

~~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 - 666 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2579
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)

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~~Derived From : G-3
Declassify On: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1548

Reference: (U) 278-HQ-C1229736-VIO Serial 1548
278-HQ-C1229736-VIO Serial 1949

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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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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

SUBJECT: OIG Complaint No. 2007002617

Subject: [REDACTED]

[REDACTED] Division

FBI No. 263-0-U-666

CMS No. ~~2679~~

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

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

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

Details:
 The FBI provided information reporting a possible IOB matter involving information improperly received. IOB #2006 [redacted]
 During an authorized investigation, the FBI properly served a National Security Letter (NSL) on an electronic communication service provider for information regarding the target of the FBI investigation. In response, the FBI obtained information beyond the scope of the NSL. The FBI [redacted] Division identified the problem and indicated that the excess information will be removed from the stand-alone computer, sequestered and stored pending further determination.
 It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
 Occurrence Date: 03/17/2006 TIME: [redacted] b2
 CITY: [redacted] State: [redacted] Zip: [redacted] b7E

DISPOSITION DATA: Disposition: M Date: 01/04/2007 Approval: POWELL, GLENN G
 Referred to Agency: [redacted] Date Sent: [redacted] Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-0-U-666, 2679
 Sensitive: N Whistleblower: N Consolidated Case Number: [redacted]

Remarks:
 A search of the OIG database revealed another matter involving [redacted] #2003-00875-M: involving [redacted] b6
 Predicating material contains classified information that will be stored in a secure container within OIG/INV/HQ. b7C
 1/29/07 - sent to AD Kaiser, FBI/INSD. (yht)

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

~~SECRET~~/20310911
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/2006

To: Inspection
General Counsel

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

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From: [Redacted]

CI-1

Contact: SA [Redacted]

Approved By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

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

~~(S)~~ 278 [Redacted]

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

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

SSA [Redacted]

INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

~~(S)~~ Derived From : G-3
~~Declassify On: 09/11/2031~~

Details:

(S) 1. [Redacted]

(S) 2. [Redacted]

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

(S) [Redacted]

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

(S) [Redacted]

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SC Miller *[Signature]* 1/18/07
CRS [Redacted] 01/08/07

~~SECRET~~/20310911

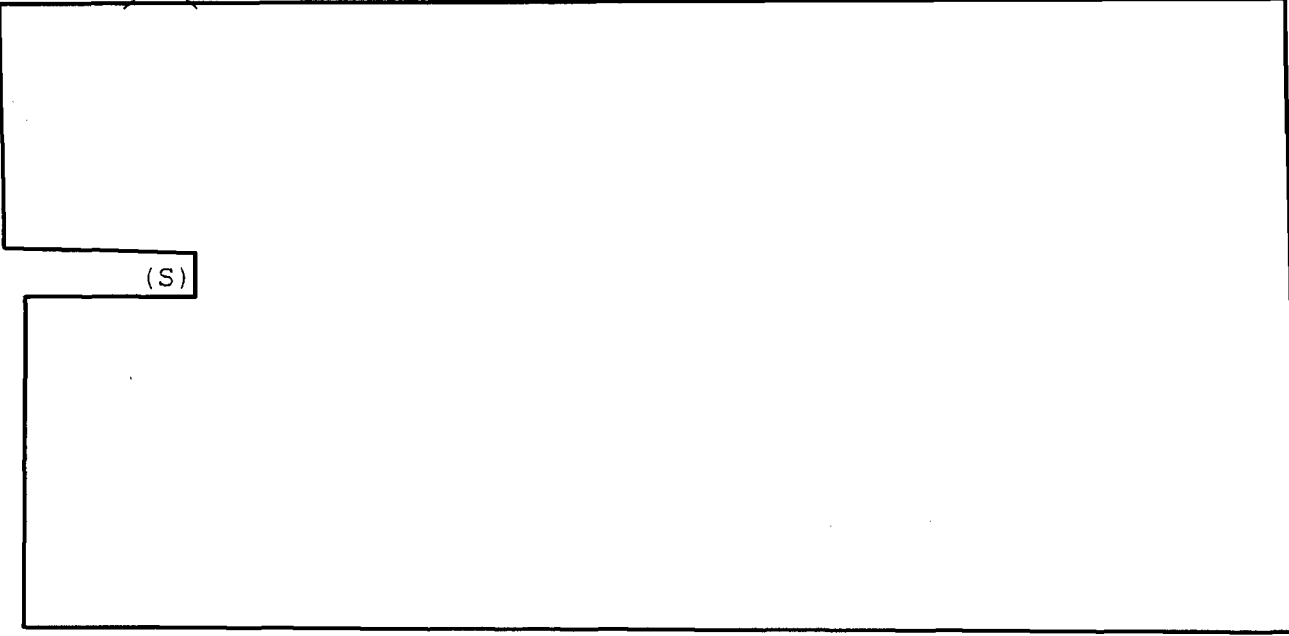
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To: Inspection From: [redacted]

