1) copy of
an accompanying letter to OIPR dated 9/10/2004.

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b7E Details: (S) Attached [redacted] EC reports a potential IOB matter
to OGC/NSLB, as instructed per EC dated 03/08/2004, see 66F-HQ-
A1247863 Serial 149.

(S) 1. Substantive Investigation: [redacted]
[redacted]

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(S)

Case ID : 278-HQ-C1229736-VIO Serial : 579

(S)

[redacted]

203-0-0-233

NSL VIO-4690

(S)

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[Redacted]

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[Redacted]

5. Statement of Error Committed:

(S)

[Redacted]

(S)

[Redacted]

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(S)

[Redacted]

[Redacted]

New York ceased monitoring

the cellular number.

(U)

~~(S)~~ Attached letter to OIPR describes in detail the facts and the actions taken by the [Redacted] Office in resolving this matter.

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~~(S)~~ The point of contact concerning this matter is OS [Redacted] CD-1D Unit, telephone (202) [Redacted]

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LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For information of OGC/NSLB and for any further action deemed appropriate by OGC/NSLB.

Precedence: ROUTINE

Date: 10/19/2004

To: Director's Office
Counterintelligence

Attn: OPR
Attn: CD-1D
Attn: SAC

[Redacted]

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From: General Counsel
NSLB/CILU/Rm 7975
Contact: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: [Redacted]
Thomas Julie

DATE: 07-05-2007
CLASSIFIED BY: 65179/DMH/ESR/RS
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-05-2032

Drafted By: [Redacted]

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

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

Synopsis: (S) The Office of the General Counsel (OGC) considers
that this matter must be reported to the Intelligence Oversight
Board (IOB) and to the Office of Professional Responsibility
(OPR). A summary of the facts and OGC's analysis follow.

Derived From: G-1
Declassify On: X1

Reference: (S) 278-HQ-C1229736-VIO Serial 579

Details: (S) [Redacted]

[Redacted]

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The subscriber information was
verified by the [Redacted]

[Redacted]
(S) [Redacted]

[Redacted]

Case ID : 278-HQ-C1229736-VIO Serial : 603

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SECRET

DATE: 5/22/05
FBI INVEST: [Redacted] OIG/DOJ INVEST: [Redacted]
OPR UP INITIALS: [Redacted]
NSL VIO 4892

(S) [Redacted]

[Redacted] was discontinued [Redacted] informed the [Redacted] that telephone number [Redacted] was no longer assigned to [Redacted] [Redacted] having been "recycled" and given to another customer.

(S) [Redacted]

[Redacted] The original disk was sent by [Redacted] to OGC, which forwarded it to OIPR for appropriate disposition. [Redacted]

[Redacted]

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(U) ~~(S)~~ The foregoing information was obtained from an EC drafted by OS [Redacted] on 9/15/2004 (see 278-HQ-C1229736-VIO, serial 579) and a letter from SSA [Redacted] to OIPR Counsel James Baker dated 9/10/2004.

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(U) Title 18, United States Code, Section 2511, prohibits the interception of wire communications except as authorized in chapter 119 of Title 18. Section 2511(e) provides an exception "for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (FISA), as authorized by that Act." In this case, a valid order existed but it was predicated on information concerning the identity of the subscriber that was no longer accurate at the time of the surveillance. Thus, the interception of communications that occurred after the number was recycled was contrary to 18 USC 2511.

(U) Section 2.4 of Executive Order 12863 (September 13, 1993, 58 F.R. 48441) requires Inspectors General and General Counsel of the Intelligence Community, including the FBI, to report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language has been interpreted to mandate the reporting of any violation of law or pertinent Attorney General guidelines that are specifically intended to ensure the protection of the individual rights of U.S. persons.

(U) ~~(S)~~ In this case, the authority to monitor the line was based on information concerning the identity of the subscriber that changed after the information was submitted to the Foreign Intelligence Surveillance Court. Consequently, OGC will prepare a cover letter and memorandum to report this matter

to the IOB. That correspondence will also inform the IOB that the case will be referred to FBI's Office of Professional Responsibility.

LEAD(s):

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR FO, DC

(U) For appropriate action.

Set Lead 2: (Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Please read and clear.

Set Lead 3: (Action)

[REDACTED]

AT

[REDACTED]

(U) For appropriate action.

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~~SECRET~~

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Page 1

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

BY COURIER

General Brent Scowcroft (USAF Retired)
Chairman
Intelligence Oversight Board
Room 5020
New Executive Office Building
725 17th Street, N.W.
Washington, D.C. 20503

DATE: 07-05-2007
CLASSIFIED BY: 65179/DMH/KSP/RJ
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-05-2032

Dear General Scowcroft:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2004-83." (U)

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

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

- 1 - Ms. Thomas
- 1 - IOB Library
- 1 -
- 1 - 278-HQ-C1229736-VIO

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

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Case ID : 278-HQ-C1229736-VIO

Serial : 604

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NSL VIO-4695

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Page 2

General Brent Scowcroft (USAF Retired)

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

Sincerely,

Julie Thomas
Deputy General Counsel

Enclosure

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

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DETACHED FROM
CLASSIFIED ENCLOSURE~~

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

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
IOB 2004 (U)

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NSL VIO-4696

(S)

[Redacted]

[Redacted]

Information concerning the subscriber for this line was verified by the [Redacted] office of the FBI [Redacted]

(S)

[Redacted]

[Redacted]

[Redacted] the FBI discontinued coverage [Redacted] the cellular service provider informed the [Redacted] office of the FBI that telephone number [Redacted] was no longer assigned to the target. It had been given to another customer after being "recycled."

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(S)

[Redacted]

[Redacted]

[Redacted] forwarded to the Department of Justice's Office of Intelligence Policy and Review for appropriate disposition. [Redacted]

[Redacted]

(U) Title 18, United States Code, Section 2511, prohibits the interception of wire communications except as authorized in chapter 119 of Title 18. However, Section 2511(e) permits "an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (FISA), as authorized by that Act." In this case, a valid order existed but it was predicated on information concerning the identity of the subscriber that was no longer accurate at the time of the surveillance. Thus, the interception of communications that occurred after the number was recycled was contrary to 18 USC 2511. The matter is therefore reportable to the Intelligence Oversight Board under the terms of Executive Order 12863. In addition, it has

been referred to the FBI's Office of Professional Responsibility for any action that is

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Page 4

deemed appropriate.

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

~~SECRET~~

NSL VIO-4698

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/24/2005

To: General Counsel

Attn: NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted]

DATE: 07-05-2007

CLASSIFIED BY: 65179/DML/ECR/RU

REASON: 1.4 (c)

DECLASSIFY ON: 07-05-2032

Approved By: [redacted]

Drafted By: [redacted]

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

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 651
OGC/IOB# 2004-[redacted]

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

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

Reference: (S) [redacted]
278-HQ-C1229736-VIO Serial 579

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Office dated 9/15/2004, reporting a possible IOB error. Based upon a review of the referenced EC, it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

◆◆

~~SECRET~~



U.S. Department of Justice
Office of the Inspector General

Washington, D.C. 20530

DATE: July 20, 2005

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-05-2007 BY 65179/DMH/KSP/RM

Glenn G. Powell

FROM: Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: OIG Complaint No. 2005005804 ✓
Subject: Unidentified
[Redacted] Division
FBI No. 278-HQ-C1229736-VIO

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- We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.
- This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.
- This complaint will be investigated by the OIG.

