

*Freedom of Information
and
Privacy Acts*

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-0 - volume 19



Federal Bureau of Investigation

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FEDERAL BUREAU OF INVESTIGATION

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#130 / 06

Precedence: ROUTINE

Date: 02/07/2006

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To: Inspection
General Counsel

Attn: Internal Investigations

Attn: NSLB

AGC

Attn: SSA

SA

Attn: SA

From: Counterterrorism
ITOS 1/CONUS 4/Team 15
Contact: IA

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By:

PA

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Drafted By:

Case ID #:

(S)

1073946

(U)

(S)

278-HQ-C1229736-VIO (Pending) - 1152

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Title: (S)

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

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

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(S)

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

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(S) **Details:**

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(U)

The Case Agent was SA

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The name of the subject is

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[Redacted]

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sc Miller Dim/ano 1/2/07
CRS [Redacted] hwo 01/08/07

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LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Set Lead 3: (Info)

[REDACTED]

AT

[REDACTED]

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

Set Lead 4: (Info)

[REDACTED]

◆◆
(U) ~~(S)~~ For information.

~~SECRET~~

[redacted] (INSP) (FBI)

From: b2 [redacted] (FBI)
Sent: b7E Friday, March 03, 2006 12:58 PM
To: b6 [redacted] (INSP) (FBI)
Cc: b7C [redacted] (FBI); [redacted] (FBI); [redacted] (FBI)
Subject: RE: IOB Matter

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~~RECORD~~

(S)

Hi [redacted] FYI [redacted]

As far as I know, the collected material, which came to us in a CD Rom, is still at the [redacted] in a 1A envelope. The CD did contain the info we requested (ie subscriber, header info, and IP logs) so we kept it but did not do anything further with what we believed to be "content" until we heard back from ITOS1 and the NSLB lawyers...which we never did. To this day I can not say for sure that what was additionally on that CD was actual content as the couple I "opened" were in a foreign language and I did not proceed any further.

If you need to follow up in [redacted] the case agents are [redacted] and [redacted] SA [redacted] is no longer the assigned case agent as he has left the [redacted] for FBIHQ.

If you need anything further from me, please call me on my cell at [redacted]

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Thanks [redacted]
[redacted]

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

From: [redacted] (INSP) (FBI)
Sent: Friday, March 03, 2006 8:35 AM
To: [redacted] (FBI)
Subject: IOB Matter
Importance: High

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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[redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

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(S)

RE: [redacted]
(278-HQ-C1229736-VIO serial 1152)

By way of introduction, I handle the IOB matters for the Inspection Division.

I know you are no longer in [redacted] but I have a question about the violation in the above serial. There's no problem - the provider was at fault, but what was done with the overcollected material?

[redacted]

[redacted]

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Conduct Review Specialist
Initial Processing Unit/IIS/INSD
Phone: 202-324-[redacted]
Room 11865

~~SECRET~~

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/20/2006

To: Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 15

[Redacted]

Attn: SSA [Redacted]
SA [Redacted]
CDC

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[Redacted]

Attn: SA [Redacted]
CDC

Inspection

Attn: IIS

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

From: Office of the General Counsel

NSLB/CTLU1/LX1 Room 3S11B

Contact: UC [Redacted]

Approved By: Thomas Julie F. [Signature]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RU
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

Drafted By: [Redacted]

1946

(U)

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

(U)

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

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(U)

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

(U)

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

(U)

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

(U)

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

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OGC/DOJ REVIEW: [Redacted] DATE: 1/4/07
FBI INVESTIGATION: [Redacted]
OGC/DOJ INVESTIGATION: [Redacted]

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

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

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

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

in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

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

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

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

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

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

LEAD(s) :

Set Lead 1: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 2: (Action)

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[REDACTED]
AT [REDACTED]

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

Set Lead 3: (Action)

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[REDACTED]
AT [REDACTED]

(U) For information.

Set Lead 4: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

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cc: Ms. Thomas
[REDACTED]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/12/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext [redacted]

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Approved By: Miller David Ian *DMW/MS*

ALL INFORMATION CONTAINED
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DATE 05-30-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1807
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 1152
278-HQ-C1229736-VIO Serial 1946

Details: (U) The Internal Investigations Section (IIS) received an EC from Counterterrorism Division dated 02/07/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is 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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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/17/2007

To: Counterterrorism

Attn: AD (Personal Attention)
Attn: SAC (Personal Attention)
Attn: SAC (Personal Attention)

[Redacted]

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From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] **Ext.** [Redacted]

Approved By: Miller David Ian *DM*

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WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

Case ID #: (U) 263-HQ-0-U - 652 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1807
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: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1152

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(U) ~~(S)~~ 278-HQ-C1229736-VIO Serial 1152
(S) [Redacted]
278-HQ-C1229736-VIO Serial 1946

Details: (U) Upon review of Counterterrorism 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 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320117



U.S. Department of Justice

Office of the Inspector General

DATE: January 24, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

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

SUBJECT: OIG Complaint No. 2007002521
Subject: [REDACTED]
[REDACTED] Division
FBI No. 263-0-U-652
FBI CMS No. 1807

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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: [] Date Received: 01/04/2007 How Received: A

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

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

Details:
 Information received FBI/INSD reporting a possible in IOB matter involving inadvertently obtained information. IOB #2006 []
 During an authorized investigation, the FBI properly served a National Security Letter (NSL) on an electronic communication service provider for transactional records. In response, the FBI obtained information beyond the scope of the NSL. The FBI [] identified the problem and properly sequestered the content information. b2 b7E
 It is the opinion of the Office of the General Counsel that this matter is not retable to the IOB.