(U) Re: ~~(S)~~ 278-HQ-C1229736-V10, 09/11/2006

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To: Inspection From:
(U) Re: (S) 278-HQ-C1229736-VIO, 09/11/2006

~~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~~//20310911

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/18/2006

To: [Redacted]

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

Counterintelligence

Attn: UC CD-2C

Inspection

Attn: IIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: Office of the General Counsel

NSLB/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F. [Redacted]

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

Drafted By: [Redacted]

1941

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

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

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

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

(U) Administrative: ~~(S)~~ This electronic communication (EC) contains information from the following sources: (1) EC dated 09/11/2006 from the [Redacted] Field Office [Redacted] to OGC reporting a potential IOB matter; (2) National Security Letter issued by [Redacted] dated 4/17/2006; and (3) telephone conversations between SA [Redacted] and AGC [Redacted] on 10/22/2006 and 12/15/2006.

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(U) Reference: ~~(S)~~ 278-HQ-C1229736^{V30} Serial 1629

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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: 278-HQ-C1229736-VIO, 12/18/2006

(U) ~~(S)~~ By EC dated 09/11/2006 [redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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(U) ~~(S)~~ On 04/17/2006 [redacted] issued an National Security Letter (NSL) pursuant to 18 U.S.C. § 2709 seeking subscriber information for a telephone number relating to a subject of an investigation. On 09/06/2006, [redacted] obtained the NSL results from the service provider. After a review, on 09/11/2006, [redacted] determined that the service provider not only provided the subscriber information as requested pursuant to the NSL, but also provided additional information, such as, all outbound telephone calls placed through the service provider's system [redacted] did not review or listen to the unsolicited records.

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

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

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/18/2006

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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: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted]

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(U)

~~(S)~~ In this investigation, [redacted] issued a lawful NSL to the service provider, and received in response information both within and beyond the scope of the NSL. [redacted] requested subscriber information for a telephone number relating to the subject. However, due to service provider error, additional information was provided. [redacted] quickly determined that the additional information was beyond the scope of the NSL. [redacted] did not review or listen to the unsolicited records erroneously provided by the service provider. The erroneously provided information should be segregated to protect the potential privacy interests of United States persons. Further, [redacted] should contact the service provider and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB¹. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

(U)

~~(S)~~ It is noted that in the past third-party errors were reported to the IOB. However, by letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to the OGC, but are not reportable to the IOB.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/18/2006

LEAD(s):

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Set Lead 1: (Action)

[redacted]

AT [redacted]

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

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

cc: Ms. Thomas

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[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 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/lls 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# 2854
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 1629
278 [redacted] Serial 28
278-HQ-C1229736-VIO Serial 1941

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 09/11/2006, 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 05-31-2007

Drafted By: [Redacted]

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Case ID #: (U) 263-HQ-0-U - 670 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2854
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 1629

Reference: (U) 278-HQ-C1229736-VIO Serial 1629
278-[Redacted] Serial 28
278-HQ-C1229736-VIO Serial 1941

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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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U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 25, 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. 2007002557
Subject: [REDACTED]
FBI No. 263-0-U-670 [REDACTED]
FBI CMS No. 2854

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

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

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

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

Details:
(S) The FBI provided information regarding a potential IOB matter (2006 [redacted])
On April 17, 2006 a National Security Letter (NSL) was served to a wire communications service provider. The results of the NSL were obtained on [redacted]. A review of the results on [redacted] revealed that the information supplied also included [redacted]
These files were not reviewed or listened to by FBI [redacted]
It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB. (dz)