IMPORTANT NOTICE

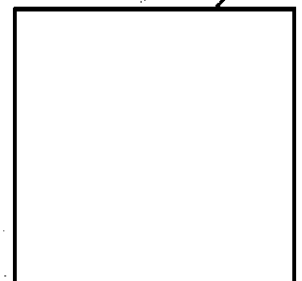
Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

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2004- [Redacted] NSL VIO-4700



Received By: [redacted] Date Received: 04/18/2005 How Received: A

SUBJECT OF A COMPLAINT: Unidentified FBI Agents SSNO:
Title: SA Pay Plan: D.O.B.:
Component: FBI EOD Date: Alien No.:
Misc: F.B.I.No.:
Home: B.O.P.No.:
Phone: ZIP: D/L No.:
Work:
Phone: ZIP:

COMPLAINANT: Dicarlo, Frank J. SSNO: [redacted]
Title: SA Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: F.B.I.No.: [redacted]
Home: B.O.P.No.:
Phone: ZIP: D/L No.:
Work:
Phone: ZIP:
Confidential: Revealed: Authority: none

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ALLEGATIONS: 412 Job Performance Failure

Occurrence Date: 06/10/2004

TIME:

CITY: [redacted] State: [redacted] Zip:

Details:

The FBI provided information reporting a potential IOB matter.

DISPOSITION DATA: Date: 07/19/2005 Disposition: M Approval: POWELL, GLENN G
Referred to Agency: Component: FBI
Civil Rights: N Sensitive: N
Component Number: Consolidated Case Number:

Remarks:

7/20/05 - Predicating material contains information which has been classified as
classified and was returned to FBI Inspection Division. Management referral to AD
Thornton, FBI Inspection Division. (yht)

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-05-2007 BY 65179/DHR/KSR/RW

~~SECRET//ORCON//NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 03/02/2005

To: Counterintelligence

Attn: CD-3A, room 4155,
SSA [redacted]

OGC

Attn: NSLB, [redacted]

✓ INSD

Attn: IIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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From: [redacted]

Contact: [redacted]

Approved By: [redacted]

DATE: 07-05-2007
CLASSIFIED BY: 65179/DWH/VSP/RW
REASON: 1.4 (c),(8)
DECLASSIFY ON: 07-05-2032

Drafted By: [redacted]

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Case ID #: (S) [redacted] (Pending)
278-HQ-CF229736-VIO

Title: (S) [redacted]

(Case Agent [redacted])
(Acting Supervisor [redacted])

(U) ~~(S)~~ Synopsis: To provide Counterintelligence, CD-3A, with the attached letter with enclosures for provision to the Office of Intelligence Policy and Review (OIPR), if appropriate, and to advise NSLB of same as potential IOB violation.

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

(U) Enclosure(s): ~~(S)~~/OC/NF LHM with enclosures for dissemination to OIPR.

b1
b7A
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Details: (S) [redacted]

~~SECRET//ORCON//NOFORN~~

OIG/DOJ Review
FBI INVEST: [redacted]
OPR LIC INITIALS: [redacted]

DATE: 4/18/05
DJ INVEST: [redacted]

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b7C

NSL VIO 4902

b1
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b2
b7E

To: Counterintelligence From: [redacted]
Re: (S) [redacted] 03/02/2005

(S)

[redacted]

[redacted] Electronic surveillance of this cellular telephone number was discontinued because subsequent investigation revealed that this number was not being utilized by captioned target [redacted] (S)

b1
b7A
b2
b7E

(S) The pertinent details of the authorization and subsequent investigation are set forth in the enclosed letter.

[redacted] is also providing OIRP [redacted]
[redacted]

b1
b7A
b2
b7E

(S)

[redacted]

(U) (S) Based on the circumstances described in the attached letter, [redacted] does not believe this is a potential IOB violation.

b2
b7E

~~SECRET/ORCON/NOFORN~~

To: Counterintelligence From: [redacted]
Re: (S) [redacted] 03/02/2005

b1
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b7E
b7A

LEAD(s):

Set Lead 1:(Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U)

~~(S)~~ Disseminate attached LHM with enclosures
to OIPR.

Set Lead 2:(Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U)

~~(S)~~ Read and clear.

◆◆

~~SECRET/ORCON/NOFORN~~

3

NSL VIO-4704



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

[Redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

March 2, 2005

BY FEDERAL EXPRESS

James A. Baker
Counsel for Intelligence Policy
Office of Intelligence Policy and Review
U.S. Department of Justice, Room 6150
950 Pennsylvania Ave. N.W.
Washington, D.C. 20530

DATE: 07-09-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-09-2032

(S) b1
b7A
b2
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RE:

[Redacted]

[Redacted] (S)

Dear Mr. Baker:

Enclosed for notification to the United States Foreign
Intelligence Surveillance Court (FISC) and/or sequestration with
the FISC, if appropriate, [Redacted]

[Redacted] pertaining to the above-
referenced electronic surveillance. (S)

[Redacted]

b1
b7A
b2
b7E

Electronic surveillance of this cellular telephone number was
discontinued [Redacted] because
subsequent investigation revealed that this number was not being
utilized by captioned target [Redacted] (S)

The authorization was based, in part, on the
following: results of a National Security Letter (NSL) to [Redacted]

b4
b7D

(S)

[Redacted]

~~(S//OC//NF)~~

(S)

[Redacted]

~~(S//OC//NF)~~

b1
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(S)

[Redacted]

[Redacted] advised, at the request of the FBI, [Redacted] was not the current subscriber. The FBI terminated electronic surveillance coverage [Redacted]

[Redacted]

[Redacted]

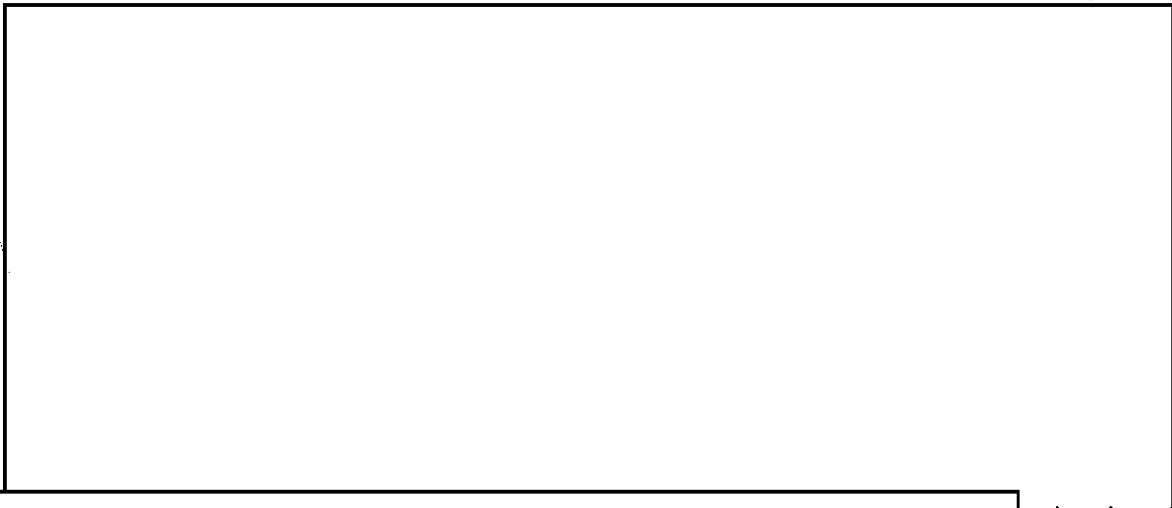
~~(S//OC//NF)~~

(S)

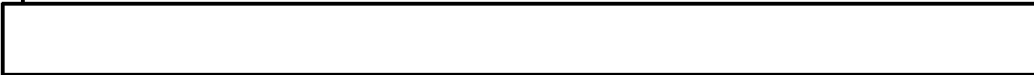
[Redacted]

[Redacted] we are advising you of the

(S)



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~~(S)~~

If you have any questions regarding this matter,
please contact Acting Supervisory Special Agent [redacted]
[redacted] at [redacted] Thank you for your assistance.