ALLEGATIONS: 689 IOB Violation
 Occurrence Date: 10/04/2005 TIME: [] b2
 CITY [] State: [] Zip: [] b7E

DISPOSITION DATA: Disposition: M Date: 01/04/2007 Approval: POWELL, GLENN G
 Referred to Agency: Date Sent: Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-0-U-652, 1807
 Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
 Predicating material contains classified information that will be stored in a secure container within OIG/INV/HQ.
 1/24/07 - Sent to AD Kaiser, FBI/INSD. (yht)

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-06-2007 BY 65179/DMH/KSR/RW

~~SECRET/SECRET/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 05/19/2006

To: General Counsel
Inspection
Operational Technology

Attn: National Security Law Branch
[Redacted]
Attn: Internal Investigation Section
Attn: DES/DITU
UC [Redacted]
Attn: Squad 11
SA [Redacted]

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From: Counterterrorism
CXS/ECAU/Room 4343
Contact: IA [Redacted]

Approved By: Hulon Willie T *wrt 18*
Lewis John E *le 118*

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WHERE SHOWN OTHERWISE

[Redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

Drafted By: [Redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) 1337

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(U) Title: ~~(S)~~ REPORT OF POTENTIAL IOB MATTER
IA [Redacted]
SSA [Redacted]

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(S) Synopsis: ~~(S)~~ To document the minimization of accidental
collection on the email address [Redacted]

(S) [Redacted]

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~~Derived From : G-3
Declassify On: 05/16/2031~~

(S) [Redacted]

Reference: (S) [Redacted]

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SC Miller Dim/AC/1/2/07
CRS [Redacted] has 01/08/07

~~SECRET/SECRET/NOFORN~~

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(U) To: Operational Technology From: Counterterrorism
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/19/2006

(U) ~~(S//OC/NF)~~ Administrative: This document is classified SECRET//ORCON/NOFORN. Portions of this document carrying classification markings may not be incorporated into any criminal affidavit, criminal court proceedings or unclassified investigative file. The information in this document is intended to be used for lead or background purposes only. No further dissemination of the material classified in this document may be made without prior approval of the originating agency.

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

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

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

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(U) ~~(S)~~ Electronic Communications Analysis Unit (ECAU) is subordinate to the Communications Exploitation Section Counterterrorism Division

(S) [Redacted]

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the following analysis was conducted based on queries of logical intelligence databases available to ECAU.

Details: ~~(S//OC/NF)~~ [Redacted]

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To: Operational Technology From: Counterterrorism
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/19/2006

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(U) ~~(S)~~ Upon further investigation IA [redacted] determined that:

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(U) To: Operational Technology From: Counterterrorism
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/19/2006

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(S//OC/NF)

[Redacted]

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(U) ~~(S)~~ On Monday 05/15/2006 IA [Redacted] notified the ECAU Unit Chief of the discrepancy, and the results of his research.

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[Redacted]

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[Redacted]

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~~SECRET//ORCON/NOFORN~~

To: Operational Technology From: Counterterrorism
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/19/2006

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For NSLB - For information and action as deemed appropriate.

Set Lead 2: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For IIS - For information and action as deemed appropriate.

Set Lead 3: (Action)

OPERATIONAL TECHNOLOGY DIVISION

AT QUANTICO, VA

(S//OC/NF)

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Set Lead 4: (Info)

[Redacted]

AT [Redacted]

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(U) For Squad 11 - For information only.

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~~SECRET//ORCON/NOFORN~~

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/19/2006

To: Counterterrorism

Attn: CXS/ECAU

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Inspection

Attn: IIS

Operational Technology

Attn: DES/DITU

Attn: Squad 11

SA

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

Contact: [Redacted]

Approved By: Thomas Julie F. [Signature]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

Drafted By: [Redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) ¹⁹⁵⁵

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

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

(U)

~~Derived From: Multiple Sources
Declassify On: 20311219~~

Reference: (U) 278-HQ-C1229736-VIO Serial 1387

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

(U) **Details:** ~~(S)~~ The referenced electronic communication (EC) from the Electronic Communications Analysis Unit (ECAU), dated 05/19/2006, requested that OGC review the facts of the captioned

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CIG/DOJ REVIEW: [Redacted]

DATE: [Redacted]

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FBI INVESTIGATION: [Redacted]

OIG/DOJ INVESTIGATION: [Redacted]

~~SECRET~~

To: Counterterrorism From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 12/19/2006

matter and determine whether it warrants reporting to the IOB.
In our opinion, it does. Our analysis follows.

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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 (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they

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To: Counterterrorism From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 12/19/2006

have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General 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. Violations of provisions that are merely 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) Under the Electronic Communications Privacy Act (ECPA), the FBI may seek telephone and email communication records from telephone companies and internet service providers when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. § 2709. Moreover, under the NSIG, NSLs are an authorized technique and may be issued in conformity with statutory requirements during a preliminary or full investigation. [REDACTED]

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~~(S)~~
(U)

~~(S)~~ Due to inadvertent typographical error based on the confusion between the [REDACTED] FBIHQ received NSL results for an email address that was not relevant to an authorized counterterrorism investigation. Therefore, the issuance of the NSL was neither authorized by law nor by the NSIG. Upon realizing the error, the analyst immediately notified his supervisor and took the proper steps to sequester the information. Nothing from the original NSL results was uploaded into the FBI computer systems, nor was any investigative action taken based on the NSL results. However, due to the fact that there was an unauthorized collection, we must report this to the IOB.