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ALLEGATIONS: 689 IOB Violation
Occurrence Date: TIME:
CITY: [redacted] State: [redacted] Zip:

DISPOSITION DATA: Disposition: M Date: 01/24/2007 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 01/24/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0--U-670, 2854
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:

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

01/25/07-Sent to Kaiser/FBI/INSD. (dz)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/28/2007

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To: General Counsel

Attn: NSLB/CILU/Room 7947
AGC [redacted]

Counterintelligence
Inspection

Attn: CD-2C, Room 4066

Attn: IIS

Attn: CDC [redacted]

From: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

CI-1

Contact: SA [redacted]

DATE: 05-31-2007

Approved By: [redacted]

CLASSIFIED BY 65179/DMH/KSR/RW

Drafted By: [redacted]

REASON: 1.4 (c)

DECLASSIFY ON: 05-31-2032

Case ID #: [redacted]

(S) 278-HQ-C1229736-VIO (Pending) -2216

(S) 278-[redacted] (Pending) 74

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Title: [redacted]

(S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2006 [redacted]

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Synopsis: [redacted]

(S) To document contact with service provider and authorization to destroy improperly or unintentionally acquired information pursuant to lead set by Office of General Counsel (OGC), NSLB, CILU.

~~Derived From: G-3~~

~~Declassify On: 02/28/2032~~

Details: [redacted]

(S) On 09/11/2006 [redacted] requested OGC review the facts of the captioned matter and determine whether it warranted reporting to the IOB. By EC dated 12/18/2006, OGC advised [redacted] that the FBI was not required to report the matter to the IOB. However, [redacted] was advised to contact the service provider and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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(U)

To: General Counsel From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

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it returned. On 02/28/2007 [redacted] destroyed the improperly or unintentionally acquired information according to FBI protocol.

~~SECRET~~//20320228

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/14/2006

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To: Inspection

Attn: Internal Investigations
Section (IIS), Room 11861
CRS [redacted]

General Counsel

Attn: National Security Law Branch
(NSLB), Room 7947
Deputy General Counsel
Julie F. Thomas

[redacted]

Attn: Office of Division Counsel
CDC [redacted]
ADC [redacted]

From: [redacted]

Foreign Counterintelligence (FCI) Squad, Room 4216

Contact: SA [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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) - 1433

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

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(U)

Title: ~~(S)~~

SA [redacted]
SSA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

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Synopsis: (U) To report possible IOB matter resulting from provider error.

(U)

~~(S)~~ **Derived From:** FBI SCG #3, October 1997
Declassify On: 08/14/2031

Reference: (S)

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

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SC [redacted] [redacted]
CRS [redacted] Kan 01/08/07

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To: Inspection From: [Redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 08/14/2006

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(U)

Administrative: (S)

[Redacted]

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Details:

(U) ~~(S)~~ 1. Substantive Investigations

a)

[Redacted]

(S)

b)

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d)

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(S) 2.

[Redacted]

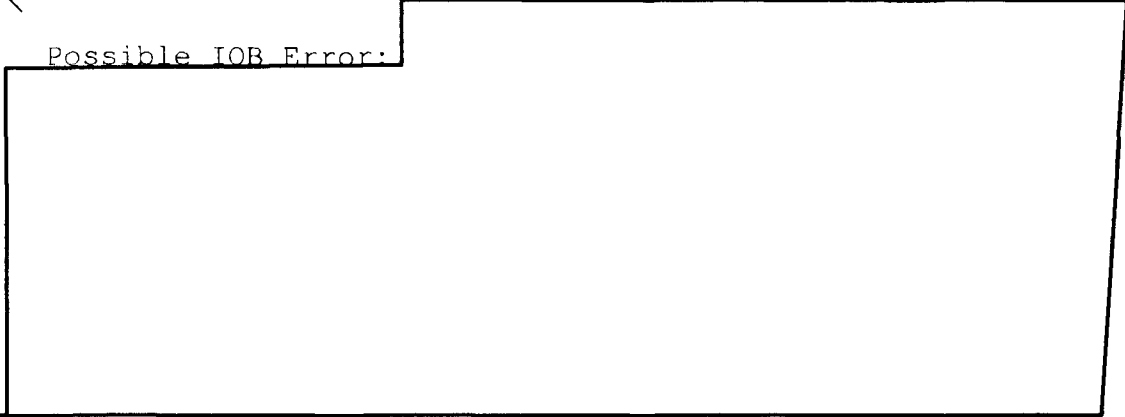
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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 08/14/2006