Sincerely yours,

b2
b7E



Classified Document Receipt

When filling out this form, please press firmly with ballpoint pen.

ACCOUNTABILITY

FROM: (Name) [Redacted] (Organization and Address) DOJ/OIG/HQ
TO: (Name) Charlene D. Thornton (Organization and Address) FBI Inspection Div
SIGNATURE: (of Recipient) & DATE: _____
If sent outside DOJ, Return this copy to: _____

DOCUMENT IDENTITY

SUBJECT & DESCRIPTION: OIG Complaint # 2005005804-M
Unidentified FBI, [Redacted] Division
Date of Document: 7/20/05 No. of pages: 8
Copy _____ of _____ Copies.
Classification of Document (Check Appropriate Box(es) Below):
 TS S CONF SCI Q OTHER

b6
b7C
b2
b7E

INTERNAL DOJ ROUTING

[Redacted] [Redacted] ORGANIZATION & DATE REC'D.
FBI/DOJ 7/26/05
3. _____
4. _____
5. _____

INSTRUCTIONS ON BACK OF LAST PAGE

FORM DOJ-34
JUN. 81

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-05-2007 BY 65179/DNH/ESB/RW

#923

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: DEADLINE 07/15/2004

Date: 07/06/2004

To: General Counsel
Counterintelligence

Attn: National Security Law Branch

Attn: CD-2C, Room 4066
SSA [redacted]

Attn: A/Chief Division Counsel
SA [redacted]

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Fr [redacted]

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WHERE SHOWN OTHERWISE

Contact: SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

DATE: 07-05-2007
CLASSIFIED BY: 65179/DMH/KSP/RM
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-05-2032

(U)

Case ID #: (S) 278-HQ-C1229736-VIO (Pending) ⁵³⁵
(S) [redacted] (Pending)

b1
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(U)

Title: (S) [redacted]
[redacted] DIVISION
IOB

(U)

Synopsis: (S) To report a possible Intelligence Oversight Board
(IOB) matter.

(U)

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

(S) b1
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Reference: (S) (a) 66F-HQ-A1247863 Serial 149

(U)

(S) (b) [redacted]

~~SECRET~~

2/29/05

263-0-0-247

2004
9.004

NSL VIO-4709
b2

~~SECRET~~

To: From: [redacted]
Re: 278-HQ-C1229736-VIO, 07/06/2004

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

(U) ~~(S)~~ Details: In accordance with the instructions outlined in reference (a), information on the following possible IOB matter is forwarded to FBIHQ.

CASE BACKGROUND (U)

(S) The substantive case file number in which the possible IOB violation occurred is [redacted] The case title is:

b1
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b7E (S)
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b7A

[redacted]

OO: [redacted]

(S) [redacted]

[redacted]

b1
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b7E
b6
b7C

(S) [redacted]

[redacted]

(U) ~~(S)~~ **POSSIBLE IOB VIOLATION BACKGROUND (S)**

(U) ~~(S)~~ On 07/02/2004, writer was informed by Intelligence Operations Specialist (IOS) [redacted] that

~~SECRET~~

~~SECRET~~

To: From: [redacted]
Re: 278-HQ-C1229736-VIO, 07/06/2004

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OTHER not FOIA Exer

the [redacted]
[redacted]
[redacted]

See reference (b). Further investigation determined that these [redacted]

See reference (c). The number that should have been requested was [redacted]

(U)

~~(S)~~ On 07/06/2004, writer consulted with [redacted] [redacted] Chief Division Counsel [redacted]/CDC). Writer was informed by the [redacted] CDC that the material received constituted an IOB violation and should be reported. Under separate Electronic Communication (EC), writer forwarded said material to CD-2C for sequestration with the FISC.

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~~SECRET~~

~~SECRET~~

To: From: [redacted]
Re: 278-HQ-C1229736-VIO, 07/06/2004

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LEAD (s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U)

~~(S)~~ Division 9, General Counsel, National Security Law Branch, is requested to take whatever action is necessary to record the incident with Intelligence Oversight Board.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For CD-2C, read and clear.

Set Lead 3: (Info)

[redacted]

AT [redacted]

(U) For [redacted] Chief Division Counsel, read and clear.

◆◆

~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/03/2005.

To: Director's Office
Counterintelligence

[Redacted]

Attn: OPR
Attn: AD
Attn: SAC/CI
CDC

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WHERE SHOWN OTHERWISE

DATE: 07-05-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-05-2032

From: General Counsel
Counterintelligence Law Unit/Room 7947
Contact: [Redacted]

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Approved By: Thomas Julie F

Drafted By: [Redacted]

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

831

*use handle
cover lead
in PMS
JF*

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

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Synopsis: ~~(S)~~ The Office of the General Counsel (OGC) considers that this matter must be reported to the Intelligence Oversight Board (IOB) and to the Office of Professional Responsibility (OPR). A summary of the facts and an analysis of the situation follows.

Details: ~~(S)~~
FBIHQ opened [Redacted]

[Redacted] a non-USIPER. As part of that investigation on [Redacted]

On 04/28/04 [Redacted] provided the requested records to the FBI. The telephone number to be [Redacted] However, due to a

typographical error in the NSL, the number [Redacted] a number belonging to [Redacted]

Information provided in response to the NSL included [Redacted] during records of [Redacted]

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

OIG/DOJ Review [Redacted] DATE: 8/1/05
FBI INVEST: [Redacted] DOJ INVEST: [Redacted]
OPR UC INITIALS: [Redacted]

NSL VIO-4713

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To: Director's Office From: General Counsel
Re: (U) 278-HQ-C1229736-VIO, 05/03/2005

OTHER not FOIA exer

(U) ~~(S)~~ [redacted] t no

time was any further investigative action taken with respect to the information received pertaining to the [redacted]

b1

(S) [redacted] No written summaries of communications were made.

(U) ~~(S)~~ The foregoing information was obtained from ECs drafted by SA [redacted] on 7/06/04 (see 278-HQ-C1229736, serial 535).

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(U) Pursuant to the Electronic Communications Privacy Act (ECPA), 18 U.S.C. §§ 2709, the FBI can issue National Security Letters (NSLs) for: (1) telephone subscriber information (limited to name, address, and length of service); (2) telephone local and long distance toll billing records; and (3) electronic communication transactional records.

