

*Freedom of Information
and
Privacy Acts*

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U Vol. 12



Federal Bureau of Investigation

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

1010

Precedence: IMMEDIATE

Date: 11/19/2002

To: Inspection

Attn: IMU, Room 7837

General Counsel

NSLU

From: [redacted]

Contact: SAC [redacted]

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Approved By: [redacted]

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO -40 (Pending)
(U) 278-LS-59479

Title: (U) SSA [redacted]
SA [redacted]
[redacted] Division
IOB

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Synopsis: (U) To report violations of Intelligence Oversight Board matters.

(S) To request a waiver of Section III.B.4 of the Attorney General Guidelines (AGG), relating to National Security Letter matters for Preliminary Inquiries, reference [redacted] case: [redacted]

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~~(S) Classified by: 1134, ITOS/CTD
Reason : 1.5(c)
Declassify On: X1~~

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Reference: (S) [redacted]
(S) [redacted]

Details: (S) On 11/18/2002, the [redacted] Division was contacted by CTD, ITOS, MEU reference violation of the most recent AGG guidelines.

[redacted]

[redacted] Both are in violation of the most recent AGG guidelines.

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To: Inspection From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 11/19/2002

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(S) [redacted]

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(S) [redacted]

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

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[redacted] SA [redacted] has further been provided with the classified version of AGG to utilize on this and future investigations.

(U) The ECs for the NSLs were signed off by the supervisor, CDC, ASAC, and SAC of the [redacted] Division, without notice that the information was being sought utilizing the criminal AGG rather than the AGG for classified investigations.

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To: Inspection From:
Re: (U) 278-HQ-C1229736-VIO, 11/19/2002

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LEAD(s)

Set Lead 1:

GENERAL COUNSEL

AT WASHINGTON, D.C.

(U) This information is being provided to General Counsel, National Security Law Unit, pursuant to reporting requirements of Intelligence Oversight Board matters.

Set Lead 2:

INSPECTION DIVISION

AT WASHINGTON, D.C.

(U) This information is being provided to Inspection Division pursuant to reporting requirements of Intelligence Oversight Board matters.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/01/2005

To: Inspection

Attn: Internal Investigations Section

[Redacted]

Attn: SAC
CDC

[Redacted]

From: Office of the General Counsel
National Security Law Branch/CILU/Room 7975
Contact: [Redacted]

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Approved By: Thomas Julie F

[Redacted]

Drafted By:

[Redacted]

Case ID #: (S) 278-HQ-1406607-2 *Sur 3*
(S) 278-HQ-C1229736-VIO-40
(U) (S) 278-LS-59479-175

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(U) **Title:** (S) SSA [Redacted]
SA [Redacted]
[Redacted] DIVISION
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2005 [Redacted]

(U) **Synopsis:** (S) It is the opinion of the Office of the General Counsel ("OGC") that this matter need not be reported to the IOB. Rather, a record of this decision should be maintained in the investigative control file for review by the Counsel to the IOB. Our analysis follows.

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

(U) **Reference:** (S) 278-HQ-C1229736-VIO-40

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

IC [Redacted]
SI [Redacted]
RS [Redacted]

Handwritten: [Redacted] ACS

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[Redacted]

Handwritten: 01/2/05

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DATE: 06-19-2007
CLASSIFIED BY 65179dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-19-2032

Handwritten: IPU

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To: Director's Office
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO-40 03/01/2005

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(U) ~~(S)~~ Details: By electronic communication (EC) dated November 19, 2002 (cited below)¹, the [redacted] Division [redacted] reported a possible IOB error in conjunction with an on-going international terrorism investigation.

(S) [redacted]

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[redacted] The case agent promptly stopped use of the NSL results, and on December 6, 2002, the case agent's supervisor secured the documents provided in response to the NSL.

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(U) ¹ ~~(S)~~ See EC from the [redacted] Division to the General Counsel, dated November 19, 2002. Case ID # 278-HQ-C1229736-VIO Serial 40, titled "SSA [redacted] SA [redacted] [redacted] Division, IOB Matter," hereinafter cited as [redacted] EC."

(U) ² ~~(S)~~ A "United States person" is defined in section II.W of the March 8, 1999 Attorney General (AG) Guidelines as "an individual who is . . . [a] United States citizen . . . or . . . a permanent resident alien . . ." This regulatory definition is based on the definition of a "United States person" as that term is used section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. § 1801 *et seq.* Section 101(i) states in pertinent part that a "United States person" means a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 1101(a)(20) of the Immigration and Naturalization Act) . . ."

(U) ³ ~~(S)~~ The March 8, 1999 AG Guidelines, fully titled "Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations" (FCIG) were in effect at the time of the events in question in this IOB matter. The FCIG were superseded by current AG Guidelines, the "Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection" (NSIG) on October 31, 2003.

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To: Director's Office
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO-40 03/01/2005

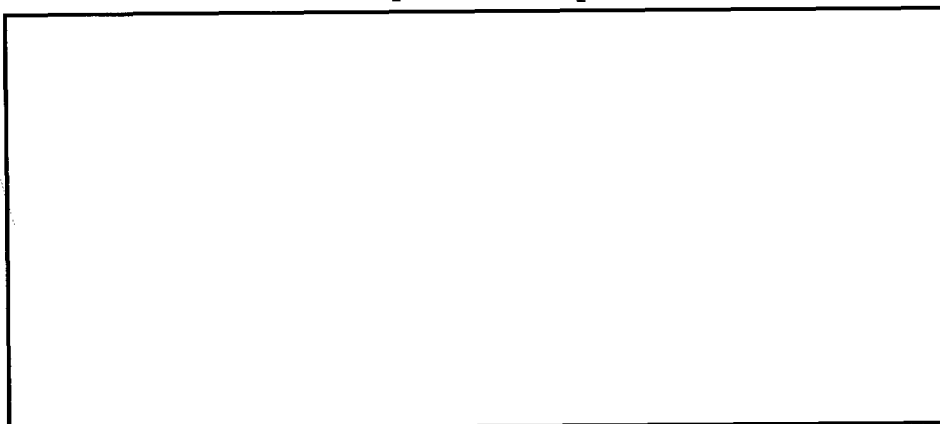
(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the receipt of unsolicited material described herein is a matter which must be reported to the IOB. It need not be.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated September 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 all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language was adopted from E.O. 12334, dated December 4, 1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the AG's foreign counterintelligence guidelines or other guidelines or regulations approved by the AG in accordance with E.O. 12333, if such provision was designed in full or in part to ensure the protection of the individual rights of a U.S. person. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) ~~(S)~~ Section III.B.6. of the March 8, 1999 AG Guidelines (FCIG) stated in pertinent part:

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To: Director's Office
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO-40 03/01/2005

~~(U)~~ ~~(S)~~ Although this provision was primarily administrative in nature, it was designed, in part, to protect the rights of U.S. persons because it limited the length of time that the FBI could conduct a PI of an individual without review by the proper authorities. By longstanding agreement between the FBI and IOB, PI overruns need not be reported to the IOB if they are both "inadvertent" and "de minimis in time." To determine whether a possible violation of the March 8, 1999 AG Guidelines is "inadvertent" and "de minimis in time," all the facts relevant to the matter must be considered in their totality.

~~(U)~~ ~~(S)~~ In this instance, there appears to have been considerable confusion in applying the FCIG AG Guidelines then in effect by both by the [redacted] case agent and the FBI HQ official advising on the case, for no PI overrun occurred in this instance at all. As cited above, Section III.B.6. of the FCIG AG Guidelines

[redacted]

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As no violation of the AG Guidelines thus occurred, there is no violation that must be reported to the IOB.

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[redacted]

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(U) Consistent with our prior opinions, a record of this decision should be maintained in the control file for future review by Counsel to the IOB.

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To: Director's Office
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO-40 03/01/2005

LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Info)

[Redacted]

AT [Redacted]

(U)

~~(S)~~

Read and clear.

CC: Ms. Thomas

SSA [Redacted]

[Redacted]

NSLB IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/19/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Fogle Toni Mari

Drafted By: [redacted] kas

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1010
OGC/IOB# 2005 [redacted]

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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 Serial 40

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 11/19/2002, 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/ksr/prs
ON 06-19-2007

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/09/2005

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section IPU, Room 11102

Contact: CRS [Redacted] Ext. [Redacted]

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Approved By: Fogle Toni Mari

Drafted By: [Redacted] kas

(U) **Case ID #:** (S) 263-HQ-0-U - 278 (Pending)

(U) **Title:** (S) SSA [Redacted]
SA [Redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1010
OGC/IOB# 2005-[Redacted]

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Synopsis: (U) To advise that the captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This incident is remanded back to the field for whatever action deemed necessary and appropriate. Case closed at IIS.

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

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Enclosure(s): (U) EC from [Redacted] Division dated 11/19/2002

(U) **Reference:** (S) 278-HQ-C1229736 Serial 40

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, it is IIS's opinion that the incident is not indicative of willful misconduct. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

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(U) IIS does, however, suggest this incident be potentially considered a possible performance related issue with respect to the employee and respective supervisor, and relegates any future action relative to this incident to the discretion of the [Redacted] Division. IIS recognizes and appreciates that this matter was brought to our attention as required by the

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To: From: Inspection
Re: 263-HQ-0-U - 278, 09/09/2005

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revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

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

Washington, D.C. 20530

DATE: July 26, 2006

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

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

SUBJECT: OIG Complaint No. 2006004922
Subject: [redacted] et al.
[redacted] Division
FBI No. 263-0-U-278

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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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-19-2007 BY 65179 dmh /ksr/pls

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO. [] 689-2006-004922-M

Received By: [] Date Received: 08/22/2005 How Received: A

SUBJECT: [] SSNO: []
 Title: SSA Pay Plan: [] D.O.B.: []
 Component: FBI EOD Date: [] Alien No.: b2
 Misc: F.B.I.No.: b6
 Home: B.O.P.No.: b7C
 Phone: [] ZIP: [] D/L No.: []
 Work: [] DC Charges: 689
 Phone: [] ZIP: []

SUBJECT: [] SSNO: []
 Title: SA Pay Plan: [] D.O.B.: []
 Component: FBI EOD Date: [] Alien No.: []
 Misc: F.B.I.No.: b2
 Home: B.O.P.No.: b6
 Phone: [] ZIP: [] D/L No.: b7C
 Work: [] Charges: 689 b7E
 Phone: [] ZIP: []

COMPLAINANT: [] SSNO: []
 Title: UNITC Pay Plan: [] D.O.B.: []
 Component: FBI EOD Date: [] Alien No.: []
 Misc: F.B.I.No.: b2
 Home: B.O.P.No.: b6
 Phone: [] ZIP: [] D/L No.: b7C
 Work: GENERAL COUNSEL
 NATIONAL SECURITY LAW UNIT/CILU, WASHINGTON, DC
 Phone: [] ZIP: []
 Confidential: [] Revealed: [] Authority: none

Details:
 The FBI provided information reporting a possible IOB matter regarding a preliminary inquiry (PI) overrun.

ALLEGATIONS: 689 IOB Violation
 Occurrence Date: 10/28/2002 TIME: [] b2
 CITY: [] State: [] Zip: [] b7E

DISPOSITION DATA: Disposition: M Date: 08/12/2005 Approval: POWELL, GLENN G
 Referred to Agency: FBI Date Sent: 07/25/2006 Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-0-U-278
 Sensitive: N Whistleblower: [] Consolidated Case Number: []

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-19-2007 BY 65179 dmh/ksr/prs

Remarks:

07/25/06- Sent to AD Thornton, FBI/INSD. Predicating material will be maintained within
OIG/INV in a secure container. (ant)

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U.S. Department of Justice

Classified Document Receipt

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

ACCOUNTABILITY

FROM: (Name) _____ (Organization and Address) DOJ/CIG/HQ/INV

TO: (Name) _____ (Organization and Address) FBI/INV

SIGNATURE: (of Recipient) & DATE: _____

If sent outside DOJ, Return this copy to: _____

DOCUMENT IDENTITY

SUBJECT & DESCRIPTION: Oil Complaint No. 2006 004484-M, 2006 004310-M, 2006 005303-M, 2006 004523-M, 2006 004525-M, 2006 005307-M, 2006 004910-M, 2006 004914-M, 2006 005298-M, 2006 004922-M, 2006 004924-M, 2006 005277-M, 2006 005301-M, 2006 005311-M

Date of Document: 7/26/06 No. of pages: 54

Copy _____ of _____ Copies.

Classification of Document (Check Appropriate Box(es) Below):

TS S CONF SCI Q OTHER

INTERNAL DOJ ROUTING

NAME OF RECIPIENT (Print)	ORGANIZATION & DATE REC'D.
_____	<u>115 / FBI / 07 / 06</u>
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3. _____	b7C
4. _____	
5. _____	

INSTRUCTIONS ON BACK OF LAST PAGE

FORM DOJ-34
JUN. 81

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-20-2007 BY 65179 dmh/ksr/prs

~~SECRET/ORCON/NOFORN~~

1015

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

From: [redacted]

CD-11

Contact: [redacted]

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Approved By: [redacted]

[redacted]
[redacted]
[redacted]
[redacted]

Chick G. S. Midge

Drafted By: [redacted]

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Case ID #: (S) [redacted]

278-HQ-CI229736-VIO - 196

Title: (S) [redacted]

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

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(U)

Synopsis: ~~(S)~~ 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.