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To: Counterterrorism From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 12/19/2006

LEAD(s):

Set Lead 1: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

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

Set Lead 2: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 3: (Info)

[Redacted]

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AT

[Redacted]

(U) Read and clear.

Set Lead 4: (Info)

OPERATIONAL TECHNOLOGY

AT WASHINGTON, DC

(U) Read and clear.

CC: Ms. Thomas

[Redacted]

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IOB Library

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~~SECRET~~

December 19, 2006

BY COURIER

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

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-31-2007

Dear Mr. Friedman:

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

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

Enclosure

1 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~Derived From: Multiple Sources
Declassify On: 20311219~~

~~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
Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

~~SECRET~~

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] DIVISION

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(U)

IOB MATTER 2006 [REDACTED] (U)

~~(S)~~ The Electronic Communications Analysis Unit (ECAU) of the Federal Bureau of Investigation (FBI) reported a potential IOB involving a National Security Letter (NSL) requested by ECAU which, through a transcription error, sought information about an email address belonging to a person who was not the subject of an FBI national security investigation.

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(S)

[REDACTED]

(C)

Upon realizing the error, the analyst immediately notified his supervisor and took the proper steps to sequester the information provided in response to the NSL. Nothing from the original NSL results was uploaded into the FBI computer systems, nor was any investigative action taken based on the NSL results.

(S)

(U)

~~(S)~~ Due to inadvertent typographical error based on the confusion between [REDACTED] FBIHQ received NSL results for an email address that was not relevant to a counterterrorism investigation. Therefore, the issuance of the NSL was neither authorized by law nor by the Attorney General Guidelines for National Security Investigations and Foreign Intelligence Collection (NSIG). Due to the fact that there was an unauthorized collection, the error is a reportable matter under Section 2.4 of Executive Order 12863.

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~~Derived from: Multiple Sources
Declassify on: 20311219~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

(S)

[REDACTED]

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/12/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian *DM/Kus 1/12/07*

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-31-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2286
OGC/IOB# 2006 [redacted]

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 1387
278-HQ-C1229736-VIO Serial 1955

Details: (U) The Internal Investigations Section (IIS) received an EC from Counterterrorism Division dated 05/19/2006, 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~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/17/2007

To: Counterterrorism

Attn: AD (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian *JMI*

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Drafted By: [redacted]

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Case ID #: (U) 263-HQ-0-U - 654 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2286
OGC/IOB# 2006 [redacted]

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: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1387

Reference: (U) 278-HQ-C1229736-VIO Serial 1387
278-HQ-C1229736-VIO Serial 1955

Details: (U) Upon review of Counterterrorism 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 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320117



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 26, 2007
TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

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

SUBJECT: OIG Complaint No. 2007002573
Subject [REDACTED]
FBI No. 263-0-U-654
FBI CMS No. 2286

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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: [] Date Received: 01/04/2007 How Received: A

SUBJECT: [] SSNO: []
 Title: SSA 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.: b6
 Work: , , Offenses: 689 b7C
 Phone: [] ZIP: [] b2

SUBJECT: [] SSNO: []
 Title: INTEL 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: [] SSNO: []
 Title: ATTY 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: Office of the General Counsel
 National Security Law Branch/CILU, Washington, DC
 Phone: [] ZIP: [] Authority: none
 Confidential: [] Revealed: []

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Details:
 The FBI provided information regarding a potential IOB matter (2006- [])
 On April 11, 2006, a National Security Letter (NSL) was issued requesting information pertaining to the target of an FBI investigation. Shortly after sending the NSL to the field for service, it was learned that due to a typographical error, the target (listed in the NSL) had been misidentified and as a result was not connected with the investigation. Immediate steps were taken to sequester the information.
 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: []

DISPOSITION DATA: Disposition: M Date: 01/25/2007 Approval: POWELL, GLENN G
 Referred to Agency: FBI Date Sent: 01/25/2007 Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-0-U-654, 2286
 Sensitive: N Whistleblower: N Consolidated Case Number: []

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-06-2007 BY 65179/DMH/KSR/RW

Remarks:

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

01/26/07-Sent to Kaiser/FBI/INSD (dz)

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FEDERAL BUREAU OF INVESTIGATION



b2

Precedence: ROUTINE

Date: 05/18/2006

To: Inspection
General Counsel

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

From: [Redacted]

Squad [Redacted]

Contact: SA [Redacted]

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Approved By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

(U) **Case ID #:** ~~(S)~~ 278-HO-C1229736-VIO - 1425
~~(S)~~ 278 [Redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

Title: (U) SA [Redacted]
SSA [Redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) (U) [Redacted] INTELLIGENCE OVERSIGHT

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

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

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Details:

(S) 1. [Redacted]

(S) 2. [Redacted]

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

(S) [Redacted]

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

(S) [Redacted]

SC Miller [Redacted] 1/18/07
CAS [Redacted] [Redacted] 01/08/07

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~~SECRET~~

(U)