(S) Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 the FBI intended to request the telephone and long distance toll billing records of a non-USPER, the subject [redacted]. When the NSL was drafted, however, a typographical error resulted in the requesting of information derived from a number belonging to the [redacted]

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(U) Section 2.4 of Executive Order 12863 (September 13, 1993, 58 F.R. 48441) requires Inspectors General and General Counsel of the Intelligence Community, including the FBI, to report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language has been interpreted to mandate the reporting of any violation of law or pertinent Attorney General guidelines that are specifically intended to ensure the protection of the individual rights of U.S. persons.

(U) ~~(S)~~ In this case [redacted] [redacted] [redacted] Consequently, OGC will prepare [redacted] memorandum to report this matter to the IOB. That correspondence

~~SECRET~~

OTHER not FOIA exempti

~~SECRET~~

To: Director's Office From: General Counsel
Re: (U) 278-HQ-C1229736-VIO, 05/03/2005

will also inform the IOB that this matter will be referred to
FBI's Office of Professional Responsibility.

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Please read and clear.

Set Lead 3: (Action)

[Redacted]

AT [Redacted]

(U) For action deemed appropriate.

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b7E

CC: Ms. Thomas

[Redacted]

IOB Library

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NSL VIO-4715

May 3, 2005

DECLASSIFIED BY 65179/DMH/ESP/RW
ON 07-05-2007

Mr. James Langdon
Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Mr. Langdon:

This letter forwards for your information a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB), Matter 2004 [redacted] (U)

b2

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

Enclosure

- 1 - Ms. Thomas
- 1 - [redacted]
- 1 - [redacted]
- 1 - 278-HQ-CI229736-VIO - 832

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~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

NSL VIO-4716

~~SECRET~~

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)

Very truly yours,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Room 5111
- 2 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

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

~~SECRET 2~~

NSL VIO 4717

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2004 [redacted]
[redacted] DIVISION
FEDERAL BUREAU OF INVESTIGATION HEADQUARTERS (FBIHQ) (U)

b2
b7E

(S) ~~(S)~~ Investigation of this IOB matter has revealed that pursuant to a National Security Letter (NSL) served on [redacted] [redacted] provided telephone billing records to [redacted]. The telephone number to be targeted [redacted] however, due to a [redacted] in the NSL, the number actually requested was [redacted] a number belonging to [redacted].

(S) On 07/02/04 FBI [redacted] realized that the results of the information provided in response to the NSL included the phone billing records of the [redacted]. Upon discovery of the error, on 07/06/04 the inadvertently obtained material was segregated and forwarded to FBIHQ for sequestration. At no time was any further investigative action taken with respect to the information received pertaining to the [redacted]. No written summaries of communications were made.

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(S) A copy of this submission to the IOB has been provided to the FBI's Executive Assistant Director for Counterterrorism/Counterintelligence and to the Office of Professional Responsibility for action as deemed appropriate. (U)

DATE: 09-20-2007
CLASSIFIED BY 65179/DWH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 09-20-2032

Derived from: G-3
Declassify on: X1

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/02/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted]

Approved By: Fogle Toni Mari

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b7C

Drafted By: [redacted]

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

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 923
OGC/IOB# 2004-[redacted] b2

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

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

Reference: ~~(S)~~ 278-HQ-cl229736-vio Serial 535
[redacted]
~~(S)~~ 278-HQ-C1229736-VIO Serial 831

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 7/6/2004, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 07-05-2007
CLASSIFIED BY: 65179/DMH/EGR/RM
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY

Date: 09/01/2004

To: General Counsel

Attn: National Security Law Branch
Room 7975

From: [Redacted]

Contact: [Redacted]

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Case ID #: (U) 278-HQ-C1229736-VIO -573
(U) 278- [Redacted] C63856-VIO

DATE: 07-06-2007
CLASSIFIED BY: 65179/DMH/RSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 07-06-2032

Title: (U) PRESIDENT'S INTELLIGENCE OVERSIGHT
BOARD (IOB);
POTENTIAL IOB ERROR OR VIOLATION

(S) [Redacted]

Synopsis: (U) Report from [Redacted] of potential IOB violation.

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

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

Enclosure(s): ~~(S)~~ Enclosed for OGC/NSLB are copies of the
above-referenced serials, and a copy of the 06/17/2004 Memo from
[Redacted] Division.

(U) b2
b7E

Details: ~~(S)~~ This EC reports a potential IOB matter to OGC/NSLB,
as instructed per EC dated 03/08/2004, see 66F-HQ-A1247863 Serial
149. Immediately upon discovering this potential IOB violation

(U)

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243-0-U-253

2004 [Redacted] NSL VIO-4720
b2

M 09/01/05

~~SECRET~~

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To: General Counsel From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 09/01/2004

on 08/19/2004, CDC [redacted] notified Unit Chief [redacted] OGC/NSLB.

(S) b6
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1. Substantive Investigation: [redacted]
2. Subject: [redacted]
3. Subject's Status: US Person
4. Controlling Legal Authority: [redacted]

(S)

[redacted]

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5. Statement of Error Committed: On 08/19/2004, FBI [redacted] Division, received a Memo dated 06/17/2004 from a [redacted] [redacted] Division Investigative Analyst (IA). The Memo indicated

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that the [redacted] [redacted]

OTHER not FOIA e:

Upon reviewing the NSL request (see serial 73) and cover EC (see serial 76), [redacted] determined that the Paralegal Specialist who drafted the request for Case Agent SA [redacted] [redacted] had inadvertently cited to Title 15, United States Code (U.S.C.), Section (S) 1681v of the Fair Credit Reporting Act (FCRA) instead of § 1681u. In accordance with Public Law 107-56 (USA Patriot Act) and FBI policy, the use of § 1681v to obtain consumer reports is limited to international terrorism (IT) investigations. However, as indicated previously, the request made by [redacted] which prompted [redacted] notification was in an [redacted] immediately discontinued further processing of the request to [redacted]. In the same EC, [redacted] also had requested that [redacted] Division deliver an NSL to [redacted] [redacted] Division deliver an NSL to [redacted] also based upon § 1681v. Therefore, [redacted] immediately attempted to discontinue these leads which inadvertently cited to § 1681v.

(S)

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Unfortunately, both [redacted] Divisions had already delivered the NSLs and provided the results to [redacted] (see [redacted] and [redacted]). The results in their entirety from both [redacted] were immediately sealed and are enclosed.

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~~SECRET~~

To: General Counsel From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 09/01/2004

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After further discussion with SA [redacted] the current Case Agent, it was learned that upon her receipt of the results from [redacted] a copy of the results were disseminated to Task Force member [redacted] Navy Criminal Investigation Service (NCIS), a member of the FBI [redacted] Division's Foreign Counterintelligence Task Force. Contact was immediately made with [redacted] on 08/19/2004 and he was instructed to return all resulting documentation provided to him by SA [redacted] returned this documentation on 08/20/2004, advising that he had not utilized this information. This documentation was immediately sealed on 08/20/2004 and is enclosed.

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A review of the [redacted] Legal Unit's entire NSL file and Automated Case Support (ACS) since the enactment of Public Law 107-56 revealed that 15 U.S.C. § 1681v has not been cited in any other FCI investigation.

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~~SECRET~~

To: General Counsel From:
Re: (U) 278-HQ-C1229736-VIO, 09/01/2004

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LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For information of OGC/NSLB and for any further
action deemed appropriate by OGC/NSLB.