Details: (S) [redacted]

[redacted]

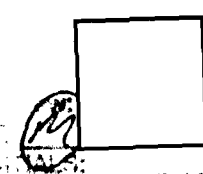
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To: Counterintelligence From: New York
Re: (S) [redacted]

(S)

[redacted]

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(S)

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

(S)

[redacted]

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~~(S)~~ These intercepted calls were not transcribed, logged or indexed. FBI [redacted] translator [redacted] and supervisor [redacted] have advised that other than hand notes of the intercepts, no official transcripts or logs were created, and no records were indexed and/or sent to ELSUR. All hand-written notes have also since been destroyed, and electronic records of calls since December 9, 2004 have been deleted from the Red Wolf system.

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

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To: Counterintelligence From: [redacted]
Re: (S) [redacted]

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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.

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~~SECRET/ORCON/NOFORN~~



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.



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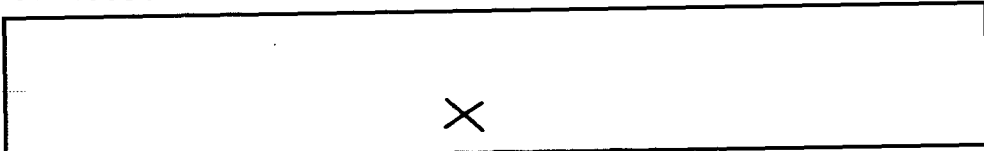
March 2, 2005

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

RE:

(S)



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Dear Mr. Baker:

(S)

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

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(S)

On June 10, 2004, at 11:40 a.m. Eastern Standard Time (EST), the United States Foreign Intelligence Surveillance Court granted the Federal Bureau of Investigation (FBI) authority to conduct electronic surveillance

in the United States, including New York, utilizing several telephone numbers which, among others,

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was discontinued on December 17, 2004 at 10:55 a.m. EST because subsequent investigation revealed that this number was not being utilized

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



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(S)

[Redacted]

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[Redacted] All of the Language Specialist's hand-written notes associated with the calls have been destroyed, and the FBI has deleted from all FBI systems and databases all of the recorded materials. (S//OC//NF)

(S)

Although (1) a valid FISC Order authorized the interception of communications occurring over telephone number [Redacted]

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(S)

(2) the FBI's interception of such communications were not in violation of the FISC Order in terms of manner, method or time; and (3) [Redacted] did not independently advise the FBI [Redacted] that the subscriber of the number which was subject to the order had changed, we are advising you of the

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(S) circumstances of the interception and providing you with the recorded material [redacted] and a letter explaining the circumstances of the interception and possible need to sequester these materials. As you are aware [redacted]

(S)

[redacted]

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

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Sincerely yours,

[redacted]

Assistant Director in Charge

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~~SECRET~~/ORCON/NOFORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/06/2005

To: Inspection

Attn: Internal Investigations Section

[Redacted]

Attn: ADIC [Redacted]

Counterintelligence

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

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From: Office of the General Counsel
National Security Law Branch/CILN/Room 7047

Contact: [Redacted]

Approved By: Thomas Julie F

[Redacted]

Drafted By: [Redacted]

handle & cover.
[Signature]

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

(U) **Title:** ~~(S)~~ SSA [Redacted]
SA [Redacted]
[Redacted] DIVISION

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INTELLIGENCE OVERSIGHT BOARD MATTER 2005-[Redacted]

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

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

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Reference: (S) [Redacted]

Details: ~~(S)~~/OC//NF) By electronic communication (EC) dated March 2, 2005, the [Redacted] Field Office reported a possible IOB error in conjunction with an ongoing counterintelligence investigation. In this regard, the [Redacted] Field Office

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To: [redacted]
From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736, 05/06/2005

(S) reported that, on June 10, 2004, the United States Foreign Intelligence Surveillance Court (FISC) authorized electronic surveillance of the [redacted] in the United States. The FISC authorized surveillance of several telephone numbers, including cellular telephone number [redacted]

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(S//OC//NF) As explained in a letter dated March 2, 2005 from the [redacted] Office to the Office of Intelligence and Policy Review (OIPR), through a National Security Letter (NSL) to [redacted] the FBI verified that cellular telephone number [redacted] was subscribed to [redacted]

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Subsequent electronic surveillance of the number confirmed [redacted] as the user.

(S//OC//NF) [redacted]

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(S//OC//NF) [redacted]

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(S//OC//NF) [redacted]

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To: [redacted]
From: General Counsel
Re: ~~(S)~~ (C) 78-HQ-C1229736, 05/06/2005

(S) [redacted]

(S) [redacted] the FBI terminated electronic surveillance. The [redacted]

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(S) Field Office did not log or index any of the intercepted telephone calls from cellular telephone number [redacted] as of December 9, 2004. The FBI has destroyed all of the Language Specialist's handwritten notes associated with the telephone calls, and has deleted all of the recorded materials from all FBI systems and databases.

(U) ~~(S//OC/NF)~~ By letter dated March 2, 2005, the [redacted] Field Office advised OIPR of the circumstances described above. The [redacted] Field Office further provided OIPR with the recorded material, i.e., [redacted] (S)

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(U) Section 2.4 of Executive Order (E.O.) 12863, dated September, 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 all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language was adopted from E.O. 12334, dated December 4, 1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

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

(U) Title 18, United States Code, Section 2511(2)(f) states that the procedures contained in the FISA and Title III of the

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To: [redacted]
From: General Counsel
Re: (S) 278-HQ-C1229736, 05/06/2005

1968 Omnibus Crime Control Act (as amended by the Electronic Communications Privacy Act) "shall be the exclusive means by which electronic surveillance . . . and the interception of domestic wire and oral communications may be conducted." Additionally, Section 2.5 of E.O. 12333 provides that, "[e]lectronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order."

(U) Under Title 50, United States Code, Section 1802(b), the FISC is authorized to grant an order approving the electronic surveillance of a foreign power or an agent of a foreign power for the purposes of obtaining foreign intelligence information. Under the pertinent FISA definition, the term electronic surveillance means, "the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States." 50 U.S.C. § 1801(f)(2).

(S/OC/NF) Here, through no fault of the [redacted] Field Office, an unauthorized electronic surveillance was conducted

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(C) [redacted] It did not, however, authorize surveillance of any other entity or individual [redacted] under its June 10, 2004 order. Accordingly, as a consequence of an error on the part of the communications carrier, the FBI unintentionally conducted a form of electronic surveillance that was unauthorized.

(S/OC/NF) It should be noted that [redacted] Field Office's response in receiving this information was commendable. Once the [redacted] Field Office believed that the user was not affiliated [redacted] the FBI contacted [redacted] to verify the current subscriber. As soon as [redacted] was not the subscriber, the FBI terminated electronic surveillance coverage on this telephone number. The [redacted] Field Office did not log or index any of the intercepted telephone calls as of December 9, 2004. Moreover, by letter dated March 2, 2005, the [redacted]

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(S) Field Office forwarded [redacted] containing the telephone calls for possible sequestration with the FISC.

~~SECRET/ORCON/NOFORN~~

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To:
From: General Counsel

(U) Re: ~~(S)~~ 278-HQ-C1229736, 05/06/2005

(U) ~~(S//OC//NF)~~ Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of E.O. 12863, the carrier's mistake must be reported to the IOB because the surveillance was not authorized under the Foreign Intelligence Surveillance Act or Executive Order 12333. OGC will prepare an appropriate cover letter and an enclosure for the Deputy General Counsel to report this matter to the IOB.

~~SECRET/ORCON/NOFORN~~

To: [redacted]
From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736, 05/06/2005

(U)

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

[redacted]

AT [redacted]

(U) For information.

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cc: Ms. Thomas
[redacted]

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IOB Library

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~~SECRET~~

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

BY COURIER

Mr. James Langdon
Intelligence Oversight Board
Room 5020
New Executive Office Building
725 17th Street, NW
Washington, D.C. 20503

Dear Mr. Langdon:

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This letter forwards for your information a self-explanatory enclosure, entitled SSA [redacted] SA [redacted] [redacted] Division, Intelligence Oversight Board Matter 2005 [redacted]

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

Enclosure b6
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- 1 - Ms. Thomas
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO

DATE: 06-20-2007
CLASSIFIED BY 65179 dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-20-2032

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Case ID : 278-HQ-C1229736-VIO

Serial : 836

~~SECRET~~

~~SECRET~~

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

Page 2

Derived From: G-3
Declassify On: X1

~~SECRET~~/ORCON/NOFORN

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.

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

- 1 - Mr. James Baker
Counsel for Intelligence Policy, OIPR
U.S. Department of Justice

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

~~SECRET~~

COUNTERINTELLIGENCE DIVISION
FEDERAL BUREAU OF INVESTIGATION HEADQUARTERS (FBIHQ)
IOB MATTER 2005-128 (U)

(S//OC//NF) By electronic communication (EC) dated March 2, 2005, the [redacted] Field Office reported a possible IOB error in conjunction with an ongoing counterintelligence investigation. In this regard, the [redacted] Field Office reported that, on June 10, 2004, the United States Foreign Intelligence Surveillance Court (FISC) authorized electronic surveillance of the [redacted] [redacted] in the United States. The FISC authorized surveillance of several telephone numbers, including cellular telephone number [redacted].

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(S//OC//NF) As explained in a letter dated March 2, 2005 from the [redacted] Field Office to the Office of Intelligence and Policy Review (OIPR), through a National Security Letter (NSL) to [redacted] the FBI verified that cellular telephone number [redacted] was subscribed [redacted]

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Subsequent electronic surveillance of the number confirmed [redacted] as the user.

(S//OC//NF) [redacted]

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(S//OC//NF) [redacted]

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~~SECRET~~/ORCON/NOFORN

(S) [redacted]

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(S//OC//NF) Because the cellular telephone was not being utilized [redacted] the FBI terminated electronic surveillance coverage on December 17, 2004 at 10:55 a.m. EST. The [redacted] Field Office did not log or index any of the intercepted telephone calls from cellular telephone number [redacted] as of December 9, 2004. The FBI has destroyed all of the Language Specialist's handwritten notes associated with the telephone calls, and has deleted all of the recorded materials from all FBI systems and databases.

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(S) ~~(S//OC//NF)~~ By letter dated March 2, 2005, the [redacted] Field Office advised OIPR of the circumstances described above. The [redacted] Field Office further provided OIPR with the recorded material, i.e., [redacted]

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(U) ~~(S//OC//NF)~~ Here, through no fault of the [redacted] Field Office, an unauthorized electronic surveillance was conducted. Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of E.O. 12863, the carrier's mistake must be reported to the IOB because the surveillance was not authorized under the Foreign Intelligence Surveillance Act or Executive Order 12333.

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~~SECRET~~/ORCON/NOFORN

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/04/2005

To: General Counsel

Attn: National Security Law
Branch, Room 7975

From: Counterintelligence
CD-3A, Room 4155

Contact: [Redacted]

Approved By: [Redacted]

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Drafted By: [Redacted] jjg

(U) ~~Case ID #:~~ ~~(S)~~ 278-HQ-C1229736-VIO - 794

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

(U) ~~Synopsis:~~ ~~(S)~~ Possible IOB error for an unauthorized collection
of information.

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

Enclosure(s): LHM with enclosures for dissemination to OIPR.