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

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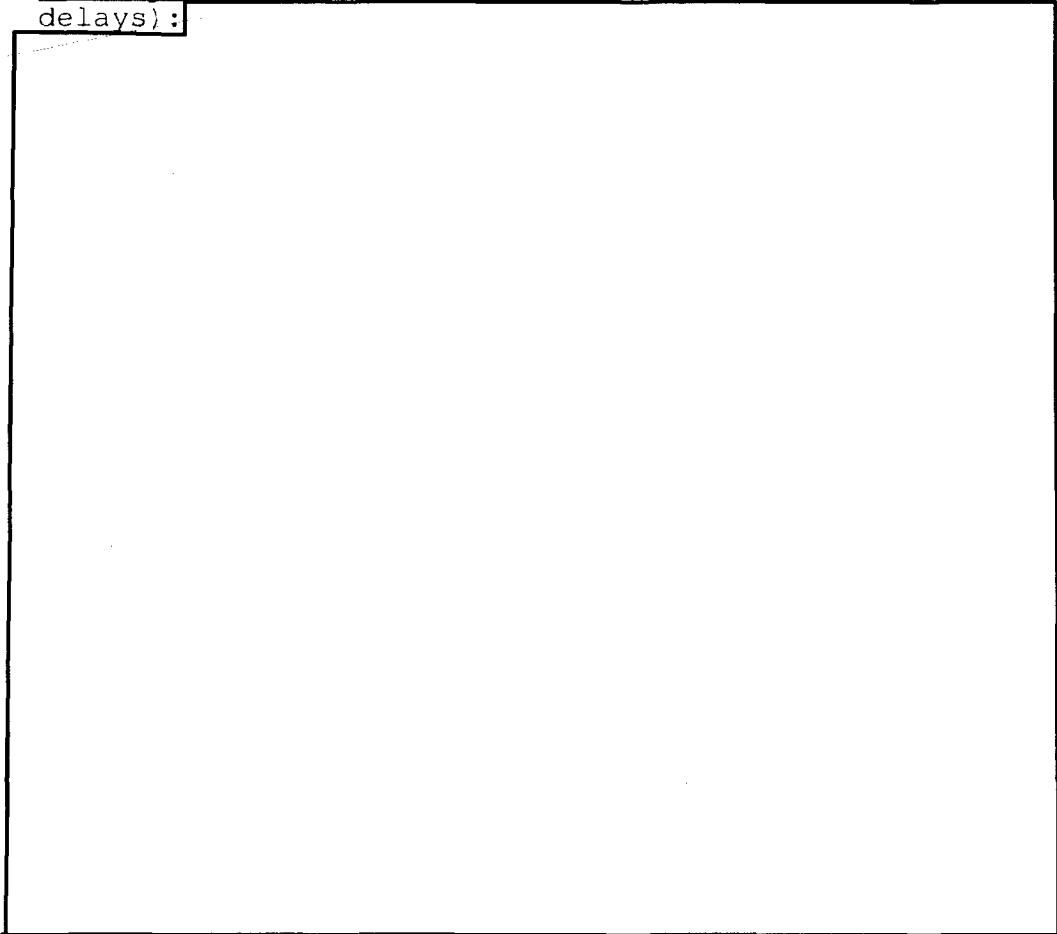


NFIPM Section Reference: 27-22A

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

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(S)

(S)