To: Inspection From: [redacted]

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Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/18/2006

(S)

[redacted]

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[redacted]

(S)

~~(S)~~ The above incident was memorialized via EC in captioned investigation [redacted]

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(U)

To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/18/2006

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: 12/28/2006

To: [Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 13

Inspection

Attn: IIS

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From: General Counsel
NSLB/Counterterrorism Law Unit #1/LX1 3S119

Contact: UC [Redacted]

Approved By: Thomas Julie E. [Signature]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending)
(S) 278- [Redacted] - 109 (Pending)

1971
109

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

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

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

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

(U) Reference: 278-HQ-C1229736-VIO Serial 1425

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

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

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CIG/DOJ REVIEW [Redacted] DATE: 7/4/07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

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~~SECRET~~

(U)

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

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

(S) [redacted]

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(S) [redacted]

(U)

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

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

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[redacted] EC."

(S)

[redacted]

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(U) To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-CI229736-VIO, 12/28/2006

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

(U) ~~(S)~~ As set forth in Section V.12 of the Attorney General's Guidelines, use of NSLs in conformity with 18 U.S.C. §2709 is authorized when certain records are sought as part of a [redacted] 18 U.S.C. §2709 authorizes the FBI to obtain certain subscriber and toll billing records from a wire communication service provider when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities."

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

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

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

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(U)

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

LEAD(s) :

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Set Lead 1: (Info)

[redacted]

AT [redacted]

(U) For information.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

cc: Ms. Thomas

[redacted]

IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/12/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian *DM/KAO EAM*

Drafted By: [redacted]

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007
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Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2450
OGC/IOB# 2006 [redacted]

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 1425
278-HQ-C1229736-VIO Serial 1971

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 05/18/2006, 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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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/17/2007

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext [Redacted]

Approved By: Miller David Ian *MDI*

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 657 (Pending)

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2450
OGC/IOB# 2006 [Redacted]

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: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1425

Reference: (U) 278-HQ-C1229736-VIO Serial 1425
278-HQ-C1229736-VIO Serial 1971

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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 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET//20320117~~



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

Washington, D.C. 20530

DATE: January 26, 2007
TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

SUBJECT: OIG Complaint No. 2007002578
Subject:
FBI No. 263-U-U-657
FBI CMS No. 2450

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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: [] Date Received: 01/04/2007 How Received: A

SUBJECT: [] SSNO: []
 Title: SSA 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: []

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

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

Details: [] b2 b1 b7A
 The FBI provided information regarding a potential IOB matter (2006-[]
 []
 [] a National Security Letter (NSL) was served to obtain information relative to the
 ongoing investigation. The information that was provided to the FBI was of another
 individual who was not the subject of the investigation. Upon discovering the FBI had been
 provided the wrong information, steps were taken to obtain the information pertaining to the
 correct individual. The information sent in error, of which none was uploaded into FBI
 databases, was shredded.
 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: [] b2
 CITY: [] State: [] Zip: [] b7E

DISPOSITION DATA: Disposition: M Date: 01/25/2007 Approval: POWELL, GLENN G
 Referred to Agency: FBI Date Sent: 01/25/2007 Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-0-U-657, 2450
 Sensitive: N Whistleblower: N Consolidated Case Number:

DATE: 06-06-2807
 FBI INFO.
 CLASSIFIED BY 65179/DMH/KSR/RW
 REASON: 1.4 (c)
 DECLASSIFY ON: 06-06-2032

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO.: 689-2007-002578-M

Remarks:

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

01/26/07-Sent to Kaiser/FBI/INSD. (dz)

~~SECRET~~/20310627

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/27/2006

To: Inspection
General Counsel

Attn: IIS, Room 11501-
Attn: NSLB, Room 7975

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From: [Redacted]

CI-1

Contact: SA [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: [Redacted]

Drafted By: [Redacted]

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

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Title: (U) SA [Redacted] 1469
SSA [Redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

(U) ~~(S)~~ Derived From : G-3
~~(S)~~ Declassify On: 06/27/2031

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Details:
(S) 1. [Redacted]

(S) 2. [Redacted]

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

(S) [Redacted]

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

(U) ~~(S)~~ On 03/01/2006, [Redacted] prepared a National Security Letter (NSL #1) directed to a large telecommunications company requesting subscriber, toll and billing records for a telephone number believed to belong to above listed individual. NSL #1 was prepared according to the then-current PATRIOT Act provisions, and contained the then-current non-disclosure warning. NSL #1 was approved and transmitted to another field office for service.

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SC [Redacted] DM/END/118/07
CRG [Redacted] [Redacted] 01/08/07

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~~SECRET~~/20310627

07/01/07

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/27/2006

(U) ~~(S)~~ On or about 03/13/2006, and after the transmittal of NSL #1 to the other field office, but before it was served, the PATRIOT Act was revised, changing, among other things, the law regarding the non-disclosure procedures for NSLs. On 03/13/2006, [redacted] telephonically notified the other field office not to serve NSL #1, and a new NSL (NSL #2) complying with the revised Act with a new non-disclosure provision was prepared for the same information. NSL #2 was approved and transmitted to the other field office for service.