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

~~(S)~~ On June 10, 2004, at 11:40 a.m. Eastern Standard Time (EST), the United States Foreign Intelligence Surveillance Court granted the Federal Bureau of Investigation (FBI) authority to conduct electronic surveillance [Redacted]

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[Redacted] in the United States, including [Redacted] utilizing several telephone numbers which, among others [Redacted]

(S) [Redacted] was discontinued on December 17, 2004 at 10:55 a.m. EST because subsequent investigation revealed that this number was not being utilized by captioned target [Redacted]

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(S) ~~(S)~~ The pertinent details of the authorization and subsequent investigation are set forth in the enclosed letter [Redacted] is also providing OIPR with the [Redacted]

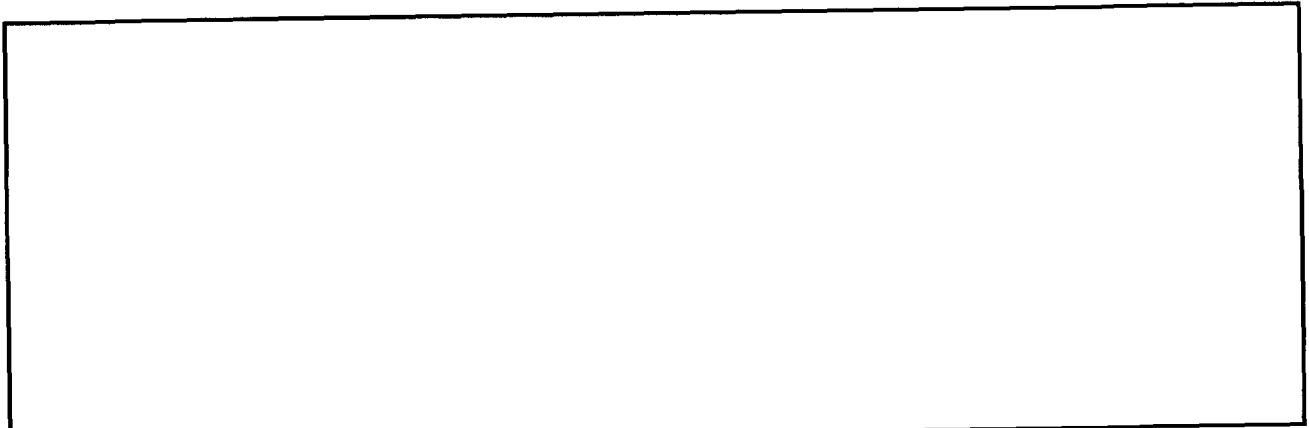
~~SECRET~~

~~SECRET~~

To: General Counsel From: Counterintelligence
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/04/2005

(U)

(S)



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(U)

~~(S)~~ These intercepted calls were not transcribed, logged or indexed. FBI [redacted] translator [redacted] and supervisor [redacted] have advised that other than hand notes of the intercepts, no official transcripts or logs were created, and no records were indexed and/or sent to ELSUR. All hand-written notes have also since been destroyed, and electronic records of calls since December 9, 2004 have been deleted from the [redacted] system.

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(U) To: General Counsel From: Counterintelligence
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/04/2005

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/11/05

To: Director's Office

Attn: OPR

Counterintelligence

Attn: AD

From: General Counsel

National Security Law Branch/Rm. 7975

Contact: [Redacted]

Ext. [Redacted]

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Approved By: Thomas Julie F
[Redacted]

Drafted By: [Redacted]

DATE: 06-21-2007
FBI INFO.
CLASSIFIED BY 65179 dmh/prs/ksr
REASON: 1.4 (c)
DECLASSIFY ON: 06-21-2032

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
(IOB) MATTER 2005-[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 Office of Professional Responsibility (OPR). OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.

(U) ~~(S)~~ **Derived from:** G-3
Declassify on: 25X-1

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 794

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

UC [Redacted]

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~~SECRET~~

Handwritten note in a circle:
IPLI-
IOB
Please handle
revised to ACS
already 1/4

To: Counterintelligence From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/11/05

Details: (S) By electronic communication (EC) April 4, 2005, (cited below)¹, the Counterintelligence Division ("CD") reported a possible IOB error in conjunction with its ongoing [redacted]

[redacted] In this regard, [redacted] reported that, on June 10, 2004, the United States Foreign Intelligence Surveillance Court (FISC) authorized electronic surveillance on several telephone numbers, including cellular telephone number [redacted]

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The original authorization was based in part, on the results of a National Security Letter to [redacted] which verified that as of 8/19/03 the cellular telephone number [redacted] was subscribed [redacted]

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[redacted]

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Activity on the cellular telephone number resumed on December 9, 2004. The language specialist monitoring the activity could not discern whether the user was affiliated with [redacted] December 16, 2004 (after approximately 20 calls) due to the vague and minimal content of the calls. On December 17, 2004, at the request of the FBI, [redacted] advised that [redacted] was not the current subscriber of cellular telephone number [redacted]

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¹ (U) See EC from the Counterintelligence Division to the General Counsel, dated 04,04/05 Case ID# 278-HQ-C1229736-VIO Serial 794, titled "Intelligence Oversight Board Matter."

~~SECRET~~

To: Counterintelligence From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/11/05

On December 17, 2004, electronic surveillance of this cellular telephone was discontinued at 10:55 a.m. EST.

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[REDACTED]
[REDACTED]
includes all calls intercepted during the authorized electronic surveillance referenced above and all other calls intercepted pursuant to other authorized surveillance of this target.

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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 surveillance error described here is a matter which must be reported to the IOB. It is.

(S)

(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." In this instance, the FISA collection on telephone number [REDACTED] was done without the authorization required by law. 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~~

To: Counterintelligence From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/11/05

Lead(s):

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR, FO, DC

(U) For review and action deemed appropriate.

Set Lead 2: (Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) CD-3A is requested to ensure that [redacted] described in CD's EC 278-HQ-C12229736-VIO, Serial 794, has been submitted to the Office of Intelligence Policy and Review, Department of Justice.

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- 1 - Ms. Thomas
- 1 - [redacted]
- 1 - [redacted]
- 1 - NSLB IOB Library

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~~SECRET~~

BY COURIER

Mr. James Langdon
Chairman
Intelligence Oversight Board
Room 5020
New Executive Office Building
725 17th Street, N.W.
Washington, D.C. 20503

Dear Mr. Langdon:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2005 [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)

Enclosure

1 - [redacted]
1 - 278-HQ-C1229736-VIO - 864

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**UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE**

(U)

~~Derived from: Multiple Sources
Declassify on: May 13, 2030~~

~~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.

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 III
Counsel for Intelligence Policy and Review
U.S. Department of Justice
Room 6000

~~SECRET~~

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
COUNTERINTELLIGENCE DIVISION
IOB MATTER 2005- [redacted] (U)

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(S)

(S) The Counterintelligence Division ("CD") of the Federal Bureau of Investigation ("FBI") has reported an electronic surveillance error in conjunction with that division's ongoing counterintelligence investigation of the [redacted] in [redacted]. In this regard, on June 10, 2004, the United States Foreign Intelligence Surveillance Court authorized electronic surveillance on several telephone numbers, including cellular telephone number [redacted]. Subsequent investigation revealed that this cellular telephone number was not being utilized [redacted]. On December 17, 2004, electronic surveillance of this number was discontinued at 10:55 a.m. CD is providing the Office of Intelligence Policy and Review ("OIPR"), Department of Justice, with [redacted]

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(U) This matter has been reported to the FBI's Office of Professional Responsibility for appropriate action.

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

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/19/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section IPU, Room 11102

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Fogle Toni Mari

Drafted By: [redacted] kas

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1015
OGC/IOB# 2005 [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 XXX
278-HQ-C1229736-VIO Serial 835

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Office dated 3/2/2005, 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 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/ksr/prs
ON 06-22-2007

~~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

FROM: *Glenn G. Powell*
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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-22-2007 BY 65179 dmh/ksr/prs

Fogler
AKA

*Freedom of Information
and
Privacy Acts*

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U - Volume 15



Federal Bureau of Investigation

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/07/2006

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From: [Redacted]

JTTF

Contact: TFO [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 1508

Title: (U) TFO SSA [Redacted]

non-Bureau b6
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INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: ~~(S)~~ To report possible IOB error.

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

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Details:

(S) 1. [Redacted]

(S) 2. [Redacted]

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

(S) [Redacted]

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~~(S)~~ (U) . Description of IOB Error:

(S) [Redacted]

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SC Miller *DM* 8/28/06 ~~SECRET~~
CRS [Redacted] *Law* 09/07/06

Law 27/24/06

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263-0-1-539

~~SECRET~~

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To: Inspection From: [redacted]

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(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/07/2006

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[redacted]

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

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 8/3/2006

To: [redacted]

Attn: CDC [redacted]
JTF Supervisor

Inspection

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

From: General Counsel

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

Contact: [redacted]

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Approved By: Thomas Julie F

Drafted By: [redacted]

kf

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1594

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

b2

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

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

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Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1508 (Pending)

(S)

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

b2
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(U) Details: ~~(S)~~ By electronic communication (EC) dated July 7, 2006 and referenced above, the [redacted] Division [redacted] reported to the OGC's National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter.

~~SECRET~~

OIG/DOJ REVIEW
FBI INVESTIGATION
OIG/DOJ INVESTIGATION

DATE: 8/21/06

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263-0-0-539

(U) To: Counterterrorism From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/3/2006

BACKGROUND

(S) [Redacted]

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(S) [Redacted]

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[Redacted] requested:

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the names, addresses, and lengths of service of the persons or entities to whom the following telephone numbers were registered:

(S) [Redacted]

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(S) [Redacted]

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(S) [Redacted]

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~~SECRET~~

To: Counterterrorism From: General Counsel

(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/3/2006

ANALYSIS

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters that should be reported to the IOB. We believe that the reported activity requires IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.³ For the FBI, OGC submits reports to the IOB.⁴

(U) ~~(S)~~ The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (NSIG) provide that "all lawful investigative techniques may be used in full investigations." NSIG (Introduction) at 4. Section 2-56 of the NFIPM identifies as reportable to the IOB unauthorized investigations, the use of unlawful methods and

(U) ³ ~~(S)~~ See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The FBI is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) ⁴ ~~(S)~~ See id. at 4.

~~SECRET~~

~~SECRET~~

To: Counterterrorism From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/3/2006

techniques, exceeding the authorized scope of permitted activities, and failing to adhere to minimization requirements.⁵

(S) In this instance, [redacted] sought information relating to four telephone numbers associated with the subject [redacted]. Although the service provider produced, in addition to requested subscriber data, additional current subscriber information beyond that requested in the NSL, the FBI's request was authorized [redacted]. The FBI committed no unauthorized investigative activity, as it took no action with regard to the additional information produced by the service provider. OGC notes that [redacted] has taken steps to advise the provider concerning its responsibilities, and has sequestered the excess production with the [redacted] CDC. However, OGC recommends that the additional records be returned to the service provider or destroyed. Based on the above, it is the opinion of OGC that this matter need not be reported to the IOB.

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~~(S)~~ See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) unauthorized investigations; (4) use of methods or techniques other than those authorized in the conduct of preliminary or full investigations; (5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.

(S)

[redacted]

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~~SECRET~~

To: Counterterrorism From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 8/3/2006

LEAD(s):

Set Lead 1: (Action)

[REDACTED]

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AT [REDACTED]

(U) Either destroy or return the excess records that were not within the scope of the NSL to the service provider, and document accordingly. Advise NSLB and Inspection Division of the records' handling.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT ITOS1/CONUS 2

(U) For review and action deemed appropriate.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David [signature]

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Drafted By: [redacted] [signature]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2565
OGC/IOB# 2006 [redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1508
278-HQ-C1229736-VIO Serial 1594

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 07/07/2006, 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.

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~~SECRET//20310911~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/2006

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Miller David *[Signature]*

Drafted By: [redacted] *[Signature]*

Case ID #: (U) 263-HQ-0-U - 539 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2565
OGC/IOB# 2006 [redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From: G-3~~
~~Declassify On: 20310911~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1508

Reference: (U) 278-HQ-C1229736-VIO Serial 1508
278-HQ-C1229736-VIO Serial 1594

Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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2565

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/13/2006

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

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From: [Redacted]

JTTF

Contact: TFO [Redacted]

DATE: 06-07-2007

CLASSIFIED BY 65179/dmh/ksr/cak
EASON: 1.4 (c)

DECLASSIFY ON: 06-07-2032

Approved By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE
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Drafted By: [Redacted] ka

Case ID #: (S) [Redacted]

06-401

Title: (S) [Redacted]

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Synopsis: (S) [Redacted]

(U) ~~(S)~~ ~~Derived From: FBI SCG G-3, Jan. 1997~~
~~Declassify On: 10/13/2016~~

Details: (S) [Redacted]

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(S) [Redacted]

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~~SECRET~~

263-0-11-539

~~SECRET~~

To: Inspection From: [redacted]
Re: (S) [redacted] 10/13/2006

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LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For information.

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~~SECRET~~
2



U. S. Department of Justice

Office of the Inspector General

DATE: December 4, 2006

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/dmh/ksr/cak

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

SUBJECT: OIG Complaint No. 2007001276
Subject: TFC [redacted]
[redacted]
FBI No. 263-0-U-539

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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.
- 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

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO.: [] 689-2007-001276-M

Received By: [] b6 Date Received: 08/21/2006 How Received: A
b7C

SUBJECT: [] SSNO:
Title: TFO Pay Plan: D.O.B.:
Component: FBI EOD Date: Alien No.:
Misc: F.B.I.No.: b2
Home: B.O.P.No.: b6
Phone: ZIP: D/L No.: b7C
Work: [] Division Offenses: 689 b7E
Joint Terrorism Task Force, []
Phone: ZIP:

COMPLAINANT: [] SSNO: []
Title: SSA Pay Plan: [] D.O.B.: [] b2
Component: FBI EOD Date: [] Alien No.: [] b6
Misc: F.B.I.No.: [] b7C
Home: [] B.O.P.No.: [] b2 b7E
Phone: () - ZIP: [] D/L No.: [] b7E
Work: ,
Phone: [] ZIP:
Confidential: Revealed: Authority: none

b1 DATE: 06-07-2007
b2 FBI INFO.
b7E CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

(S) Details:
Information received from the FBI regarding a potential IOB matter.