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~~SECRET~~

4

NSL VIO-4723

Precedence: PRIORITY

Date: 09/01/2004

To: General Counsel

Attn: National Security Law Branch
Room 7975

From: [Redacted] / Legal Unit

Contact: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By [Redacted]
Drafted By: [Redacted]

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DATE: 07-06-2007
CLASSIFIED BY 65179/DMH/KSR/RM
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-06-2032

Case ID #: (U) 278-HQ-C1229736-VIO
(U) 278-[Redacted]-C63856-VIO

Title: (U) PRESIDENT'S INTELLIGENCE OVERSIGHT
BOARD (IOB);
POTENTIAL IOB ERROR OR VIOLATION

(U) b6
b7C
b1 (S)

[Redacted]

Synopsis: (U) Report from [Redacted] of potential IOB violation.

(U) (S)

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

Reference:

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

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(U) Enclosure(s): (S) Enclosed for OGC/NSLB are copies of the
above-referenced serials, and a copy of the 06/17/2004 Memo from
[Redacted] Division.

(U) Details: (S) This EC reports a potential IOB matter to OGC/NSLB,
as instructed per EC dated 03/08/2004, see 66F-HQ-A1247863 Serial
149. [Redacted]
[Redacted] CDC [Redacted] notified Unit Chief [Redacted]
OGC/NSLB.

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1. Substantive Investigation:

[Redacted]

(S)

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Case ID : 278-HQ-C1229736-VIO
278-[Redacted]-C63856-VIO

Serial : 573

~~SECRET~~

NSL VIO-4724

2. Subject: [redacted]

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3. Subject's Status: US Person

(S)

4. Controlling Legal Authority: A [redacted]

[redacted]

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5. Statement of Error Committed: On [redacted]

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[redacted] The Memo indicated that [redacted]

Upon [redacted] (see serial 73) and cover EC (see serial 76), [redacted] determined that the Paralegal Specialist who drafted the request for Case Agent SA [redacted]

[redacted] of the Fair Credit Reporting Act (FCRA) [redacted] In accordance with Public Law 107-56 (USA Patriot Act) and FBI policy, the use of 1681v to obtain consumer reports is limited to international terrorism (IT) investigations. However, as indicated previously, the request made by [redacted] which prompted [redacted] notification was in an

(S)

[redacted] immediately discontinued

OTHER not FOIA ex
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r processing of the request to [redacted] also had requested that [redacted]

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[redacted] also [redacted] therefore [redacted]

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Unfortunately, both [redacted] Divisions had [redacted] (see [redacted] the results [redacted] diately sealed [redacted]

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After further discussion with SA [redacted] the current Case Agent, it was learned that upon her receipt of the results from [redacted] a copy of the results were disseminated to Task Force member [redacted] Navy Criminal Investigation Service (NCIS), a member of the FBI [redacted] Division's Foreign Counterintelligence Task Force. Contact was immediately made with [redacted] and he was instructed to return all resulting documentation provided to him by SA [redacted] returned this documentation on 08/20/2004. This documentation was immediately sealed on 08/20/2004 and is enclosed.

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A review of the [redacted] Legal Unit's entire NSL file and Automated Case Support (ACS) since the enactment of Public Law

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~~SECRET~~

---- Working Copy ----

Page 3

107-56 revealed that 15 U.S.C. 1681v has not been cited in any other FCI investigation.

LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC)

(U) For information of OGC/NSLB and for any further action deemed appropriate by OGC/NSLB.

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NSL VIO-4726

~~SECRET~~

----- Working Copy -----

Precedence: ROUTINE

Date: 09/15/2004

To: Director's Office
Counterintelligence

Attn: OPR
Attn: AD
Attn: SAC
Attn: SAC
CDC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[Redacted]

From: Office of the General Counsel
NSLB/CILU/Rm 7975
Contact: [Redacted]

Approved By: Curran John F

DATE: 07-05-2007
CLASSIFIED BY: 62179/DNH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-05-2032

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Drafted By: [Redacted]

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

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

Synopsis: (U) The Office of the General Counsel considers that this matter [Redacted] Oversight Board and to the Office of Professional Responsibility. Our analysis follows.

(U)

~~(S)~~

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

OIG/DOJ Review: [Redacted]
FBI INVEST.: (M)
OPR UC INITIALS:

DATE: 8/1/05
DOJ INVEST.: [Redacted]

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Details: (S) [Redacted]

[Large Redacted Block]

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(U)

~~(S)~~ On 5/21/2004, the SAC authorized the issuance of National Security Letters (NSLs) seeking credit reports about the subject from the three major credit reporting companies. The letters, which cited Title 15, United States Code, Section 1681v (15 USC 1681v), requested "a copy of a consumer report and all other information contained in your files for the below listed consumer i.e., the subject." All three NSLs included a

Case ID : 278-HO-C1229736-VIO

Serial : 595

(S)

[Redacted]

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certification by the SAC, purportedly "in accordance with 15 USC 1681v(b)," that "the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities ietc."

~~(S)~~ The letters were duly delivered to two of the three companies, both of which provided the requested credit information. The third letter, which had been sent to the [redacted] office for delivery to [redacted] was returned unexecuted to [redacted] by a [redacted] intelligence analyst who noticed that it referred to [redacted] instead of [redacted]

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(U) ~~(S)~~ After learning of the error, the [redacted] office determined that the two credit reports had already been disseminated to a member of the [redacted] Task Force in connection with the investigation. The reports were retrieved, sealed, and forwarded to Headquarters together with a report of the incident. (See 278-TR-C1229736-VIO, serial 573.)

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(U) The section of law cited in the three NSLs, 15 USC [redacted] was added by the USA Patriot Act, P.L. 107-56. It provides in part that "a consumer reporting agency shall furnish a consumer report of a consumer and all other information in a consumer's file to a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities and analysis related to, international terrorism when presented with a written certification by such government agency that such information is necessary for the agency's conduct of such investigation, activity or analysis." (Emphasis added.)

Handwritten: Only

(U) By way of contrast, 15 USC [redacted] is an older statute that applies to both counterintelligence and counterterrorism investigations. In connection with an authorized investigation of such cases, [redacted]

[Large redacted block]

OTHER not FOIA

(U) To obtain the ex parte order, the FBI must show "that the consumer report is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States."

(U) ~~(S)~~ The Office of the General Counsel issued instructions regarding the differences between 15 USC 1681u and 15 USC 1681v, together with sample forms, in an EC dated 10/1/2003. (See 66F-HQ-A1255972, serial 32.)

(U)

[REDACTED]

office cited the wrong section of the

[REDACTED]

[REDACTED]. Moreover, the letters included a certification that was misleading although not untrue. (The certification stated, correctly, that the information was needed in connection with an authorized investigation to protect against international terrorism or clandestine intelligence activities. Section 1681v, however, refers only to international terrorism.) [REDACTED]

[REDACTED] letters resulted in [REDACTED] on [REDACTED] was would not have been available [REDACTED] through an NSL if the [REDACTED] Section had been cited.

(U) In weighing the gravity of this matter, the Office of the General Counsel notes that [REDACTED] citation of 15 USC 1681v does [REDACTED] to circumvent the requirements of section 1681u. Once apprised of the error, [REDACTED] and [REDACTED] and [REDACTED] the information that it obtained based on the error and to report the matter to headquarters. The question of intent is relevant because 15 USC 1681u(j) suggests that Congress did not consider disciplinary action by an agency to be warranted unless "the circumstances surrounding the violation raise questions of whether or not an employee of the agency or department acted wilfully or intentionally with respect to the violation. . . ."