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(U) ~~(S)~~ On 03/21/2006, the other field office mistakenly served NSL #1 on the telecommunications provider. NSL #2 was served on 03/28/2006. On 05/24/2006, the telecommunications provider responded to NSL #1, providing subscriber information on the telephone number, but noted that it had received NSL #2 for the same telephone number, and indicated that it would provide toll and billing records in its response to NSL #2.

(U) ~~(S)~~ [redacted] became aware of the issue upon receiving the information regarding the response to NSL #1 on 06/20/2006. The response to NSL #1 has been sequestered.

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(U)

To: Inspection From:
Re: (S) 278-HQ-C1229736-VIO, 06/27/2006

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: 12/19/2006

To: [redacted]

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Attn: SA [redacted]

SSA [redacted]
CDC
Attn: IIS [redacted]
CRS [redacted]

Inspection

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Contact: [redacted]

Approved By: Thomas Julie R [signature]

Drafted By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Case ID #: (U) 278-HQ-C1229736-VIO-1980 (Pending)

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

(U)

~~(S)~~ Synopsis: It is the opinion of the Office of the General Counsel (OGC) that this matter need not be reported to the Intelligence Oversight Board (IOB). A copy of this opinion should be retained in the control file for review by the Counsel to the IOB.

(U)

~~(S)~~ Derived From : Multiple Sources
Declassify On: MR

Reference: (U) 278-HQ-C1229736-VIO Serial 1469

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 06/27/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does not. Our analysis follows.

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OIG/DOJ REVIEW: [redacted] DATE: 1/4/07
FBI INVESTIGATION: [redacted]
OIG/DOJ INVESTIGATION: [redacted]

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

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(S) ~~(S)~~ On 03/01/2006 [redacted] prepared a National Security Letter (NSL #1) for the subscriber, toll, and billing records for a telephone number believed to belong to the subject of [redacted]. This NSL was prepared in accordance with the USA PATRIOT ACT of 2001 and contained the appropriate non-disclosure warning. NSL #1 was transmitted to another field office for service.

(U) ~~(S)~~ On 03/09/2006, after NSL #1 had been sent to the other field office for service but before it was served, the President signed the USA PATRIOT Improvement and Reauthorization Act of 2005 (USA PATRIOT IRA) which, among other things, changed the non-disclosure procedures for NSLs.

(U) ~~(S)~~ After learning of the change in the law, on 03/13/2006 [redacted] contacted the other field office and told them not to serve NSL #1. [redacted] prepared a new NSL (NSL #2) for the same information. NSL #2 included the non-disclosure procedures set forth in the USA PATRIOT IRA. NSL #2 was transmitted to the other field office for service.

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(U) ~~(S)~~ On 03/21/2006, the other field office mistakenly served NSL #1. NSL #2 was served on 03/28/2006.

(U) ~~(S)~~ On 05/24/2006, the telecommunications provider responded to NSL #1 by providing subscriber information. The provider noted that it had received NSL #2 for the same telephone number and indicated that it would provide toll and billing records in its response to NSL #2.

(U) ~~(S)~~ [redacted] sequestered the information provided in response to NSL #1 upon receipt on 06/20/2006.

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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 (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 has been interpreted to mandate the reporting of any violation of a provision of the Attorney General 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

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

ensure the protection of the individual rights. Violations of provisions that are merely 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) Under the Electronic Communications Privacy Act (ECPA), the FBI may seek telephone and email communication records from telephone companies and internet service providers. 18 U.S.C. § 2709. Moreover, under the NSIG, NSLs are an authorized technique and may be issued in conformity with statutory requirements during a preliminary or full investigation. [redacted] b1

(U) ~~(S)~~ Here, during an authorized investigation,¹ the FBI properly served two (2) NSLs on a telecommunications provider. Due to a change in the USA PATRIOT Act, the non-disclosure provisions of these two NSLs were different. However, the language of the non-disclosure provisions does not effect the legality of the NSL. Both NSL #1 and NSL #2 were properly and legally served under an authorized investigation. Therefore, the FBI has not violated the law and is permitted to keep and use the information provided in response to both of these NSLs.

(U) ~~(S)~~ Based upon these facts, in accordance with the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB.

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(S)

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

LEAD(s):

Set Lead 1: (Info)

[redacted]

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AT [redacted]

(U) Read and clear.

Set Lead 2: (Action)

INSPECTION

AT WASHINGTON, DC

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

CC: Ms. Thomas

[redacted]

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IOB Library

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~~SECRET//20320117~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/17/2007

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted]

Ext. [redacted]

Approved By: Miller David Iad [signature]

DECLASSIFIED BY 65179/DMH/KSP/RW
ON 05-30-2007

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Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 659 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2480
OGC/IOB# 2006 [redacted]

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: 20320117~~

(U)

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1469

Reference: (U) 278-HQ-C1229736-VIO Serial 1469
278-HQ-C1229736-VIO Serial 1980

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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 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET//20320117~~



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 29, 2007
TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

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

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SUBJECT: OIG Complaint No. 2007002605
Subject [REDACTED]
FBI No. 263-0-U-659
FBI CMS No. 2480

- 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: [] Date Received: 01/04/2007 How Received: A

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: [] Offenses: 689
 Phone: [] ZIP: []

SUBJECT: [] SSNO: []
 Title: SSA 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: [] SSNO: []
 Title: ATTY 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: Office of the General Counsel
 National Security Law Branch/CILU, Washington, DC
 Phone: [] ZIP: []
 Confidential: [] Revealed: [] Authority: none