[]
On 5/11/06, TFO [] utilized a National Security letter (NSL) to request communications data regarding one of the targets of the investigation. b6 b7C
Upon reviewing the results on 6/7/06, TFO [] learned that due to an error made by the communications provider, [] received data that was not covered in the NSL. As a result the FBI obtained unauthorized information. b2 b6 b7C b7E
[] reports that the unauthorized material was immediately sealed and is being stored within Division Counsel.
It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 06/07/2006 TIME:
CITY: [] State: [] Zip: b2 b7E

DISPOSITION DATA: Disposition: M Date: 08/21/2006 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 12/04/2006 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-539
Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks: b2
IOB No. 2006 []
Predicating material contains classified information that will be maintained in a secure container within OIG/INV/HQ. b6 b7C
It should be noted that TFO [] is the subject of multiple IOB-related complaints.
12/04/06- Sent to AD Kaiser FBI/INSD (tap)

A

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

b2

Precedence: ROUTINE

Date: 07/07/2006

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From: [Redacted]

JTTF

Contact: TFO [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: [Redacted]

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Drafted By: [Redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 1509

Title: (U) TFO [Redacted]
SSA [Redacted]

non-Bureau

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INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) Synopsis: ~~(S)~~ To report possible IOB error.

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

Details:

(S) 1. [Redacted]

(S) 2. [Redacted]

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

(S) [Redacted]

b1

(U) ~~(S)~~ 4. Description of IOB Error

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b7E

(S) [Redacted]

SE Miller *8/29/06*

~~SECRET~~

CRS [Redacted] *09/07/06*

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263-01-910

had 07/21/06

~~SECRET~~

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

(S)

[redacted] At a later date writer was made aware that this is an over collection of records and that the results needed to be sequestered by the [redacted] CDC, [redacted] These records were turned over to CDC [redacted] on 06/20/2006. The records for the time period requested in the original NSL were printed off the CD-Rom and placed in a 1-A envelope.

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(U) ~~(S)~~ Two serials were generated as a result of the "over collected" records. **Both serials were permanently charged out of ACS.**

(S) [redacted] requesting transactional records from the date of inception through the time of service. The charged out serials will be replaced in the case file with new serials using the newly obtained results.

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~~SECRET~~

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To: Inspection From:
Re: (S) 278-HQ-C1229736-VIO, 07/07/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 8/7/2006

To: [Redacted]

Attn: CDC [Redacted]
JTTF Supervisor

Inspection

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

From: General Counsel
National Security Law Branch/CTLU 1/LX-1 3S-100
Contact: [Redacted]

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Approved By: Thomas Julie [Signature]

Drafted By: [Redacted] jkf

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 1593

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

b2

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

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

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Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1509 (Pending)

(S) [Redacted]

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

Details: ~~(S)~~ By electronic communication (EC) dated July 7, 2006 and referenced above, the [Redacted] Division [Redacted] reported to the OGC's National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter.

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~~SECRET~~

~~OIG/DOJ REVIEW: [Redacted] DATE: 3/21/06
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]~~

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263-0-U-510

(U) To: Counterterrorism From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/7/2006

BACKGROUND

(S) [Redacted]

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(S) [Redacted]

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ANALYSIS

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters that should be reported to the IOB. We believe that the reported activity does not require IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations

~~SECRET~~

To: Counterterrorism From: General Counsel

(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/7/2006

(U) approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.¹ For the FBI, OGC submits reports to the IOB.²

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

(S) In this instance, [redacted] sought information relating to an e-mail address associated with the subject [redacted] [redacted] and obtained data for a period greater than requested but still within the scope of an authorized investigation. Thus, the investigative technique was authorized for purposes of E.O. 12333 and this need not be reported to the IOB pursuant to E.O. 12863.

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(U) ¹ ~~(S)~~ See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The FBI is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) ² ~~(S)~~ See id. at 4.

(U) ³ ~~(S)~~ See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) unauthorized investigations; (4) use of methods or techniques other than those authorized in the conduct of preliminary or full investigations; (5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.

~~SECRET~~

~~SECRET~~

To: Counterterrorism From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/7/2006

LEAD(s):

Set Lead 1: (Discretionary)

[REDACTED]

AT

[REDACTED]

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(U) For review and action deemed appropriate.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT ITOS1/CONUS 2

(U) For review and action deemed appropriate.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David *DM*

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Drafted By: [redacted] *ks*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2566
OGC/IOB# 2006 [redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1509
278-HQ-C1229736-VIO Serial 1593

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 07/07/2006, 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.

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~~SECRET//20310911~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/2006

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Miller David *[Signature]*

Drafted By: [redacted] *[Signature]*

Case ID #: (U) 263-HQ-0-U - 540 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2566
OGC/IOB# 2006-[redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

~~(U) Derived From : G-3
Declassify On: 20310911~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1509

Reference: (U) 278-HQ-C1229736-VIO Serial 1509
278-HQ-C1229736-VIO Serial 1593

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Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET//20310911~~



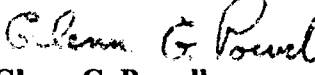
U. S. Department of Justice



Office of the Inspector General

DATE: November 30, 2006

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/dmh/ksr/cak

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007001248
Subject: TFO 

FBI No. 263-0-U-540

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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.
- 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

Received By: [] b6 Date Received: 08/21/2006 How Received: A
b7C

SUBJECT: [] SSNO:
Title: TFO Pay Plan: D.O.B.:
Component: FBI EOD Date: Alien No.: b2
Misc: F.B.I.No.: b6
Home: B.O.P.No.: b7C
Phone: ZIP: D/L No.: b7E
Work: [] Division Offenses: 608
Joint Terrorism Task Force, []
Phone: ZIP:

COMPLAINANT: [] SSNO: []
Title: SSA Pay Plan: [] D.O.B.: []
Component: FBI EOD Date: [] Alien No.: b2
Misc: F.B.I.No.: b6
Home: [] B.O.P.No.: b7C
Phone: () - ZIP: [] D/L No.: b7E
Work: ,
Phone: [] ZIP:
Confidential: Revealed: Authority: none

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Details:

(S) Information received from the FBI regarding a potential IOB matter.

[Redacted]

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Upon reviewing the data provided by the communications provider, TFO [] learned that it included information that was not covered in the NSL. [] subsequently sealed the unauthorized material.

It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB.

ALLEGATIONS: 689 IOB Violation

Occurrence Date: 03/16/2006

TIME:

CITY []

State: []

Zip:

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b7E

DISPOSITION DATA: Disposition: M Date: 08/21/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 11/30/2006 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-540

Sensitive: N Whistleblower: N Consolidated Case Number:

DATE: 06-07-2007

Remarks: b2

FBI INFO.

IOB No. 2006-[]

CLASSIFIED BY 65179/dmh/ksr/cak

REASON: 1.4 (c)

DECLASSIFY ON: 06-07-2032

TFO [] is associated with two other IOB-related complaints. (See OIG #s 2006-009161 & 2007-001245)

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Predicating material contains classified information that will be stored in a secure container within OIG/INV/HQ.

11/30/06- Sent to AD Kaiser FBI/INSD (tap)

A

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

06- [] b2

Precedence: ROUTINE

Date: 02/27/2006

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB
Attn: SA []

From: []

Contact: TFO []

Approved By: []

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Drafted By: []

kg

Case ID #: (S) []

(U) ~~(S)~~ 278-HO-C1229736-VIO (Pending) / 231
(S) []

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(U) Title: ~~(S)~~

INTELLIGENCE OVERSIGHT BOARD (IOB)

TFO []
SSA []

[] DIVISION

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(U) Synopsis: ~~(S)~~ Report possible Intelligence Oversight Board (IOB) violation.

(U)

~~(S)~~

Derived From: FBI SCG G-3, Jan. 1997
Declassify On: 02/27/2016

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Reference: (S) []

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Details: (U) The Case Agent is Joint Terrorism Task Force Officer (TFO) []

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(U) ~~(S)~~ The subject is a U.S. person.

(S) []

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sc Miller ~~02/26/06~~ ~~SECRET~~

CRS []

RAW 09/07/06

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downloaded 08/17/06 -
never rec'd copy from

263-0-u-542

~~SECRET~~

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[Redacted]

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(S)

[Redacted]

*These NSL
dated 10/26/05
are in file.*
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(S)

[Redacted]

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~~SECRET~~

~~SECRET~~

(S)



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~~SECRET~~

LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

~~(S)~~ (U) For information.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ For information.

◆◆

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/20/2006

To: [Redacted]
Counterterrorism

Attn: CDC [Redacted]
Attn: ITOS I/CONUS II

UC [Redacted]
T/SSA [Redacted]
IA [Redacted]

Inspection

Attn: IIS, [Redacted]

From: General Counsel
National Security Law Branch/CTLI I/IX 1 26 127
Contact: UC [Redacted]

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Approved By: Thomas Julie F.
[Redacted]

Drafted By: [Redacted] M:mml

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

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

(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel that the above referenced matter must be reported to the Intelligence Oversight Board (IOB). Our analysis follows.

(U) ~~(S/NF)~~ Derived From: G-1
Declassify On: 03/17/2031

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Reference: (S) [Redacted]

(U) Details: ~~(S)~~ By electronic communication (EC) dated February 27, 2006, the [Redacted] Field Office [Redacted] reported to the Inspection Division and the Office of General Counsel (OGC) this potential IOB matter.

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(S) [Redacted]

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~~SECRET~~

OIG/DOJ REVIEW: [Redacted]
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

DATE: 3/21/06
(13)

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263-0-u-942

(U) To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/20/2006

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(S)

[redacted]

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(U)

(S)

~~(S)~~ The mistaken toll records were sealed by [redacted] Chief Division Counsel (CDC) [redacted] on February 16, 2005 and are securely maintained in the CDC's office. The [redacted] responsive EC [redacted] did not reference the incorrect telephone number that was provided on CD-ROM, and has not been charged out of ACS. The incorrect toll records were not uploaded into FBI databases, including [redacted].

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(U)

~~(S)~~ As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether or not the matter described herein should be reported to IOB. We believe the reported activity requires notification.

(U)

~~(S)~~ Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires the Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive". This language has been interpreted to mandate the reporting of any violation of guidelines or regulations, approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the

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(U) To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/20/2006

(U) individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters. For the FBI, the Office of the General Counsel (OGC) submits reports to the IOB.

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

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(S) (U) ~~(S)~~ In this instance OGC is required to report the potential IOB error, [redacted] in accordance with E.O. 12863 and Section 2-56 of the NFIPM, because investigative results were obtained on a presumed USPER who was not the subject of the request for subscriber information and toll records.

(S) [redacted]

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(U) ~~(S)~~ OGC is required to report this matter to the IOB in accordance with E.O. 12863 and Section 2-56 of the NFIPM. OGC will prepare and deliver the required correspondence.

~~SECRET~~

(U) To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/20/2006

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LEAD(s) :

Set Lead 1: (Info)

[redacted]

AT [redacted]

(U) Read and clear.

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Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT LIBERTY CROSSING ONE, WASHINGTON, DC

(U) For review and action deemed appropriate.

Set Lead 3: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

◆◆

~~SECRET~~

March 21, 2006
BY COURIER

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

Dr. Mr. Friedman:

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

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The 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 that govern FBI foreign counterintelligence and international terrorism investigations.
(U)

Enclosures

- 1 - Ms. Julie E. Thomas
- 1 - [REDACTED]
- 1 - 278-HQ-CI229736-VIO
- 1 - Inspection (IOB 2006-[REDACTED])

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~~Unclassified when detached
from classified document.~~

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

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
CLEVELAND DIVISION
IOB MATTER 2006-

b2

(S)

The Federal Bureau of Investigation's Division
 reported this potential IOB matter involving
unauthorized receipt of telephone toll records from the
communications carrier ~~(S)~~ (U)

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(U) OGC has referred this matter or the FBI's Inspection
Division for action deemed appropriate. ~~(S)~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David *[Signature]*

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b7C

Drafted By: [redacted] *[Signature]*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2684
OGC/IOB# 2006 [redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1221
278-HQ-C1229736-VIO Serial 1279

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 02/27/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is 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.