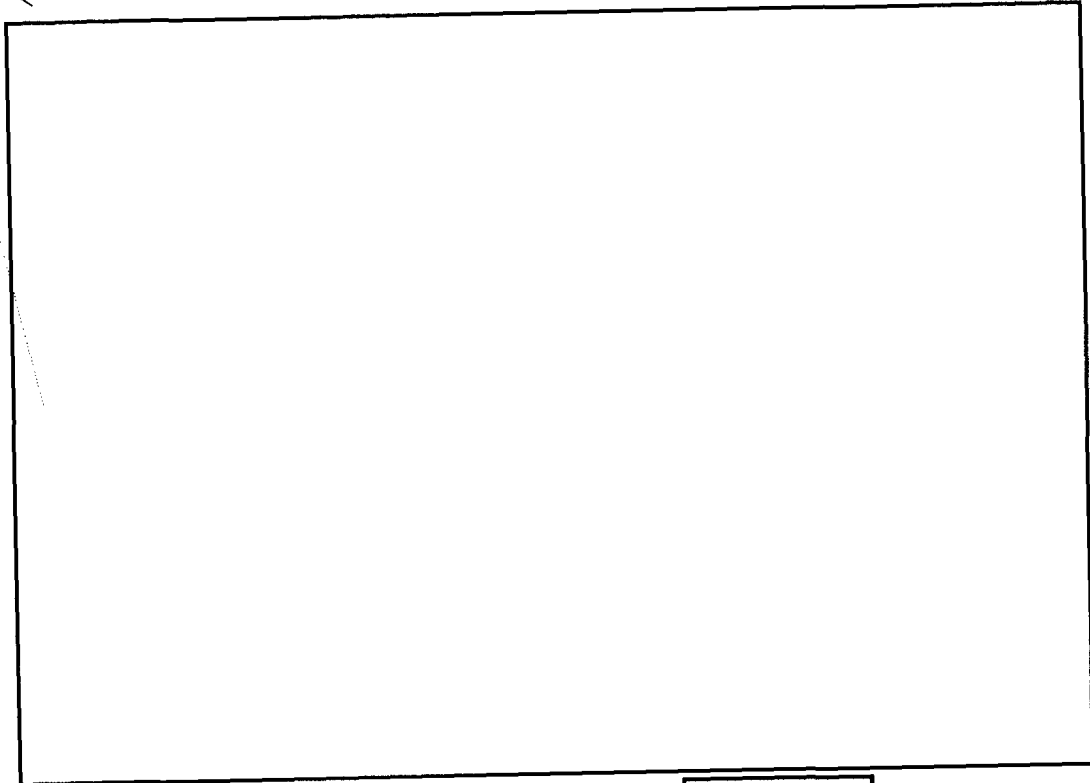
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To: Inspection From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 08/14/2006

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(U) ~~(S)~~

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Immediately after speaking with ADC [redacted] writer contacted [redacted] Paralegal Specialist (PS) [redacted] to explain the situation. PS [redacted] advised that she would contact OGC/NSLB and provide further direction to writer. Later in the afternoon of 08/14/2006, writer received the hard copy NSL results which had been forwarded by IA [redacted] via an FBI inter-office envelope. As soon as writer received the FBI inter-office envelope and recognized its contents, writer closed the envelope without reviewing the hard copy NSL results.

(U)

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On 08/15/2006, PS [redacted] advised writer to draft this electronic communication (EC), and PS [redacted] retrieved the hard copy NSL results from writer's desk to seal and secure in the [redacted] CDC's secure safe, pending further direction from OGC/NSLB and IND/IIS.

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Any questions regarding the above can be directed to [redacted] Attention: Special Agent [redacted] telephone number [redacted]

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~~SECRET~~

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To: Inspection From: [redacted]

(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 08/14/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(S)

[redacted]

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Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(S)

[redacted]

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Set Lead 3: (Info)

[redacted]

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AT [redacted]

(U) Read and clear. For information only.

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/14/2006

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To: [Redacted]

Attn: SAC [Redacted]
ASAC [Redacted]

[Redacted]

SSA [Redacted]
SA [Redacted]

[Redacted]

Attn: CDC [Redacted]
ADC [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

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

Contact: AGC [Redacted]

Approved By: Thomas Julie F. [Signature]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO-1945 (Pending)

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

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

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

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

(U) **Reference:** (S) 278-HQ-C1229736-VIO Serial 1633 (Pending)
(S) [Redacted]
(S) [Redacted]
(S) [Redacted]
(S) [Redacted]

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

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

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~~SECRET~~

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

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

(S) [redacted]

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(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, 12/14/2006

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(S)

[redacted]

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

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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 Executive Order 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

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

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

administrative violations must be reported as potential IOB matters.