(U) We are also mindful of the fact that the [REDACTED] office could have obtained exactly the same result (i.e., the subject's credit report) if it had followed the two step process set forth in 15 USC 1681u, namely, an NSL followed by an ex parte application for a court order. The proof required for such an order is minimal and the facts in this case would have justified it.

(U) Nevertheless, in preserving a distinct provision for obtaining credit information in counterintelligence cases, Congress apparently intended to apply a different standard to this type of case. By using Section 1681v rather than Section 1681u for a counterintelligence case, the [REDACTED] office contravened the intent of Congress, albeit inadvertently. The matter should therefore be referred to the Intelligence Oversight Board and to the Office of Professional Responsibility. OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

(U) The action of Intelligence Analyst [REDACTED] in detecting this error and calling it to the attention of the [REDACTED] office is to be commended.

LEAD(s):

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR FO, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Please read and clear.

Set Lead 3: (Action)

[Redacted]

AT

[Redacted]

(U) For action deemed appropriate

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Set Lead 4: (Discretionary)

[Redacted]

AT

[Redacted]

(U) For action deemed appropriate.

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~~SECRET~~

BY COURIER

General Brent Scowcroft (USAF Retired)
Chairman
Intelligence Oversight Board
Room 5020
New Executive Office Building
725 17th Street, N.W.
Washington, D.C. 20503

DECLASSIFIED BY: 65179/DMH/KSR/RM
ON 07-05-2007

Dear General Scowcroft:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB [redacted] (U) b2

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

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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

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

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-2-

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Page 2

General Brent Scowcroft (USAF Retired)

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

Sincerely,

John F. Curran
Deputy General Counsel

Enclosure

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

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

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
IOB 2004 (U)

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NSL VIO-4732

(U) ~~(S)~~ Investigation of this IOB matter has determined that the [redacted] Field Office obtained consumer credit reports from two credit reporting companies in connection with an authorized counterintelligence investigation using a National Security Letter (NSL) that referred to Title 15, United States Code, Section 1681v, when in fact that section only permits the use of NSLs to request credit reports for authorized counterterrorism cases. Title 15, United States Code, Section 1681u, allows the FBI to use an NSL to obtain certain information from credit reporting agencies in authorized counterintelligence cases, specifically, the names and addresses of financial institutions at which the subject of the investigation maintains an account. In order for the FBI to obtain a credit report in a counterintelligence case, it must apply for an ex parte court order under the terms of Title 18, United States Code, Section 1681u(c).

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(U) ~~(S)~~ The credit reports that were procured from credit reporting companies by citing 15 U.S.C. 1681v were not properly obtained. Although the error in statutory citation appears to have been inadvertent, and the [redacted] office immediately retrieved and sealed the credit reports once the error was discovered, this matter has been referred to the FBI's Office of Professional Responsibility for such action as may be appropriate.

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

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/02/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted]

Approved By: Fogle Toni Mari

Drafted By: [redacted]

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b2

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 939
OGC/IOB# 2004 [redacted]

b2

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

(U)

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

(U)

Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 573
278-HQ-C1229736-VIO Serial 595

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 9/1/2004, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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DECLASSIFIED BY 65179/DNH/KSR/RW
ON 07-05-2007

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Precedence: IMMEDIATE

Date: 09/24/2004

To: Office of General Counsel Attn: CTLU-1

UC

[Redacted]

Attn: SAC

A/SSA

CDC

SA

From: Counterterrorism

ITOS I/ CONUS I/ Team 4, Room 4W158

Contact: SSA

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Approved By: Bald Gary M
Hulon Willie T
Cummings Arthur M

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[Redacted]

Drafted By:

DATE: 07-05-2007
CLASSIFIED BY: 63179/DMH/RSP/RM
REASON: 1.4 (c,d)
DECLASSIFY ON: 07-05-2032

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) b1

(S) [Redacted] (Pending) b2

(U) Title: (S) POTENTIAL IOB VIOLATIONS b7E

(S) [Redacted]

Synopsis: (S) To advise [Redacted] Counterterrorism Law
Unit-1 (CTLU-1) of potential Intelligence Oversight Board
(IOB) violations, and instruct [Redacted] to close captioned
[Redacted] pursuant to these IOB matters.

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Derived From : FBI SCG G-3 01/97
Declassify On: 09/24/2029

(U)

(U) [Redacted]

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Reference: (S) [Redacted]

C b1 ID : 278-HQ-C1229736-VIO

Serial : 580

(S) b2
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[Redacted]

263-0-4-285
2004
b2

Mosby/as

terrorism nexus exist, a closing EC should be submitted which articulates the justification for closing this investigation.

LEAD(s):

Set Lead 1: (Action)

OFFICE OF GENERAL COUNSEL

AT WASHINGTON, DC

(U) Is requested to review the potential IOB violations noted herein and ascertain if IOB should be notified.

Set Lead 2: (Action)

COUNTERTERRORISM

AT ITOS I/ CONUS I, TEAM 4

(U) Will document that CTLU-1 has been advised within fourteen days of the potential IOB violation noted herein.

Set Lead 3: (Action)

[Redacted]

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b7E

AT [Redacted]

(U) Will discontinue all investigation re captioned PI pursuant to the instructions noted herein and advise ITOS I/ CONUS I, Team 4 via EC.

(01/26/1998)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/03/2005

To: [Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS1/CONUS1
SSA [Redacted]

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Inspection

Attn: SC Toni Fogle

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: General Counsel

National Security Law Branch/LX Crossing Room 5S200

Contact: [Redacted]

Approved By: Thomas Julie F

DATE: 07-06-2007
CLASSIFIED BY: 65179/DMH/KSF/RW
REASON: 1.4 (c)
DECLASSIFY ON: 07-06-2032

Drafted By: [Redacted]

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

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

Synopsis: (S) It is the [Redacted] of the Office of the General Counsel (OGC) that this [Redacted] to the Intelligence Oversight Board (IOB) and to the Inspection Division (INSD), FBIHQ. OGC will prepare and deliver the necessary correspondence to the IOB. Our analysis follows.

~~(S) Derived from : G-3
Declassify On: X25-1~~

Reference: (S) 278-HQ-C1229736-VIO Serial 580
(S) 278-HQ-C1229736-VIO Serial 106

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

~~SECRET~~

lead
download
6/20/05
ajb

OIG/DOJ Review: [Redacted]
FBI INVEST: [Redacted]
OPR UC INITIALS: [Redacted]

DATE: 8/1/05
OIG/DOJ INVEST: [Redacted]

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NSL VIO-4738

[Redacted] [Redacted]

~~SECRET~~

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(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO , 02/03/2005

Details: (S) As reported by the Counterterrorism Division in an Electronic Communication (EC) dated 09/24/2004, on [redacted]

[redacted]

[redacted] Subsequent extensions were granted by SAC, [redacted] as authorized by the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG). On or about [redacted] authorization was obtained by [redacted] from FBIHQ to extend the captioned [redacted] [redacted] in accordance with the NSIG.