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~~SECRET~~//20310911

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/2006

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted]

Ext. [redacted]

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Approved By: Miller David [signature]

DECLASSIFIED BY 65179/dmh/ksr/cak
ON 06-07-2007

Drafted By: [redacted] kas

Case ID #: (U) 263-HQ-0-U - [signature] (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2684
OGC/IOB# 2006-[redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20310911~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1221

Reference: (U) 278-HQ-C1229736-VIO Serial 1221
278-HQ-C1229736-VIO Serial 1279

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Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

~~THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.~~

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~~SECRET~~//20310911



U. S. Department of Justice

Office of the Inspector General

DATE: November 30, 2006

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/dmh/ksr/cak

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

SUBJECT: OIG Complaint No. 2007001245
Subject: TFO [redacted]
[redacted]
FBI No. 263-0-U-542

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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.
- 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

Received By: [redacted] b6 Date Received: 08/21/2006 How Received: A
b7C

SUBJECT: [redacted] SSNO:
Title: TFO Pay Plan: D.O.B.:
Component: FBI EOD Date: Alien No.: b2
Misc: F.B.I.No.: b6
Home: B.O.P.No.: b7C
Phone: ZIP: D/L No.: b7E
Work: [redacted] Division Offenses: 689
Joint Terrorism Task Force, [redacted]
Phone: ZIP:

COMPLAINANT: [redacted] SSNO: [redacted]
Title: SSA Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.:
Misc: F.B.I.No.:
Home: [redacted] B.O.P.No.: b2
Phone: () - ZIP: [redacted] D/L No.: b6
Work: , [redacted] b7C
Phone: [redacted] ZIP: b7E
Confidential: Revealed: Authority: none

(S) Details: Information received from the FBI regarding a potential IOB matter. b1
b2
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[redacted]

In furtherance of the FI, Task Force Officer (TFO) [redacted] requested toll information from a communications provider. b6

Upon review of the toll records, TFO [redacted] noted that the data was not for the target number requested. TFO [redacted] immediately sealed the unauthorized information. b7C

It is the opinion of the Office of the General Counsel that this matter must be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 02/16/2005 TIME: [redacted] b2
CITY: [redacted] State: [redacted] Zip: b7E

DISPOSITION DATA: Disposition: M Date: 11/29/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 11/30/2006 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-542
Sensitive: N Whistleblower: N Consolidated Case Number: DATE: 06-07-2007

Remarks: FBI INFO.
IOB No. 2006-[redacted] CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

TFO [redacted] is associated with one other IOB-related complaint regarding the receipt of unauthorized communications data. (See OIG #2006-009161) b2
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Predicating material contains classified information that will be stored in a secure container within OIG/INV/HQ.

11/30/06- Sent to AD Kaiser FBI/INSD (tap)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/15/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: [Redacted]

Squad 1

Contact: [Redacted]

Approved By: [Redacted]

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Drafted By: [Redacted] akl

Case ID #: (U) 278-HQ-C1229736-VIO-1099 (Pending)

Title: ~~(S)~~ POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB)
MATTER;
SA [Redacted]
A/SSA [Redacted]

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Synopsis: ~~(S)~~ To advise FBIHQ of a potential IOB matter.

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

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Details: ~~(S)~~ On December 8, 2005, FBI [Redacted]/JTTF SA [Redacted]
[Redacted] discovered a potential IOB violation regarding the issuance
(S) of two (2) National Security Letters (NSLs) [Redacted]

(U) ~~(S)~~ On December 8 and 9, 2005, SA [Redacted] extensively
researched available hard cover case files and computer databases
to ensure the validity of the potential violation. On December
12, 2005, FBI [Redacted] JTTF A/SSA [Redacted] and SA [Redacted]
brought the matter to the attention of CDC [Redacted]

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(S) [Redacted]

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~~SECRET~~

SC Miller [Redacted] 10/14/06
CRS [Redacted] 10/18/06

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To: Inspection From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 12/15/2005

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To: Inspection From:
Re: (U) 278-HQ-C1229736-VIO, 12/15/2005

LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) ~~(S)~~ For action as deemed appropriate.

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ For action as deemed appropriate.

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~~SECRET~~

(01/26/1998) ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

TE: 06-07-2007
CLASSIFIED BY 65179/dmh/kxr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/24/2006

To: Inspection
Counterterrorism
[Redacted]

Attn: Ms. [Redacted] IIS
AD
SAC, CDC

From: General Counsel
Counterterrorism Law Unit II/LX-1 3S100
Contact: [Redacted]

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Approved By: Thomas Julie F. [Signature] [Redacted] DK

Drafted By: [Redacted] jfbgfb/zdk 1654

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

(U) **Title:** ~~(S)~~ SA [Redacted]
A/SSA [Redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER
IOB 2006- [Redacted]

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

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

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 1099

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

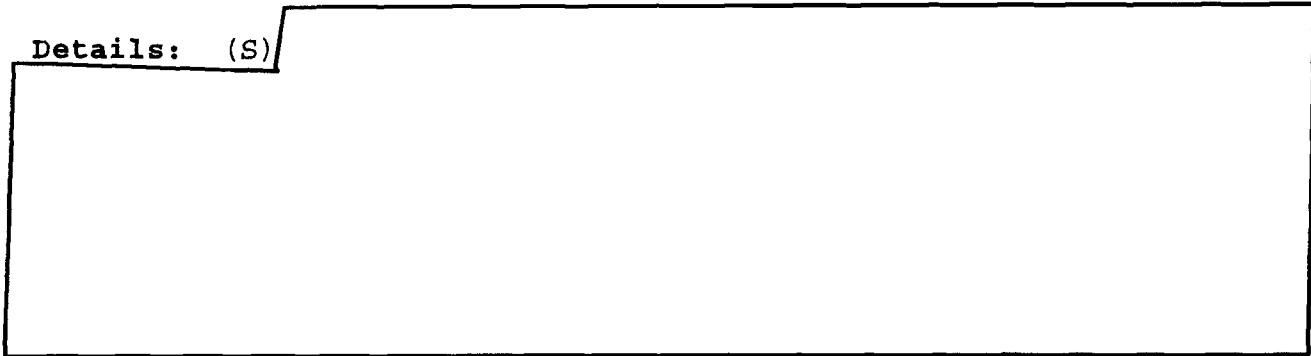
~~SECRET~~

~~OIG/DOJ REVIEW:
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:~~
DATE: 7/27/06

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To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/24/2006

Details: (S)



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

(U) ¹ ~~(S)~~ EC from the [redacted] Division, dated 12/15/2005 and titled "Potential Intelligence Oversight Board (IOB) Matter; SA [redacted] A/SSA [redacted] (hereinafter cited as [redacted] EC").

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(U) ² ~~(S)~~ A "United States person" is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. Section 1801 et. seq.) as "a citizen of the United States, 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.

To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/24/2006

administrative violations so that the Counsel to the IOB may review them upon request.

(S) [Redacted]

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(S) [Redacted]

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(S) [Redacted]

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(S) [Redacted]

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(S) [Redacted]

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(U) To: Inspection From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 04/24/2006

(S) A review of all facts relevant to the incident leads OGC to conclude that serving two National Security Letters [redacted] [redacted] was a violation of the NSIG. [redacted]

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[redacted] In this case, [redacted] the National Security Letters were issued without proper authorization. Since the National Security Letters were issued without authority, [redacted] needs to sequester the results and issue new ones.

(S) [redacted]

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(U) To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/24/2006

LEAD (s)

Set Lead 1: (Action)

INSPECTION

AT IIS

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) Please read and clear.

Set Lead 3: (Action)

[REDACTED]

AT [REDACTED]

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(U) Sequester results of National Security Letters dated 11/15/05 and 11/16/05 and reissue new National Security Letters.

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DECLASSIFIED BY 65179/dmh/ksr/cak
ON 06-07-2007

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

Dear Mr. Friedman:

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

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

Enclosure

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

- 1 - Mr. Hulon
- 1 - 278-HQ-C1229736-VIO
- 1 - Inspection Division (IOB 2006 [redacted])
- 1 - [redacted]

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~~SECRET~~

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

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

~~SECRET~~

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

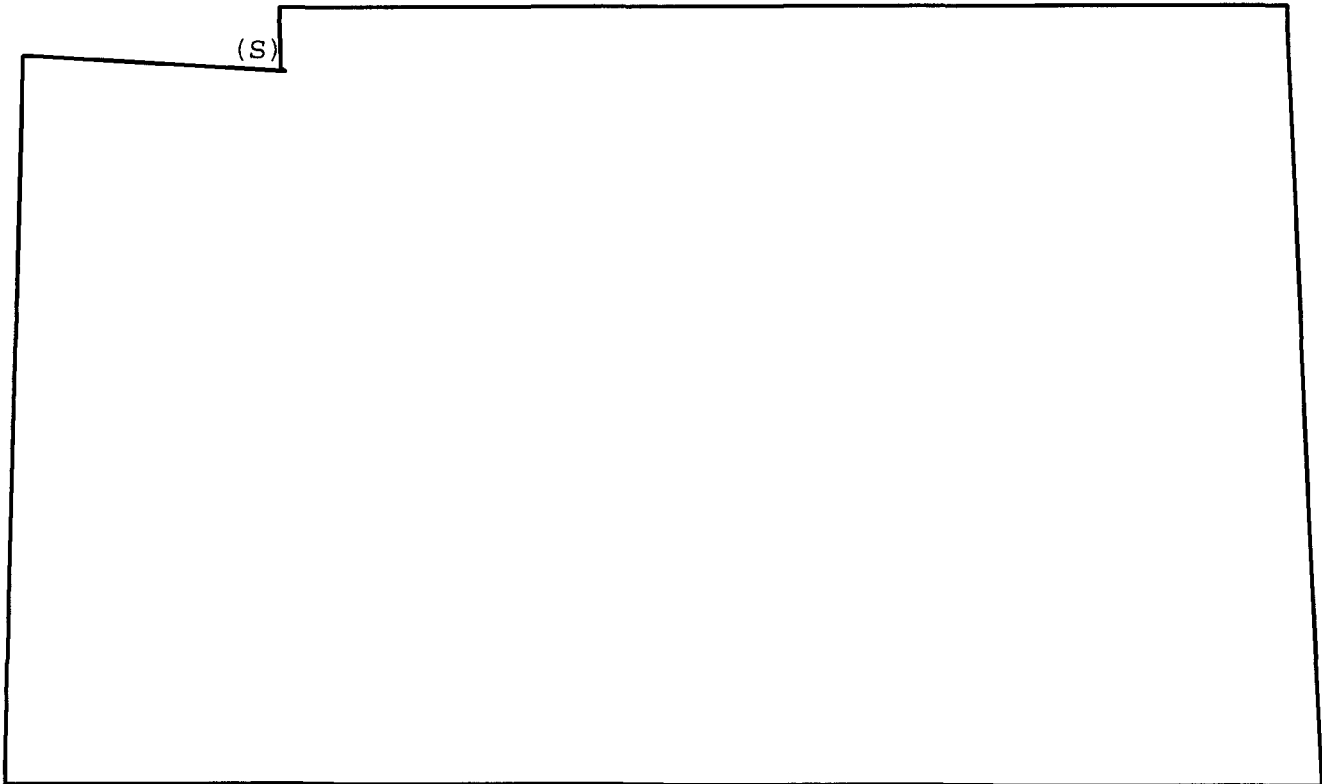
~~SECRET~~

DATE: 06-07-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] DIVISION
IOB MATTER 2006-[REDACTED] U)

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

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- 4 -

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/18/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian

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Drafted By: [redacted] *ksr*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1601
OGC/IOB# 2006-[redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1099
278-HQ-C1229736-VIO Serial 1654

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 12/15/2005, 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 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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~~SECRET//20311020~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/20/2006

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext. [Redacted]

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Approved By: Miller David Ias *Edl*

Drafted By: [Redacted] *kas*

✓ **Case ID #:** (U) 263-HQ-0-U - 545 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1601
OGC/IOB# 2006-[Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20311020~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1099

Reference: (U) 278-HQ-C1229736-VIO Serial 1099
278-HQ-C1229736-VIO Serial 1654

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED ~~WHEN SEPARATED~~ FROM CLASSIFIED ENCLOSURE.

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~~SECRET//20311020~~




U.S. Department of Justice

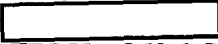
Office of the Inspector General

DATE: November 30, 2006

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/dmh/ksr/cak

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007001235
Subject: Unidentified

FBI No. 263-0-U-545

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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

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO.: [] 689-2007-001235-M

Received By: PUSKAS, STACEY T

Date Received: 09/27/2006

How Received: A

SUBJECT: Unidentified, FBI

Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work:
Phone:

Pay Plan:
EOD Date:
ZIP:
ZIP:

SSNO:
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Offenses: 689

COMPLAINANT: []

Title: ATTY
Component: FBI
Misc:
Home: []
Phone: () - []
Work: , ,
Phone: []
Confidential:

Pay Plan: []
EOD Date: []
ZIP: []
ZIP:
Revealed:

SSNO: []
D.O.B.: []
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:

Authority: none

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Details:

The FBI provided information regarding a potential IOB matter (2006- [])

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On 11/15/05 and 11/16/05 two NSLs were issued to financial institutions and responsive records were received; however, the results had to be sequestered.

FBI/OGC determined that this matter should be reported to the IOB.

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ALLEGATIONS: 689 IOB Violation

Occurrence Date: 11/15/2005

CITY: []

TIME:

State: []

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Zip:

DISPOSITION DATA: Disposition: M Date: 09/27/2006 Approval: POWELL, GLENN G

Referred to Agency:

Date Sent:

Component: FBI

Patriot Act: N

Civil Rights: N

Component Number: 263-0-U-545

Sensitive: N

Whistleblower: N

Consolidated Case Number:

Remarks:

11/29/06: Predicating material contains classified information which will be maintained in a secure container at OIG/INV/HQ. (stp)

DATE: 06-07-2007
FBI INFO.
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY

Date: 04/18/2006

To: ✓ Inspection
General Counsel
Counterintelligence

Attn: IIS
Attn: NSLB
Attn: SSA [redacted]
CD-1A

From: [redacted]

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Squad CD-1

Contact: SA [redacted]

Approved By: [redacted]

[redacted]
[redacted] *mmw/DAB*
[redacted] *SAC/mjc*

Drafted By: [redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO - 1345

(U) Title: (S) A/SSA [redacted] b6
SA [redacted] b7C

(U) Synopsis: (S) Report of potential Intelligence Oversight Board
(IOB) Matter.