Details: [] b2
 [] b7E
 The FBI provided information regarding a potential IOB matter (2006 [])
 On March 1, 2006 [] FBI prepared the first National Security Letter (NSL) and transmitted it to another field office for service. On March 9, 2006, the USA PATRIOT Improvement and Reauthorization Act of 2005, which changed the non-disclosure procedures for NSLs, was signed. On March 13, 2006, the field office is contacted and advised not to serve NSL #1; NSL #2 is prepared and transmitted to the field office for service.
 NSL #1 was mistakenly served on March 21, 2006; NSL #2 was served on March 28, 2006. The FBI received a response to NSL #1; the information was sequestered upon receipt on June 20, 2006.
 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: []

DISPOSITION DATA: Disposition: M Date: 01/26/2007 Approval: POWELL, GLENN G
 Referred to Agency: FBI Date Sent: 01/26/2007 Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-000009, 2480
 Sensitive: N Whistleblower: N Consolidated Case Number: []

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-06-2007 BY 65179/DMH/KSR/RW

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO. -689-2007-002605-M

Remarks:

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

01/29/07-Sent to Kaiser/FBI/INSD. (dz)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/05/2006

To: Inspection
General Counsel

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

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From: [Redacted]

Squad 1

Contact: CDC [Redacted]

Approved By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U) Case ID #: ~~(S)~~ 278-HQ-Ç1229736-VIO 1496

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

[Redacted]

(U) INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: ~~(S)~~ To detail verbally reported possible IOB error.

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

Details:

(S) 1. [Redacted]

(S) 2. [Redacted]

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

(U) ~~(S)~~ Initiating a form of electronic surveillance or a search without probable cause.

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

(S) [Redacted]

(S) [Redacted]

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sc Miller [Signature] 1/1/07
[Redacted] Kas 01/08/07

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(U)

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/05/2006

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(S)

[redacted]

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[redacted]

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

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~~SECRET~~

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To: Inspection From: [REDACTED]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/05/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

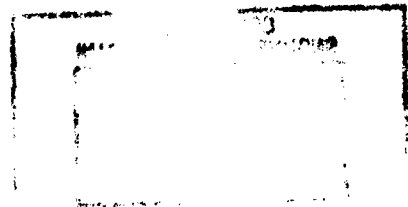
GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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~~SECRET//NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/22/2006

To: [Redacted]

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Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 2, TEAM 7

Inspection

Attn: IIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: Office of the General Counsel
NSLB/CTLU1/ LX1 Room 35119

Contact: UC [Redacted]

Approved By: Thomas Julie F. [Signature]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

Drafted By: [Redacted]

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) ¹⁹⁷⁴

(U)

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

(U)

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

(U)

(U)

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

(U)

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

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

~~SECRET//NOFORN~~

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OIG/DOJ REVIEW: [Redacted] DATE: 1-4-07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

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

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

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(S) [redacted]

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(S/NF) [redacted]

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(S/NF) [redacted]

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b7C

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

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB)

~~SECRET~~//NOFORN

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

and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

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

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

b1

(S) [redacted]

(U) ~~(S)~~ In this situation, the FBI and OIPR inadvertently included an email account not associated with the FBI subject in a FISA application. This resulted in court-ordered electronic surveillance and physical search of an email facility that was not associated with the FBI subject, in violation of the NSIG. This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will

~~SECRET~~//NOFORN

~~SECRET//NOFORN~~

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

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prepare a cover letter and a memorandum to report this matter to the IOB.

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

~~SECRET//NOFORN~~

~~SECRET~~/NOFORN

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

LEAD(s):

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Set Lead 1: (Info)

[redacted]

AT [redacted]

(U) For information.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, D.C.

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

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

cc: Ms. Thomas

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[redacted]
IOB Library

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~~SECRET~~/NOFORN

December 22, 2006

BY COURIER

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

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-31-2007

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: 20311222~~

~~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~~

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~~SECRET~~

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

(S) By electronic communication dated July 5, 2006, the Federal Bureau of Investigation (FBI) [REDACTED] Field Office reported that the FBI and the Office of Intelligence Policy and Review (OIPR) inadvertently included an email account not associated with the FBI subject in a Foreign Intelligence Surveillance Act (FISA) application. This resulted in court-ordered electronic surveillance and physical search of an email facility that was not associated with the FBI subject. The inadvertently intercepted material was sequestered and will be filed with the Foreign Intelligence Surveillance Court.

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(S)

[REDACTED]

The court-ordered electronic surveillance and physical search of an email facility that was not associated with the FBI subject violated the NSIG. Thus, the matter is being reported to the IOB.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE
DECLASSIFY ON: 07-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~Derived from: G-3
Declassify on: 20311222~~

~~SECRET~~

~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/12/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian *DM/KRS* *Bill*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2492
OGC/IOB# 2006 [redacted]

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 1490
278-HQ-C1229736-VIO Serial 1974

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 07/05/2006, 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~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/17/2007

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext [Redacted]

Approved By: Miller David Ian *DM*

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Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 661 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2492
OGC/IOB# 2006-[Redacted]

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: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1490

Reference: (U) 278-HQ-C1229736-VIO Serial 1490
278-HQ-C1229736-VIO Serial 1974

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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 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-31-2007