(U) NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which are very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). In addition to FCRA, 15 U.S.C. §§ 1681u(a) and (b) information (financial institutions and consumer identifying information), under 15 U.S.C. 1681u(c), if certain factors are met, the FBI is able to obtain full consumer reports in both counterintelligence and international terrorism investigations by an ex parte court order.

(U)

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

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

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

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~~SECRET~~

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

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

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Set Lead 2: (Info)

[redacted]

AT [redacted]

(U) For information.

Set Lead 3: (Action)

[redacted]

AT [redacted]

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

cc: Ms. Thomas

[redacted]

IOB Library

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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 *DM/Kas* *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)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2855
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 1633
278-HQ-C1229736-VIO Serial 1945

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 08/14/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is 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 *[Signature]*

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

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 671 (Pending)

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2855
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 1633

Reference: (U) 278-HQ-C1229736-VIO Serial 1633
278-HQ-C1229736-VIO Serial 1945

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 25, 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. 2007002560**
Subject:
FBI No. 263-0-U-671
FBI CMS No. 2855

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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: SAC 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: [] ZIP: []
 Phone: [] ZIP: []
 Confidential: Revealed: Authority: none

Details:
 The FBI provided information regarding a potential IOB matter (2006 [])
 A National Security Letter (NSL) was served on a credit reporting company in furtherance of an investigation. The FBI properly served the NSL however, an error on the part of the company resulted in the unintentional acquisition of information. Upon discovering that some of the information provided exceeded the scope of the NSL, the FBI sealed and sequestered the excess information and placed it in a secure safe.
 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: 01/24/2007 Approval: POWELL, GLENN G
 Referred to Agency: FBI Date Sent: 01/24/2007 Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-0-U-671, 2855
 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.

01/25/07-Sent to Kaiser/FBI/INSD. (dz)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/19/2006

To: Inspection
General Counsel

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

From: [Redacted]

Squad CI-2

Contact: SA [Redacted]

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Approved By: [Redacted]

Drafted By: [Redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1647

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(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:

(S) 1. [Redacted]

(S) 2. [Redacted]

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

(S) [Redacted]

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

* ~~(S)~~ On 01/06/2006, writer documented to the file that telephone records of a non-targeted subject were provided in response to a National Security Letter (NSL) served at [Redacted]. The telephone records provided in error were destroyed [Redacted].

(U) ~~(S)~~ On 09/15/2006, writer was informed via legal training that receipt of incorrect information pursuant to an NSL is a reportable IOB violation.

* [Redacted]

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SEARCHED [Redacted] INDEXED [Redacted]
SERIALIZED [Redacted] FILED [Redacted]
OCT 01 2006
FBI - [Redacted]

T: 21221K1009

~~SECRET~~

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To: Inspection From:
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 09/19/2006

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: 12/14/2006

To: [Redacted]

Attn: SAC
CDC
SSA [Redacted]
SA [Redacted] b2
b7E
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Counterintelligence

Attn: CD-2A UC

Inspection

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

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

Approved By: Thomas Julie [Signature]

Drafted By: [Redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO ¹⁹⁴² (Pending) DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD REASON: 1.4 (c)
MATTER 2006 [Redacted] DECLASSIFY ON: 05-31-2032

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

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

(U) Administrative: ~~(S)~~ This electronic communication (EC) contains information from the following sources: (1) EC dated 09/19/2006 from the [Redacted] Field Office [Redacted] to OGC reporting a potential IOB matter; (2) information from an email between SA [Redacted] and AGC [Redacted] dated 10/11/2006; and (3) telephone conversation between SA [Redacted] and AGC [Redacted] on 10/20/2006. b2
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(U) Reference: ~~(S)~~ 278-HQ-C1229736 ^{VFO} Serial 1647

~~SECRET~~

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

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~~SECRET~~

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

(U) ~~(S)~~ Details: By EC dated 09/19/2006, [redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB. b2 b7E

(U) ~~(S)~~ On 07/06/2005 [redacted] issued an National Security Letter (NSL) pursuant to 18 U.S.C. § 2709 seeking subscriber and toll billing records for various telephone numbers. Upon review of the records provided by the service provider, on [redacted] [redacted] noticed that the service provider responded by providing telephone records of a person who is not a target of the investigation or is in anyway related to the investigation. Upon noticing this error, [redacted] promptly destroyed the records that were provided in error. The investigation was closed on 04/18/2006.