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

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(S) [redacted]

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Details: (S) [redacted]

(S) [redacted]

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SC Miller *DM 9/13/06*
CRS [redacted] *kan 10/18/2006*
SECRET

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To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/18/2006

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[redacted]

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[redacted]

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(S)

~~(S)~~ Following this, on several occasions SA [redacted] provided a standard transactional records NSL to the provider and obtained transactional records pertaining to, among other things, the IP addresses of others that accessed the webpages containing the clandestine communications. The provider also provided copies of the subject's webpages which are generally accessible to the public.

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(S)

[redacted]

(S)

[redacted]

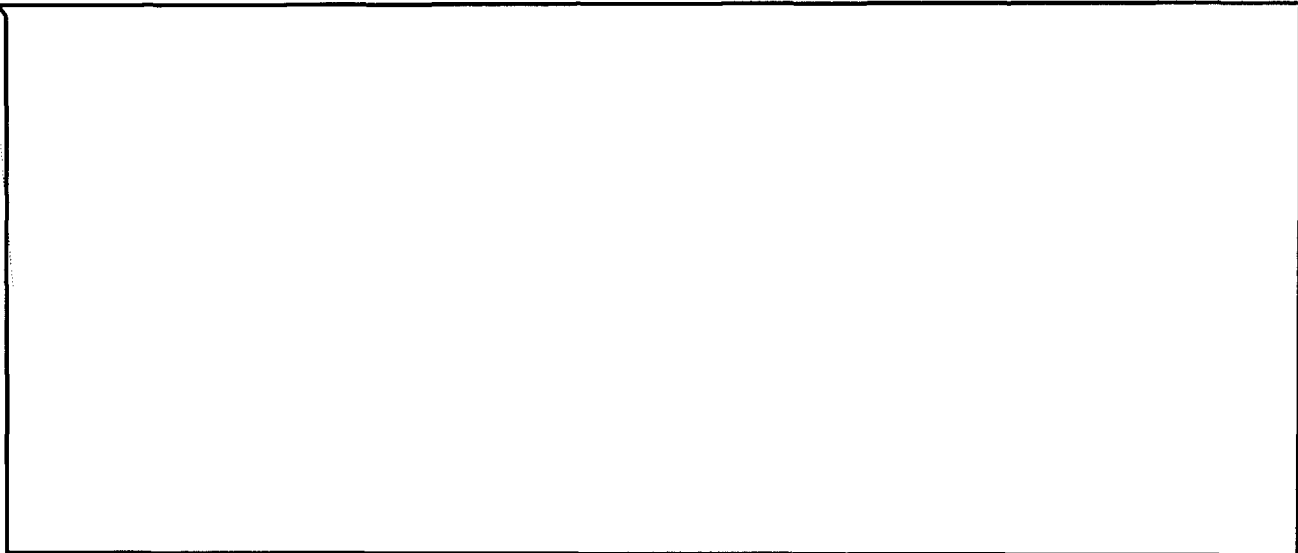
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To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 04/18/2006

(S)



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(S) (U) (S) In February of 2006 FBIHQ unit CD-1A expressed a concern about obtaining communication "content" via the NSLs and indicated the three NSLs might present a potential IOB matter. The [redacted] CDC's office discussed the issues with CD-1A and representatives from OGC's Science and Technology Law Unit and National Security Law Branch. [redacted]

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[redacted] is not a violation of law, adding additional language to an NSL for transactional records under 18 U.S.C. §2709 to document [redacted] request and to obtain the information was not appropriate in light of the strict language in 18 U.S.C. §2709. In this regard, on 04/11/2006, NSLB advised that [redacted] should formally report the incident as a potential IOB matter.

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

06-07-2007
CLASSIFIED BY 65179/dmh/kar/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/03/2006

To:

[Redacted]

Counterintelligence

Inspection

Attn: SA

CDC

Attn: SSA

CD-1A

Attn: IIS

[Redacted]

[Redacted]

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

Contact: AGC

[Redacted]

Approved By: Thomas Julie F.

[Redacted]

Drafted By:

[Redacted]

lk

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) ¹⁶⁰⁸

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

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

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

Reference: (U) 278-HQ-C1229736-1345

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

~~(U)~~ ~~(S)~~ Details: The referenced electronic communication (EC) from the [Redacted] Division [Redacted] dated 04/18/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, the FBI is required to report this matter to the IOB.

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OIG/DOJ REVIEW:
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

DATE: 7-7-06

[Redacted]

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006

(S) [redacted]

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(U) [redacted] requested, via the National Security Letter (NSL) pursuant to 18 U.S.C. 2709, transactional records from the service provider. In a meeting with the service provider, [redacted]

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[redacted]

(U) [redacted] At a later date, the service provider requested that the FBI specifically document the request [redacted] Pursuant to this request, on three occasions, [redacted] submitted NSLs requesting: "the names, addresses, and length of service and electronic communications transactional records, to include existing transaction/activity logs and all images uploaded". The service provider submitted [redacted] pursuant to the NSL requests.

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

¹ A "United States person" is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 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) (2003).

To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006

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

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information, such as: (1) subscriber information, toll billing records, and electronic communication transactional records (Electronic Communications Privacy Act (ECPA), 18 U.S.C. 2709); (2) financial records (Right to Financial Privacy Act, 12 U.S.C. 3414(a)(5)(A)); and (3) consumer information (Fair Credit Reporting Act, 15 U.S.C. 1681u and 1681v). Title 18, U.S.C. 2709, provides that the FBI may seek transactional records from service providers that is relevant to an authorized national security investigation. Section V.12., Investigative Techniques, of the NSIG provides that the NSLs may be issued in conformity with statutory requirements.

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(U) ~~(S)~~ In this instance, because [redacted] received [redacted] [redacted] via two different avenues, first by simply asking for [redacted] and later pursuant to an NSL, we need to address the appropriateness of each of the avenues.

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(U) ~~(S)~~ As stated above, [redacted] first obtained [redacted] [redacted] when they simply asked the service provider to give the FBI copies of the publically [redacted]. A question arises whether this "asking" violated the ECPA. We conclude that it does not. According to 18 U.S.C. 2511, Interception of Disclosure of Wire, Oral or Electronic Communications, it is not unlawful to "intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public", 18 U.S.C. 2511(g). In this instance [redacted] [redacted] requested from the service provider were publically accessible, thus no violation of ECPA has occurred.

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To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006

(U) ~~(S)~~ Next, we address the issue of whether it was proper for [redacted] to alter the NSL in order to document the FBI's request for [redacted]. The information that can be provided pursuant to an NSL is very specific and it is enumerated in the appropriate U.S. Code. In this instance, [redacted] issued the NSL pursuant to 18 U.S.C. 2709. As noted above, the NSL requested: "the names, addresses, and length of service and electronic communications transactional records, to include existing transaction/activity logs and [redacted]. The "names, addresses, and length of service and electronic communications transactional records" are all specifically allowed pursuant to 18 U.S.C. 2709.

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(S) (U) ~~(S)~~ This section does not have a "catch-all" authority, nor does it allow for [redacted] as requested in the NSL submitted by [redacted]. Thus, the additional information, [redacted] requests information that is beyond the scope of 18 U.S.C 2709. Accordingly, it was improper of [redacted] to alter the NSL in order to obtain the information. Because, on three separate occasions, from November 25, 2005 to February 28, 2006, the [redacted] office inappropriately utilized the NSL, it is required that any information received from the service provider that is beyond the scope of an NSL, be sequestered. Only the information that was provided that was beyond the scope of the NSL, specifically [redacted] need to be sequestered. The information should continue to remain sealed and sequestered in the CDC's safe.

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(U) ~~(S)~~ Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error needs to be reported to the IOB. OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006

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LEAD(s):

Set Lead 1: (Action)

[redacted]

[redacted]

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

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

CC: Ms. Thomas

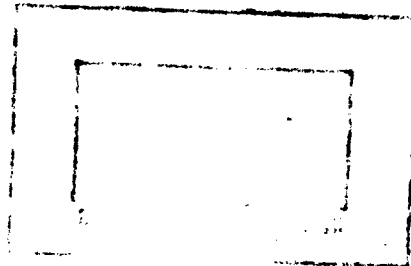
[redacted]

IOB Library

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~~SECRET~~



DECLASSIFIED BY 65179/dmh/ksr/cak
ON 06-07-2007

BY COURIER

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

Dear Mr. Friedman:

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

b2

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

Enclosure

1 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

~~SECRET~~

~~SECRET~~

- 4 -

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/18/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian

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Drafted By: [redacted] *has*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2166
OGC/IOB# 2006 [redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1345
278-HQ-C1229736-VIO Serial 1608

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Office dated 04/18/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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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~~SECRET~~//20311020

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/20/2006

To: [redacted]

Attn: ADIC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Miller David Ian *DM*

Drafted By: [redacted] *ks*

Case ID #: (U) 263-HQ-0-U - 548 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2166
OGC/IOB# 2006-[redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20311020~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1345

Reference: (U) 278-HQ-C1229736-VIO Serial 1345
278-HQ-C1229736-VIO Serial 1608

Details: (U) Upon review of [redacted] Office's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

b2
b7E

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED ~~WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.~~

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~~SECRET~~//20311020




U.S. Department of Justice


Office of the Inspector General

DATE: December 1, 2006

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/dmh/ksr/cak

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007001261
Subject: Unidentified
 Division
FBI No. 263-0-U-548

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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

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO [redacted] 689-2007-001261-M

Received By: [redacted] b6
b7C Date Received: 09/07/2006 How Received: A

SUBJECT: Unidentified, FBI SSNO:
Title: UNID 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: Offenses: 689
Phone: ZIP:

COMPLAINANT: [redacted] SSNO: [redacted]
Title: ATTY Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.:
Misc: F.B.I.No.: b2
Home: [redacted] B.O.P.No.: b6
Phone: () - ZIP: [redacted] D/L No.: b7C
Work: , ,
Phone: [redacted] ZIP:
Confidential: Revealed: Authority: none

Details:

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The FBI provided information regarding a potential IOB matter (2006-[redacted]).

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Pursuant to an ongoing investigation, the [redacted] Division submitted three NSLs to an internet service provider requesting transactional records and copies of publicly accessible webpages to include all images uploaded [redacted]

The service provider submitted the requested [redacted]

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OGC determined that the [redacted] Division inappropriately used the NSLs to request [redacted]. Therefore, any information received from the service provider beyond the scope of the NSLs must be sequestered.

FBI/OGC determined that this matter must be reported to the IOB.

ALLEGATIONS: 689 IOB Violation

Occurrence Date: 11/25/2005

TIME:

b2

CITY: [redacted]

State: [redacted]

b7E

Zip:

DISPOSITION DATA: Disposition: M Date: 09/07/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 12/01/2006 Component: FBI

Patriot Act: N Civil Rights: N Component Number:

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

11/30/06: Predicating material contains classified information which will be maintained in a secure container at OIG/INV/HQ. (stp)

DATE: 06-07-2007

FBI INFO.

CLASSIFIED BY 65179/dmh/ksr/cak

REASON: 1.4 (c)

DECLASSIFY ON: 06-07-2032

~~SECRET~~

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/08/2006

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

DATE: 06-07-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

From: [Redacted]

Chief Division Counsel

Contact: ADC [Redacted]

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Approved By: [Redacted] *bl/08*

[Redacted] *(12)*
[Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

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Case ID #: (S) [Redacted]

~~(S)~~ 278-HQ-C1229736-VIO (Pending) *1426*

(U) **Title:** ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER

SA [Redacted]
SSA [Redacted]

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Synopsis: (U) Over-collection of information improperly
obtained from the issuance of a National Security Letter (NSL).

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

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

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Details: (S) [Redacted]

[Redacted]

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(S) [Redacted]

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Schiller 8/19/06
CRS [Redacted] *has 10/18/06*

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~~SECRET~~

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To: Inspection From: [redacted]
Re: (S) [redacted] 06/08/2006

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[redacted]

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[redacted]

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To: Inspection From: [redacted]
Re: (S) [redacted] 06/08/2006

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LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

Read and clear

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

Read and clear.

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~~SECRET~~

~~SECRET~~

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/21/2006

To:
Counterintelligence

Attn: ADC
Attn: CD-ID UC

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

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Approved By: Thomas Julia E.

Drafted By: ctd

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DATE: 06-08-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

(S) Case ID #: ~~(S)~~
278-HQ-CI229736-VIO-1606

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

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(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB). A copy of this opinion should be retained in the control file for review by Counsel to the IOB.