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(S) (U) [redacted] [redacted] was improperly extended for an additional [redacted] without FBIHQ authorization. Investigative activity after [redacted] leads being set and National Security letters issued for telephonic or financial records.

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(S) [redacted] [redacted] Because Headquarters authorization to extend was not obtained, investigation into this matter after [redacted] constituted unauthorized investigation.

(U) Upon it's report of the matter, FBIHQ instructed [redacted] to cease any further investigation into the captioned matter and to close this investigation. FBIHQ further directed that analysis of any documentation obtained prior to [redacted] is authorized but that any outstanding leads or requests for documentation set out after [redacted] must be discontinued. Any further investigation would have to be predicated upon a request by [redacted] approved by FBIHQ to [redacted]

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

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(U) To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO , 02/03/2005

(S) [redacted] has not
requested [redacted]

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(U) ~~(S)~~ Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM) requires OGC to determine whether the facts related above are required to be reported to the IOB. Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." The investigative activity that took place after 05/08/2004 was unauthorized and in violation of Section II.C.4 of the NSIG, a regulation approved by the Attorney General in accordance with E.O. 12333. Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error, even if inadvertent, must be reported to the IOB, which this Office will do.

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To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 02/03/2005

(U)

LEAD (s):

Set Lead 1: (Info)

[redacted]
AT [redacted]

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(U) Read and Clear.

Set Lead 2: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

- 1 - Ms. Thomas
- 1 - [redacted]
- 1 - [redacted]
- 1 - IOB File

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----- Working Copy -----

March 11, 2005

BY COURIER

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Mr. James Langdon
Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Mr. Langdon:

Enclosed for your information is a self-explanatory memorandum, entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Field Office, IOB Matter 2004 [redacted] (U)

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

Enclosure

- 1 - Ms. Thomas
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO
- 1 - OPR (IOB 2004-84)

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DATE: 07-06-2007
CLASSIFIED BY 65179/DMH/KSR/RM
REASON: 1.4 (c)
DECLASSIFY ON: 07-06-2032

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

~~SECRET~~

Mr. James Langdon

Case ID : 278-HQ-C1229736-VIO

Serial : 732

~~SECRET~~

NSL VIO-4742

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 Gonzalez
Attorney General
U.S. Department of Justice
Room 5111
- 1 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

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

(S) Investigation of this IOB matter has determined that on [redacted] on [redacted] a United States person. Subsequent

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(S) extensions were granted by SAC, [redacted] as authorized by the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG). On or about [redacted] authorization was obtained by [redacted] from FBI Headquarters [redacted] in accordance with the NSIG. [redacted]

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[redacted] (S) Investigative activity after [redacted] included [redacted] leads being set and National Security letters issued for telephonic or financial records. [redacted] [redacted] Because Headquarters authorization to extend was not obtained, investigation into this matter [redacted] constituted unauthorized investigation. (S)

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Upon it's report of the matter [redacted] [redacted] analysis of any documentation obtained prior to [redacted] is authorized, that any outstanding leads or requests for documentation set out after [redacted] must be discontinued. Any further investigation would have to be predicated upon a request by [redacted] approved by FBI Headquarters [redacted] [redacted] has not requested [redacted] (U)

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This matter also has been referred to the FBI's Inspection Division for action deemed appropriate. (U)

~~Derive from: G-3~~
~~Declassify on: X25-1~~
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Page 4

~~SECRET~~

NSL VIO-4745

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/02/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [Redacted]

Approved By: Fogle Toni Mari

Drafted By: [Redacted]

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 941
OGC/IOB# 2004 [Redacted]

b2

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

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

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 580
278-HQ-C1229736-VIO Serial 731

Details: (U) The Internal Investigations Section (IIS) received an EC from Counterterrorism Division dated 9/24/2004, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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DECLASSIFIED BY 65179/DMH/KSE/RG
ON 07-05-2007

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~~SECRET~~

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Precedence: ROUTINE

Date: 12/06/2004

To: General Counsel

Attn: National Security Law Branch,
Room 7975
Unit Chief [redacted]

From: [redacted] Field Office

Contact: SSRA [redacted]

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Approved By [redacted]

DATE: 07-05-2007
CLASSIFIED BY 65179/DMH/KSP/RW
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

Drafted By [redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO
(S) 278 [redacted] C65943

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Synopsis: (S) Possible IOB error for over collection of information
through National Security Letter (NSL) process.

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

Details:

(S) 1. [redacted]

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(S) [redacted]

(U) (S) 2. [redacted]
[redacted] a U.S. Person.

(U) (S) 3. Possible IOB Error:

(U) (S) [redacted]

Yoshida

(S) 4. Description of IOB Error (including any reporting delays).

(U) (S) On or about 09/27/2004, an ECPA NSL was issued by SAC,
[redacted] to [redacted] for "the
(U) name(s), address(es), length of service, and local and long distance
toll billing records" [redacted]

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Case ID : 278-HQ-C1229736-VIO
278 [redacted] 65943

Serial : 632
280

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~~SECRET~~

NSL 4747

263-0-U-206
2004 [redacted]

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relevant to the above named investigation.

(U)

~~(S)~~ On 11/27/2004, the case agent received the results of the NSL request from [redacted] through the [redacted] Division. The requested records were contained on a CD inside a sealed envelope. Upon reviewing the CD, the case agent determined the subscriber of the telephone number. Additional review of the CD determined that [redacted] had also provided content information [redacted]

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[redacted] The content information was voluntarily provided by [redacted] and was not responsive to the NSL or requested by the FBI.

(C)

~~(S)~~ Upon realizing that the CD contained non-responsive content information, the Case Agent immediately contacted the [redacted] Division Counsel [redacted] took possession of the original CD. The Case Agent confirmed that the CD had not been copied, and no information outside the scope of the NSL request has been maintained by the FBI or used in the investigation.

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(U)

~~(S)~~ The original CD will be maintained in the possession of the [redacted] until it can be submitted to NSLB with a request that the material be forwarded to DOJ/OIPR for submission to the FISA Court for proper destruction.

(U)

~~(S)~~ It is the opinion of [redacted] that this intelligence activity is not a reportable IOB matter because the error was on the part of the provider, [redacted] and not the FBI. In light of the fact that no FBI personnel caused the error, and that FBI [redacted] personnel immediately discovered the error and implemented remedial measures to mitigate the situation, SAC [redacted] recommends no administrative action be taken regarding this matter.

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

Precedence: ROUTINE

Date: 12/06/2004

10B.WPD

(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/31/2005

To: Director's Office

Attn: OPR
Attn: SAC
ADC
SSRA

From: Office of the General Counsel
National Security Law Branch
Contact: AGC

DATE: 07-05-2007
CLASSIFIED BY: 65179/DWH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

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Approved By: Thomas Julie F

Drafted By:

Case ID #: (S) 278-HQ-C1229736-VIO-803
(S) 278- C65943-280

Handwritten notes:
Handwritten cover ALS
had. AX

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

Synopsis: (S) It is the [redacted] of the Office of the General Counsel ("OGC") that this matter [redacted] to the IOB. OGC will prepare a cover letter and a letter head memorandum to report this matter to the IOB. Our analysis follows.