~~SECRET~~//20320117



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 29, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

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

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SUBJECT: **OIG Complaint No. 2007002615**
Subject
FBI No. 263-0-U-661
FBI CMS No. 2492

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: [] Date Received: 01/04/2007 How Received: A

SUBJECT: [] SSNO: []
Title: SA Pay Plan: [] D.O.B.: []
Component: FBI EOD Date: [] Alien No.:
Misc: F.B.I.No.:
Home: [] B.O.P.No.:
Phone: () - ZIP: [] D/L No.:
Work: , Offenses: 689
Phone: [] ZIP:

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

COMPLAINANT: [] SSNO: []
Title: LEGAL 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: , Authority: none
Phone: [] ZIP:
Confidential: Revealed:

Details: (S)

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

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and a National Security Letter (NSL) was issued. In response to the NSL, information associated with the target of the investigation was identified. However results from another NSL requesting information revealed that the information previously obtained did not belong to the target. The information obtained was destroyed and removed from all FBI [] computers.

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: []

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Zip:

DISPOSITION DATA: Disposition: M Date: 01/26/2007 Approval: POWELL, GLENN G

referred to Agency: FBI Date Sent: 01/26/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-661, 2492

Sensitive: N Whistleblower: N Consolidated Case Number:

DATE: 05-31-2007
FBI INFO.
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Remarks:

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

01/29/07-Sent to Kaiser/FBI/INSD. (dz)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION



Precedence: ROUTINE

Date: 07/07/2006

To: Inspection
General Counsel

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

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From: [Redacted]

JTTF

Contact: TFO [Redacted]

Approved By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 1505

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

INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

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

Details:

(S) 1. [Redacted]
(S) 2. [Redacted]

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

(S) [Redacted]

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

(S) [Redacted]

SC Miller [Redacted] 01/08/07
CRS [Redacted]

~~SECRET~~

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kan 07/24/06

(U) To: Inspection From: [redacted]

Re: ~~(S)~~ 278-HO-C1229736-VIO 07/07/2006

(S)

[Large redacted area]

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(U) To: Inspection From: [REDACTED]
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: 12/20/2006

To: [Redacted]

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Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 2, TEAM 6

Inspection

Attn: IIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: Office of the General Counsel

NSLB/CTLU1/LX1 Room 3S119

Contact: UQ [Redacted]

Approved By: Thomas Julie F [Signature]

(U) Drafted By: [Redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

Case ID #: (S) 278-HQ-C1229736-VIO (Pending) ¹⁹⁴⁷

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

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

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

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

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

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CIG/DOJ REVIEW: [Redacted] DATE: 1-4-07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

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

(S) [redacted]

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(S) [redacted]

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(S) [redacted]

(S) [redacted]

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(S) [redacted]

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

[redacted] (S)

[redacted] (S)

[redacted]

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

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

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

Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U)

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

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(U)

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

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

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

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

LEAD(s):

Set Lead 1: (Action)

[redacted]

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AT [redacted]

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

cc: Ms. Thomas
[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/12/2007

To: General Counsel

Attn: NSLB

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From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian *my/ku* *ELL*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2563
OGC/IOB# 2006 [redacted]

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 1505
278-HQ-C1229736-VIO Serial 1947

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 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: 01/17/2007

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext [Redacted]

Approved By: Miller David Ian *MDI*

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-31-2007

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 663 (Pending)

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2563
OGC/IOB# 2006 [Redacted]

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: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1505

Reference: (U) 278-HQ-C1229736-VIO Serial 1505
278-HQ-C1229736-VIO Serial 1947

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 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320117



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 31, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

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

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SUBJECT: **OIG Complaint No. 2007002641**

Subject: [REDACTED]

[REDACTED] Division

FBI No. 263-0-U-663

CMS No. 2563

- 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: [] Date Received: 01/04/2007 How Received: A

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

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

Details:

Information received from FBI/INSD reporting a possible IOB matter involving improperly received information. IOB #2006 []

During an authorized investigation, the FBI properly served a National Security Letter (NSL) on an electronic communications provider for information regarding the target of the FBI investigation. In response, the FBI obtained information beyond the scope of the NSL. The FBI [] Division identified the problem and properly sequestered the unauthorized information. The Office of General Counsel (OGC) advised the FBI [] Division to contact the electronic communications service provider and ask whether the improperly or unintentionally acquired information should be returned or destroyed with the appropriate documentation to the file.

It is the opinion of the OGC that this matter need not be reported to the IOB.

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ALLEGATIONS: 689 IOB Violation

Occurrence Date: 06/20/2006

TIME: []

CITY: []

State: []

Zip: []

DISPOSITION DATA: Disposition: M Date: 01/04/2007 Approval: POWELL, GLENN G

Referred to Agency: [] Date Sent: [] Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-663, 2563

Sensitive: N Whistleblower: N Consolidated Case Number: []

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-06-2007 BY 65179/DMH/KSR/RW

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO. [REDACTED] 689-2007-002641-M

Remarks:

A search of the OIG database revealed additional matters involving [REDACTED] and [REDACTED]. [REDACTED] is a subject in five additional IOB matters (2006-009161-M, 2007-001245-M, 2007-001248-M, 2007-001276-M and 2007-002620-M). It should be noted that [REDACTED] is also a subject in 2007-002620-M. Additionally, [REDACTED] is the subject in 2007-002620-M, involving [REDACTED].