(U) ~~Derived From : G-1~~
~~Declassify On: X1~~

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(S) Reference: ~~(S)~~
(U) 278-HQ-CI229736-VIO Serial 1426

Details: (U) The referenced electronic communication (EC) from dated 06/08/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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OIG/DOJ REVIEW: _____
FBI INVESTIGATION: _____
OIG/DOJ INVESTIGATION: _____
DATE: 9-7-06
(P)

To: [redacted] From: Office of the General Counsel
(S) Re: (U) [redacted] 07/21/2006

(S) [redacted]

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(U) ~~(S)~~ Upon discovering the error, the case agent sealed the records and returned them to the Assistant Division Counsel. The Assistant Division Counsel then secured the information in the Chief Division Counsel's safe. The case agent never uploaded any personal or identifying information concerning the previously unknown individual onto ACS, and no other checks were conducted.

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

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To: [redacted] Office of the General Counsel
Re: (U) [redacted] 07/21/2006
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part to ensure the protection of the individual rights of U.S. persons.

(U) ~~(S)~~ Here, an error on the part of [redacted] resulted in the unintentional acquisition of information. It should be noted that [redacted] response in receiving the unsolicited material was commendable. Upon learning that [redacted] provided information beyond the scope of the NSL, [redacted] sequestered the excess information and placed it in the Chief Division Counsel's safe. No personal or identifying information was entered into ACS as a result of the error, and the previously unidentified individual was not prejudiced in any way.

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(U) ~~(S)~~ Nevertheless, we conclude that, in accordance with the reporting requirements of Section 2.4 of E.O. 12863, the telecommunication company's mistake in providing the previously unknown individual's information should be reported to the IOB. In accordance with this determination, OGC will prepare a cover letter and memorandum for IOB notification purposes.

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To: [redacted] From: Office of the General Counsel
Re: (U) (S) [redacted] 07/21/2006

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LEAD(s):

Set Lead 1: (Info)

[redacted]

AT

[redacted]

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

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

CC: Ms. Thomas

[redacted]
JOB LIBRARY

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DECLASSIFIED BY 65179/dmh/ksr/cak
ON 06-08-2007

BY COURIER

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

Dear Mr. Friedman:

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

b2

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

Enclosure

1 - 278-HQ-C1229736-VIO 1/07

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-08-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD MATTER
PHILADELPHIA FIELD OFFICE
IOB MATTER 2006- (U)

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

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/18/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-08-2007 BY 65179/dmh/ksr/cak

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Drafted By: [redacted] *ks*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2348
OGC/IOB# 2006 [redacted]

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1426
278-PH-100522 Serial 8
278-HQ-C1229736-VIO Serial 1606

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 06/08/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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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~~SECRET//20311020~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/20/2006

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext. [Redacted]

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Approved By: Miller David Ian *Miller*

Drafted By: [Redacted] *kas*

Case ID #: (U) 263-HQ-0-U - 552 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2348
OGC/IOB# 2006-[Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

~~(S) Derived From: G-3
(U) Declassify On: 20311020~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1426

Reference: (U) 278-HQ-C1229736-VIO Serial 1426
278-PH-100522 Serial 8
278-HQ-C1229736-VIO Serial 1606

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED ~~WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.~~

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~~SECRET//20311020~~




U.S. Department of Justice


Office of the Inspector General

DATE: December 1, 2006

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-08-2007 BY 65179/dmh/ksr/cak

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007001270
Subject: Unidentified
 Division
FBI No. 263-0-U-552

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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

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO.: [] 689-2007-001270-M

Received By: []^{b6}_{b7C} Date Received: 09/07/2006 How Received: A

SUBJECT: Unidentified, FBI

Title: UNID	Pay Plan:	SSNO:
Component: FBI	EOD Date:	D.O.B.:
Misc:		Alien No.:
Home:		F.B.I.No.:
Phone:	ZIP:	B.O.P.No.:
Work:		D/L No.:
Phone:	ZIP:	Offenses: 689

COMPLAINANT: []	Pay Plan: []	SSNO: []
Title: ATTY	EOD Date: []	D.O.B.:
Component: FBI		Alien No.:
Misc:		F.B.I.No.:
Home: []		B.O.P.No.:
Phone: () - []	ZIP: []	D/L No.:
Work: , ,		
Phone: []	ZIP:	Authority: none
Confidential:	Revealed:	

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Details:

The FBI provided information regarding a potential IOB matter (2006 []) ^{b2}

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(S) [Redacted]

FBI/OGC determined that this matter does not need to be reported to the IOB. (stp)

ALLEGATIONS: 689 IOB Violation	TIME: []	b2
Occurrence Date: 06/05/2006	State: []	b7E
CITY: []		Zip:

DISPOSITION DATA: Disposition: M Date: 09/07/2006 Approval: POWELL, GLENN G *JPW*

Referred to Agency: FBI Date Sent: 12/01/2006 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-552

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

11/30/06: Predicating material contains classified information which will be maintained in a secure container at OIG/INV/HQ. (stp)

DATE: 06-08-2007
FBI INFO.
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/20/2006

To: ✓ Inspection
General Counsel

Attn: IIS
Attn: NSLB

From: [Redacted]

Squad 5

Contact: CDC [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

A:kal

Case ID #: (S) [Redacted]

(S) ~~(S)~~ 278-HQ-C1229736-VIO (Pending) - 1452
278-0 - 63

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(U) Title: ~~(S)~~ Potential IOB Violation;
SA [Redacted]
A/SSA [Redacted]

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(U) Synopsis: ~~(S)~~ Over-collection of information improperly
obtained from the issuance of a National Security Letter (NSL).

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

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

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Details: (S) [Redacted]

[Redacted]

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(S) [Redacted]

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SC Miller [Redacted] 10/4/06
CRS [Redacted] 6/18/06
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[Handwritten notes]

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To: Inspection From: [redacted]
Re: (S) [redacted] 06/20/2006

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(S) [redacted]

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(U) ~~(S)~~ After learning, (during a [redacted] Division training session on June 6, 2006) that this matter may be a possible IOB violation, SA [redacted] brought the matter to the attention of the writer. The records which were obtained, excluding those related to the investigation, are being maintained in the writer's safe.

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To: Inspection From: [redacted]
Re: (S) [redacted] 06/20/2006

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LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLB is requested to determine whether or not the facts conveyed in this communication should be reported as an IOB.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 8/22/2006

To: [Redacted]

Attn: CDC [Redacted]
A/SSA [Redacted]

Inspection

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

From: General Counsel
National Security Law Branch/CTLIH II/LX-120-100
Contact: [Redacted]

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Approved By: Thomas Julie F. [Redacted] PIK

Drafted By: [Redacted] neb

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1653

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

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

(U) ~~(S)~~ Derived From : G-3
Declassify On: 8/22/2016

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(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1452 (Pending)
(S) [Redacted]

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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(U) Details: ~~(S)~~ By electronic communication (EC) dated June 20, 2006 and referenced above, the [Redacted] Division [Redacted] reported to the OGC's National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter.

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OIG/DOJ REVIEW: [Redacted] DATE: 9/27/06
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

~~SECRET~~

To: Counterterrorism From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 8/22/2006

BACKGROUND

(S) [Redacted]

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(S) [Redacted]

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~~SECRET~~

To: Counterterrorism From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/22/2006

ANALYSIS

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters that should be reported to the IOB. We believe that the reported activity does not require IOB notification.

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

(U) ~~(S)~~ The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (NSIG) provide that "all lawful investigative techniques may be used in full investigations." NSIG (Introduction) at 4. Section 2-56 of the NFIPM identifies as reportable to the IOB unauthorized investigations, the use of unlawful methods and

(U) ¹ ~~(S)~~ See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The FBI is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) ² ~~(S)~~ See id. at 4.

~~SECRET~~

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To: Counterterrorism From: General Counsel

Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/22/2006

techniques, exceeding the authorized scope of permitted activities, and failing to adhere to minimization requirements.³

(S)

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There is no restriction in the law as to the requested period of time that a NSL issued under a duly authorized investigation should cover. As can be expected during the course of an investigation, the issuance of an NSL may result in acquisition of information that ultimately will not be used, nonetheless the investigation has been furthered by providing information that a line of investigation need no longer be pursued. That was the situation in this case. A legitimately issued NSL resulted in obtaining information that indicated that what had been a suspect cellular telephone number was apparently not involved in terrorist activity. Thus, this need not be reported to the IOB pursuant to E.O. 12863.

³ ~~(S)~~ See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) unauthorized investigations; (4) use of methods or techniques other than those authorized in the conduct of preliminary or full investigations; (5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.

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To: Counterterrorism From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 8/22/2006

LEAD(s):

Set Lead 1: (Discretionary)

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[REDACTED]

AT [REDACTED]

(U) For review and action deemed appropriate.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT ITOS II

(U) For review and action deemed appropriate.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/18/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [REDACTED] Ext [REDACTED]

Approved By: Miller David Ian

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Drafted By: [REDACTED] *ksa*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2470
OGC/IOB# 2006-[REDACTED]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1452
278-HQ-C1229736-VIO Serial 1653

Details: (U) The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 06/20/2006, 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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~~SECRET//20311020~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/20/2006

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext. [Redacted]

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Approved By: Miller David Ian *Edl*

Drafted By: [Redacted] *kas*

Case ID #: (U) 263-HQ-0-U - 554 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2470
OGC/IOB# 2006 [Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From: G-3~~
~~Declassify On: 20311020~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1452

Reference: (U) 278-HQ-C1229736-VIO Serial 1452
278-HQ-C1229736-VIO Serial 1653

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Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED ~~WHEN SEPARATED~~ FROM CLASSIFIED ENCLOSURE.

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~~SECRET//20311020~~




U.S. Department of Justice


Office of the Inspector General

DATE: December 1, 2006

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-08-2007 BY 65179/dmh/ksr/cak

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007001274
Subject: Unidentified
 Division
FBI No. 263-0-U-554

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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

OIG - INVESTIGATIONS DIVISION - Complaint Form

DECLAS [] ON: 06-08-2032

Received By: [] b6 Date Received: 09/27/2006 How Received: A
b7C

SUBJECT: Unidentified, FBI

Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work:
Phone:

Pay Plan:
EOD Date:
ZIP:
ZIP:

SSNO:
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Offenses: 689

COMPLAINANT: []

Title: ATTY
Component: FBI
Misc:
Home: []
Phone: () -
Work:
Phone:
Confidential:

Pay Plan: []
EOD Date: []
ZIP: []
ZIP:
Revealed:

SSNO: []
D.O.B.: []
Alien No.:
F.B.I.No.: b2
B.O.P.No.: b6
D/L No.: b7C
Authority: none

Details:

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The FBI provided information regarding a potential IOB matter (2006-[])

On 4/10/06 [] received the results of the NSL and learned that the telephone number in question was subscribed to by three separate individuals during the requested period of coverage.

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FBI/OGC determined that the NSL was properly issued and the information received served as an elimination of an investigatory lead. FBI/OGC determined that this matter does not need to be reported to the IOB.

ALLEGATIONS: 689 IOB Violation

Occurrence Date: 04/10/2006

CITY: []

TIME:

State: []

b2

Zip:

b7E

DISPOSITION DATA: Disposition: M Date: 09/27/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 12/01/2006 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-554

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

11/30/06: Predicating material contains classified information which will be maintained in a secure container at OIG/INV/HQ. (stp)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/03/2006

b2

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From:

CDC

Contact:

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Approved By:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: bc

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 1480

Title: (U) SA SA
SSA SSA

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INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: ~~(S)~~ To report possible IOB error.

(U)

~~(U)~~ ~~(S)~~ Derived From: G-1
Declassify On: X1

Details:

(S) 1.

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(S) 2.

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

(U)

(S)

b1

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

(U)

(S)

Schiller *10/14/06*
CRS *kas 10/18/06*

~~SECRET~~

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done by [unclear]
[unclear]

~~SECRET~~

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(U) To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/03/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Date: 09/06/2006

Precedence: ROUTINE

To: [Redacted]

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

Counterintelligence

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

Inspection

Attn: IIS, CRS [Redacted]

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

Contact: AGC [Redacted]

Approved By: Thomas Julie F. [Redacted] *2/4*

Drafted By: [Redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) *1636*

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

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

(U) Derived From: ~~G-1~~
Declassify On: ~~25X1~~

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

Reference: (S) [Redacted]

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OIG/DOJ REVIEW: [Redacted]
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]
DATE: 9/27/06
ay

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

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(U) **Details:** ~~(S)~~ By EC dated 07/03/2006, [redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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(S) [redacted]

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(S) [redacted]

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(S) [redacted]

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

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

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CI229736-VIO, 09/06/2006

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General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request.