Derived From: G-3
Declassify On: X1

Reference: (S) 278-HQ-C1229736-VIO-632

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

Details: (S) By electronic communication (EC) dated December 6, 2004 (cited below)¹, the [redacted] Division [redacted]

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(S) See EC from the [redacted] Division to the General Counsel, dated December 6, 2004, Case ID # 278-HQ-C1229736-VIO Serial 632, titled "Intelligence Oversight Board (IOB) Matter," hereinafter cited as "[redacted] EC."

~~SECRET~~

OIG/DOJ Review
FBI INVEST.: (M)
OPR UC INITIALS:

DATE: 8/1/05
/DOJ INVEST.:

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NSL VIO-4749

~~SECRET~~

To: Director's Office From: Office of the General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO-632, 01/31/2005

(U) Section 2.4 of E.O. 12863, dated September 13, 1993, mandates that Inspector Generals and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to an EO or Presidential Directive. This language was adopted verbatim from EO 12334, dated December 4, 1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General'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 December 4, 1981, if such provisions were specifically intended 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)~~ In this instance [redacted] issued a lawful NSL to [redacted] and received in response information both within and beyond the scope and description of that requested by the NSL. The error here was committed solely by [redacted] which was not acting as agents for [redacted] or the FBI as a whole. [redacted] committed no error, substantive, administrative, or otherwise, and did not itself impinge on the rights of any known U.S. person. Nevertheless, [redacted] came into the possession of material that [redacted] was unauthorized to provide to the FBI under ECPA. Though [redacted] committed no error itself, the mere receipt of unauthorized material pursuant to a lawfully issued NSL should be reported to the IOB, in accordance with the reporting requirements of Section 2.4 of E.O. 12863.

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(U) To: Director's Office From: Office of the General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO-632, 01/31/2005

LEAD(s):

Set Lead 1: (Info)

DIRECTOR'S OFFICE

AT OPR FO, DC

(U) Read and clear.

Set Lead 2: (Action)

[Redacted]

AT [Redacted]

(U) ~~(S)~~ The CD provided by [Redacted] must be forwarded to the appropriate FBI Headquarters Section with oversight of this case, or if none, to the author of this EC, for forwarding to OIPR and the FISA Court.

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CC: Ms. Thomas
SSA [Redacted]

[Redacted]

NSLB IOB Library

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~~SECRET~~

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DATE: 07-05-2007
CLASSIFIED BY 65179/DMH/KSR/RG
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

January 31, 2005

Mr. James Langdon
Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Langdon:

This letter forwards for your information a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB), Matter ██████████" (U)

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

Enclosure

- 1 - Mr. Szady
 - 1 - SAC ██████████
 - 1 - Ms. Thomas
 - 1 - ██████████
 - 1 - OPR
 - 1 - 278-HQ-C1229736-VIO
- Mr. James Langdon

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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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)

Very truly yours,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto Gonzalez
Attorney General
U.S. Department of Justice
Room 5111
- 2 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

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

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(U) ~~(S)~~ [redacted] Division of the Federal
Bureau of Investigation has reported the receipt of unsolicited

~~SECRET~~

material
in response to a National Security Letter ("NSL").

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

[redacted]

(S) On or about September 27, 2004, Philadelphia issued a NSL, pursuant to the Electronic Communications Privacy Act ("ECPA"), 18 U.S.C. 2709, to [redacted]

[redacted] The NSL included a request for "the name(s), address(es), length of service, and local and long distance toll billing records" [redacted]

[redacted]

(U) ~~(S)~~ On November 27, 2004, the case agent received a compact disc ("CD") from [redacted] in response to the NSL. The CD contained information both responsive and non-responsive to the NSL. The non-responsive information included content information [redacted]

[redacted] This non-responsive information was voluntarily provided by [redacted] [redacted] but was beyond the scope of the information requested in the NSL, and that authorized by ECPA. The case agent immediately turned this CD over to the [redacted] Division Counsel [redacted] upon recognizing the unresponsive material as such. No copies of the CD were made.

(S) As a consequence of this inadvertent error by [redacted] [redacted] the FBI obtained information that it was not authorized to receive under the ECPA. Although the information provided was not solicited, because the information was not authorized to be provided, this matter is being reported to the Intelligence Oversight Board.

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Page

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~~SECRET~~

NSL VIO-4756

January 31, 2005

Mr. James Langdon
Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Mr. Langdon:

This letter forwards for your information a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB), Matter 2004-" (U)

b2

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

Enclosure

- 1 - Mr. Szady
- 1 - SAC,
- 1 - Ms. Thomas
- 1 -
- 1 - OPR
- 1 - 278-HQ-C1229736-VIO-804

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~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

- Dep. Dir. _____
- Chief of Staff _____
- Off. of Gen. _____
- Counsel _____
- Asst. Dir.:
- Admin. Ser. _____
- Crim. Inv. _____
- CJIS _____
- Finance _____
- Info. Res. _____
- Lab. _____
- National Sec. _____
- OPR _____
- Off. of Public & Cong. Affs. _____
- Training _____
- Off. of EEOA _____
- Director's Office _____

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

~~SECRET~~

NSL VIO-4757

~~SECRET~~

Mr. James Langdon

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)

Very truly yours,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto Gonzalez
Attorney General
U.S. Department of Justice
Room 5111
- 2 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

APPROVED: Crim. Inv. _____ Inspection _____ Training _____
CJIS _____ Laboratory _____ Off. of EEO _____
Finance _____ National Sec. _____ Affairs _____
Director _____ Gen. Counsel *JFT* OPR _____ Off. of Public & _____
Deputy Director _____ Info. Res. _____ Personnel _____ Cong. Affs. _____

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

~~SECRET 2~~

NSL VIO-4758

SECRET

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

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

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(U) ~~(S)~~ The [redacted] Division of the Federal Bureau of Investigation has reported the receipt of unsolicited material in response to a National Security Letter ("NSL").

(S)

[redacted]

[redacted] On or about September 27, 2004, [redacted] issued a NSL, pursuant to the Electronic Communications Privacy Act ("ECPA"), 18 U.S.C. §2709, to [redacted]

(S) [redacted] The NSL included a request for "the name(s), address(es), length of service, and local and long distance toll billing records" [redacted]

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(U) ~~(S)~~ On November 27, 2004, the case agent received a compact disc ("CD") from [redacted] in response to the NSL. The CD contained information both responsive and non-responsive to the NSL. The non-responsive information included content information [redacted]

This non-responsive information was voluntarily provided by [redacted] but was beyond the scope of the information requested in the NSL, and that authorized by ECPA. The case agent immediately turned this CD over to the [redacted] [redacted] Division Counsel [redacted] upon recognizing the unresponsive material as such. No copies of the CD were made.

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(U) ~~(S)~~ As a consequence of this inadvertent error by [redacted] the FBI obtained information that it was not authorized to receive under the ECPA. Although the information provided was not solicited, because the information was not authorized to be provided, this matter is being reported to the Intelligence Oversight Board.

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DATE: 07-05-2007
CLASSIFIED BY: 65179/DMH/KSR/RM
REASON: 1.4 (c)
DECLASSIFY ON: 07-05-2032

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

SECRET

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/02/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPUL Room 11102

Contact: CRS [redacted]

Approved By: [redacted]

Drafted By: [redacted]

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

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 958
OGC/IOB# 2004 [redacted]

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

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

Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 632
278-PH-C65943 Serial 280
278-HQ-C1229736-VIO Serial 803

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 1/31/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of an administrative issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 07-05-2007

~~SECRET~~

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