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

1/31/07 - Sent to AD Kaiser, FBI/INSD. (yht)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/10/2006

To: Inspection
General Counsel

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

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From: [Redacted]

JTTF
Contact: TFO [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO -1506

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

INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

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

Details:

- b1
- b2
- b7E (S) 1.
- b6
- b7C
- b7A (S) 2.

[Redacted]

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

- b1 (S)
- b7A

[Redacted]

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

- b1 (S)
- b2
- b7E
- b6
- b7C
- b7D
- b7A

[Redacted]

SC Miller DM/AM 1/8/07

~~SECRET~~

CRS

[Redacted]

Reas 01/08/07

b6
b7C

Reas 07/24/06

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/10/2006

(S)

[redacted]

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(U)

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

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(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/10/2006

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

(S) [redacted]

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

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(S)

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

(S) [redacted]

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

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

(U)

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

b1

(U)

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

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

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

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

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

LEAD(s):

Set Lead 1: (Action)

[redacted]

AT [redacted]

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

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Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

cc: Ms. Thomas
[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/12/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian *DMK/MS* *DM*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2564
OGC/IOB# 2006 [redacted]

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 1506
278-HQ-C1229736-VIO Serial 1948

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 07/10/2006, 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~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/17/2007

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext [Redacted]

Approved By: Miller David Ian *DM*

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-31-2007

Drafted By: [Redacted]

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Case ID #: (U) 263-HQ-0-U - 664 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2564
OGC/IOB# 2006 [Redacted]

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: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1506

Reference: (U) 278-HQ-C1229736-VIO Serial 1506
278-HQ-C1229736-VIO Serial 1948

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 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320117



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

Washington, D.C. 20530

DATE: January 29, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

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

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SUBJECT: OIG Complaint No. 2007002620
Subject [REDACTED]
[REDACTED] Division
FBI No. 263-0-U-664
CMS No. 2564

- 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: [] Date Received: 01/04/2007 How Received: A

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

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

Details:

information received from FBI/INSD reporting a possible IOB matter involving improperly received information. IOB #2006 []

During an authorized investigation, the FBI properly served a National Security Letter (NSL) on a communications provider for information regarding the target of the FBI investigation. In response, the FBI obtained information beyond the scope of the NSL. The FBI [] Division identified the problem and properly sequestered the unauthorized information. The Office of General Counsel (OGC) advised the FBI [] Division to contact the communications service provider and ask whether the unauthorized information should be returned or destroyed with the appropriate documentation to the file.

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It is the opinion of the OGC that this matter need not be reported to the IOB.

ALLEGATIONS: 689 IOB Violation

Occurrence Date: 06/29/2006

TIME: []

CITY: []

State: []

Zip: []

DISPOSITION DATA: Disposition: M Date: 01/26/2004 Approval: POWELL, GLENN G

Referred to Agency: [] Date Sent: [] Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-664, 2564

Sensitive: N Whistleblower: N Consolidated Case Number: []

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO. [redacted] 689-2007-002620-M

Remarks:

A search of the OIG database revealed four additional potential IOB matters (2006-009161-M, 2007-001245-M, 2007-001248-M and 2007-001276-M) involving [redacted] As well as, one additional matter (2005-001465-M) involving [redacted] and [redacted]

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

1/29/07 - Sent to AD Kaiser, FBI/INSD. (yht)

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FEDERAL BUREAU OF INVESTIGATION 5

Precedence: ROUTINE

Date: 07/18/2006

To: Inspection
General Counsel

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

From: [Redacted]
Squad 6

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Contact: SA [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

CDC 504

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(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO-1548

Title: (U) SA [Redacted]
SSA [Redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

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

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

Details:

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(S) 1. [Redacted]

(S) 2. [Redacted]

(U) ~~(S)~~ 3. Possible IOB Error: Pursuant to a National Security Letter, an Internet Service Provider provided information beyond what was requested.

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(S) [Redacted]

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

~~(S)~~ Pursuant to a National Security Letter, an Internet Service Provider provided information beyond what was requested.

(U) ~~(S)~~ On [Redacted] a National Security Letter (NSL) was issued by the [Redacted] Division on SA [Redacted] request, directing

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SC Miller DM/RNC 1/8/07
CRS [Redacted] kas 01/08/07

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2nd 07/26/06

25 2006 CC

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/18/2006

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To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/18/2006

(U)

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: 12/20/2006

To: [redacted]

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Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 4, TEAM 16

Inspection

Attn: IIS ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

Contact: UQ [redacted]

Approved By: Thomas Julie F [signature]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [redacted]

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) ¹⁹⁴⁹

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

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.

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

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

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

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OIG/DOJ REVIEW: [redacted]

DATE: 1 9-07

FBI INVESTIGATION: [redacted]

OIG/DOJ INVESTIGATION: [redacted]

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

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(S)

(S)

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB)

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

and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

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

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

b1

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

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

information). The FBI identified the problem, and properly sequestered the content information.

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

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

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

LEAD(s):

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Set Lead 1: (Action)

[redacted]
AT [redacted]

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

cc: Ms. Thomas
[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/12/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian *DM/Kao*

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2579
OGC/IOB# 2006 [redacted]

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 1548
278-HQ-C1229736-VIO Serial 1949

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 07/18/2006, 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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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DNH/KSR/RW