- (U) ~~(S)~~ The standard for issuing an NSL is relevance to an authorized investigation to protect against international terrorism or clandestine intelligence activities provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the First Amendment of the Constitution of the United States. The subject of the NSL does not need to be the target of the investigation, provided that the information is relevant to an authorized investigation.
- (U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v).
- (U) ~~(S)~~ ECPA, 18 U.S.C. § 2709, provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Section V.12., Investigative Techniques, of the AG Guidelines provides that NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.
- (U) ~~(S)~~ Here, during an authorized investigation, the FBI obtained a telephone number [redacted] that was believed to be the telephone number of the target. In other words, the telephone number received was believed to be relevant to an authorized [redacted] investigation. Based upon the information obtained [redacted] the FBI served

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

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

(U)

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

b1

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

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

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LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

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[redacted]

AT [redacted]

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

cc: Ms. Thomas

[redacted]

IOB Library

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(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/18/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041
Contact: CRS [REDACTED] Ext. [REDACTED]

Approved By: Miller David Ian

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Drafted By: [REDACTED] *kas*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2483
OGC/IOB# 2006-[REDACTED]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1480
278-HQ-C1229736-VIO Serial 1636

Details: (U) The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 07/03/2006, 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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(Rev. 01-31-2003)

~~SECRET//20311020~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/20/2006

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext. [Redacted]

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Approved By: Miller David Ian *[Signature]*

Drafted By: [Redacted] *[Signature]*

✓ **Case ID #:** (U) 263-HQ-0-U - 556 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2483
OGC/IOB# 2006 [Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20311020~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1480

Reference: (U) 278-HQ-C1229736-VIO Serial 1480
278-HQ-C1229736-VIO Serial 1636

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED ~~WHEN SEPARATED FROM~~ CLASSIFIED ENCLOSURE.

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~~SECRET//20311020~~




U.S. Department of Justice


Office of the Inspector General

Washington, D.C. 20530

DATE: December 5, 2006
TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-08-2007 BY 65179/dmh/ksr/cak

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

SUBJECT: OIG Complaint No. 2007001295
Subject: Unidentified 
FBI No. 263-0-U-556

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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

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO.: [redacted] 689-2007-001295-M

Received By: [redacted] b6
b7C Date Received: 09/27/2006 How Received: A

SUBJECT: Unidentified, FBI

Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work:
Phone:

Pay Plan:
EOD Date:

ZIP:

ZIP:

SSNO:
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Offenses: 689

COMPLAINANT: [redacted]

Title: ATTY
Component: FBI
Misc:
Home:
Phone: () -
Work:
Phone:
Confidential:

Pay Plan:
EOD Date:

ZIP:

ZIP:
Revealed:

SSNO: [redacted]
D.O.B.: [redacted]
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

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Details:

(S)The FBI provided information regarding a potential IOB matter (263-0-U-556).

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[redacted] a telephone number was provided to an FBI agent. An NSL was issued and upon receipt of the telephone records, it was determined the telephone subscriber was unlikely associated with the subject. [redacted]

It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB. (dz)

ALLEGATIONS: 689 IOB Violation

Occurrence Date:

TIME:

CITY:

State:

Zip:

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DISPOSITION DATA: Disposition: M Date: 12/01/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI

Date Sent: 12/01/2006

Component: FBI

Patriot Act: N

Civil Rights: N

Component Number: 263-0-U-556

Sensitive: N

Whistleblower: N

Consolidated Case Number:

Remarks:

12/05/06-Sent to Kaiser/FBI/INSD. Predicating material will be maintained within OIG/INV in a secure container. (dz)

DATE: 06-08-2007
FBI INFO.
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY

Date: 06/14/2006

To: General Council

Attn: National Security Law
Branch (NSLB) / Room 7925

Counterterrorism

Attn: ITOS II / IHSU
SSA [redacted]
LX 1 6-200

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From: [redacted]

Contact: [redacted]

Approved By: [redacted]

Drafted By: [redacted]

twm

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(S) Case ID #: (U) [redacted]

278-HQ-C1229736-Vio - 1486
278-PD-33854-VIO

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Title: (S) [redacted]

(U) ~~(S)~~ Synopsis: ~~(S)~~ To report Intelligence Oversight Board (IOB) violation and confirm direct notification to OIPR of the same.

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

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

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Reference: (S) ~~(S)~~ [redacted]

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Enclosure(s): (S) [redacted]

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Schedule OIM 10/4/06
CRS [redacted] [redacted]

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Handwritten notes at bottom left

~~SECRET~~

(S) To: General Council From: [redacted]
Re: ~~(S)~~ [redacted]
278-HQ-C1229736-Vio 278-PD-33854-VIO
, 06/14/2006

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(S) [redacted]

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Details: (S) [redacted]

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(S) [redacted]

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(S) [redacted]

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(S) [redacted]

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(U) (S) All information obtained from the aforementioned NSL has been amassed and attached to this EC to be forwarded to FBI HQ for appropriate action. To date subscriber information has been the only information received by FBI [redacted] Division from [redacted]. No toll records have been provided. Should toll records be received by FBI [redacted] those records will be sealed and forwarded to FBI HQ for action deemed necessary.

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(U) (S) The simple editing oversight by the writer has been addressed. In the future a more exacting review of requested information will be conducted.

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~~SECRET~~

(S) To: General Council From: [redacted]
Re: (U) [redacted]
278-HQ-C1229736-VIO 278-PD-33854-VIO
, 06/14/2006

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U)

~~(S)~~ For action deemed appropriate.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U)

~~(S)~~ ITOS II / IHSU, read and clear. No hard copy to follow.

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~~SECRET~~

(01/26/1998)

DATE: 06-08-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/18/2006

To: [Redacted]
Counterterrorism
Inspection

Attn: SAC, CDC
Attn: AD
Attn: Ms. [Redacted]
Internal Investigative
Section, Room 11865

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From: General Counsel
Counterterrorism Law Unit II/LX-1 3S100
Contact: [Redacted]

Approved By: Thomas, Julie R. [Signature]
[Redacted]

Drafted By: [Redacted] neb

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 1657

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

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

(U) ~~(S)~~ **Derived from:** G-3
Declassify On: 09/18/2016

(U) **Reference:** 278-HQ-C1229736-VIO-1486 ~~(S)~~

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~~OIG/DOJ REVIEW: [Redacted]
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]~~
DATE: 1/23/06
[Signature]

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To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO ~~181~~ , 09/18/2006

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in WordPerfect 6.1. b2
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Details: (U) Referenced communication from the [redacted] Field Office [redacted] dated 06/14/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

(S) [redacted]

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(X) During the course of the investigation, [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States." The NSL, dated May 11, 2006, was addressed to [redacted]

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(S)

[redacted] However, the number was mistakenly written with

¹ (S) [redacted]

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

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(U) To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO-~~(S)~~, 09/18/2006

(S) one number changed, so that the NSL was issued for the wrong telephone number.³ Records for that telephone number were provided by the telephone company to the [redacted]. Upon receipt of the records, the case agent realized his mistake. The records from [redacted] were collected and forwarded to FBI Headquarters for appropriate action. Further, serials created before the mistake was discovered and which referenced the incorrect phone number and information have been permanently charged out of the FBI's Automated Case Support system. By EC dated 06/14/2006, this matter was reported to OGC and the [redacted] Division.⁴

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

(U) ~~(S)~~ Section V.12., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG)

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

⁴ (U) See 278-HQ-C1229736-VIO-1486, addressed to OGC.

~~SECRET~~

~~SECRET~~

To: [REDACTED] From: General Counsel
Re: 278-HQ-C1229736-VIO ~~(S)~~ , 09/18/2006

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(U) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek subscriber information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received subscriber information concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

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

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

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~~SECRET~~

To: [REDACTED] From: General Counsel
(U) Re: 278-HQ-C1229736-VIO-~~(S)~~ , 09/18/2006

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LEAD (s) :

Set Lead 1: (ACTION)

[REDACTED] FIELD OFFICE

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(U) For review and action deemed appropriate.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

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

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DECLASSIFIED BY 65179/dmh/ksr/cak
ON 06-08-2007

BY COURIER

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

Dear Mr. Friedman:

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

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This memorandum 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 - 278-HQ-C1229736-VIO - *10/14*

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~SECRET~~

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Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-08-2007
CLASSIFIED BY 65179/kmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

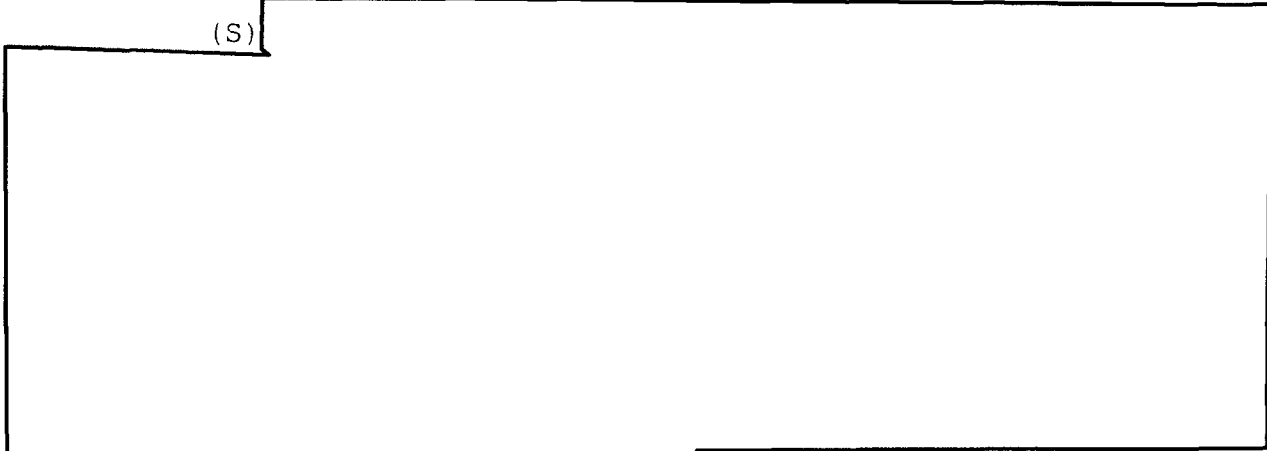
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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] FIELD OFFICE
IOB MATTER 2006-[REDACTED] U)

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[REDACTED] During the course of the investigation, [REDACTED] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709, to a telephone carrier for the telephone subscriber of a telephone number intended to be identified as that of the target. Instead, one of the numbers within the telephone number was incorrectly written; thus, the information returned from the carrier was subscriber information of a wholly unrelated telephone number. The error was discovered upon receipt of the information, and the subscriber information was not reviewed nor used for any investigative purpose. No toll information had been sought through the NSL. Despite the inadvertent nature of the mistake, the fact remains that subscriber information was improperly collected on a telephone number unrelated to an investigation. Thus, the matter is being reported to the IOB.

~~Derived from: G-3
Declassify on: 09/18/2016~~

~~SECRET~~

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

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/18/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian

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Drafted By: [redacted] *ks*

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2489
OGC/IOB# 2006-[redacted]

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1486
278-HQ-C1229736-VIO Serial 1657

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 06/14/2006, 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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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/20/2006

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext. [Redacted]

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Approved By: Miller David Ian *MDI*

Drafted By: [Redacted] *ks*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Case ID #: (U) 263-HQ-0-U - 557 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2489
OGC/IOB# 2006-[Redacted]

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Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(S) ~~Derived From~~ : G-3
~~Declassify On~~ : 20311020

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(S) ~~Enclosure(s)~~ : ~~(U)~~ [Redacted]
278-HQ-C1229736-VIO Serial 1486

(S) ~~Reference~~ : ~~(U)~~ [Redacted]
278-HQ-C1229736-VIO Serial 1486
278-HQ-C1229736-VIO Serial 1657

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

THIS EC IS UNCLASSIFIED ~~WHEN SEPARATED FROM~~ CLASSIFIED ENCLOSURE.

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~~SECRET~~//20311020



U.S. Department of Justice

Office of the Inspector General


Washington, D.C. 20530


DATE: December 5, 2006

foipa # 1073946

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-08-2007 BY 65179/dmh/ksr/cak

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

SUBJECT: OIG Complaint No. 2007001296
Subject: Unidentified 
FBI No. 263-0-U-557

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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

Received By: [] b6
b7C Date Received: 09/28/2006 How Received: A

SUBJECT: Unidentified, FBI

Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work:
Phone:

Pay Plan:
EOD Date:

ZIP:

ZIP:

SSNO:
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Offenses: 689

COMPLAINANT: []
Title: ATTY
Component: FBI
Misc:
Home: []
Phone: () -
Work: ,
Phone: []
Confidential:

Pay Plan: []
EOD Date: []

ZIP: []

ZIP:
Revealed:

SSNO: []
D.O.B.: []
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:

Authority: none

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Details:

The FBI provided information regarding a potential IOB matter (263-0-U-557).

(S)

The telephone number was mistakenly written with one incorrect digit. As a result, the NSL was issued for the wrong telephone number. Upon receipt of the records, the case agent realized the mistake and the data was collected and forwarded to FBI headquarters for appropriate action.

It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB. (dz)

ALLEGATIONS: 689 IOB Violation

Occurrence Date:

TIME:

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CITY: []

State: []

Zip:

DISPOSITION DATA: Disposition: M Date: 12/01/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 12/01/2006 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-557

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

12/05/06-Sent to Kaiser/FBI/INSD. Predicating material will be maintained within OIG/INV in a secure container. (dz)

DATE: 06-08-2007

FBI INFO.

CLASSIFIED BY 65179/dmh/ksr/cak

REASON: 1.4 (c)

DECLASSIFY ON: 06-08-2032