(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

(U) ~~(S)~~ [redacted] submitted this error as a potential IOB violation on 09/19/2006 after it has been learned, via legal training, that the receipt of incorrect information pursuant to an NSL must be reported as a potential IOB violation. b2 b7E

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~~SECRET~~

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

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: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted]

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(U) ~~(S)~~ In this investigation [redacted] properly served an NSL on a service provider. In response to the properly served NSL, the FBI obtained information regarding another person's records. [redacted] quickly determined that this information, although lawfully obtained, was not relevant to the investigation. Upon noticing this error, [redacted] promptly destroyed the telephone records provided in error.

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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 IOB². A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

(U) ² ~~(S)~~ It is noted that in the past third-party errors were reported to the IOB. However, by letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to the OGC, but are not reportable to the IOB.

~~SECRET~~

~~SECRET~~

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

LEAD(s) :

Set Lead 1: (Info)

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[redacted]

AT [redacted]

(U) For information. In the future, in similar cases where the service provider provides information on non-targeted subject that is not relevant to an investigation, [redacted] should contact the service provider and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

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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~~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]

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Approved By: Miller David Ian *DM/Kas* *SA*

Drafted By: [redacted]

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

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2870
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 1647
278-HQ-C1229736-VIO Serial 1942

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 09/19/2006, 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: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted] Ext [Redacted]

Approved By: Miller David Ian *[Signature]*

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

Drafted By: [Redacted]

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Case ID #: (U) 263-HQ-0-U - 672 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2870
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 1647

Reference: (U) 278-HQ-C1229736-VIO Serial 1647
278-HQ-C1229736-VIO Serial 1942

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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.

◆◆

~~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

SUBJECT: **OIG Complaint No. 2007002648**
Subject: [redacted]
[redacted] Division
FBI No. 263-0-U-672
CMS No. 2870

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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.: []
 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.: [] b2
 Home: [] B.O.P.No.: [] b6
 Phone: () - ZIP: [] D/L No.: [] b7C
 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: []
 Phone: [] ZIP: []
 Confidential: Revealed: Authority: none

Details:

Information received from FBI/INSD reporting a potential IOB matter involving the acquisition of information unrelated to an FBI investigation. IOB #2006 []

During an authorized investigation, the FBI properly served a National Security Letter (NSL) on a communication service provider for information regarding the target of the FBI investigation. In response, the FBI obtained information regarding an individual other than the target of the investigation. The records provided in error were destroyed.

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

ALLEGATIONS: 689 IOB Violation

Occurrence Date: 10/06/2006

TIME []
State []

CITY: []

Zip: []

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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-672, 2870

Sensitive: N Whistleblower: N Consolidated Case Number:

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

Remarks:

A search of the OIG database revealed that [redacted] is the subject of complaint #2007-000400-M, involving [redacted] (yht)

Predicating material contains classified information that will be stored in a secure container within OIG/INV/HQ. b6 b7C

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

*Freedom of Information
and
Privacy Acts*

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U- Volume 25



Federal Bureau of Investigation

R

A

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

07

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Precedence: ROUTINE

Date: 02/23/2007

To: Inspection

Attn: Internal Investigations
Section, Room 11861

General Counsel

Attn: National Security Law Branch
(NSLB), Room 7975

From:

Legal Section

Contact: ADC

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Approved By:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

DATE: 06-04-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-04-2032

(U) **Case ID #:** ~~(S)~~ 278-HO-C1229736-VIO - 2302

b1

(S) **Title:** (U) REPORT OF A POTENTIAL
IOB MATTER

1073946

(U) **Synopsis:** ~~(S)~~ Response to telephonic and e-mail mandate by NSLB of 02/20/2007 to report as a potential IOB matter, a National Security Letter (NSL) believed by the Office of the Inspector General (OIG), Department of Justice, to be an IOB matter.

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

Details:

(S) 1.

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The case Special Agent (SA) at the time of the issuance of the questioned NSL was . The case SA at the time of receipt of the response to the NSL was SA and the Supervisory Special Agent (SSA) for the investigation was SSA

(S)

b1 The subject, is a non-United States
b6 Person.
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3. No IOB error occurred. This report is purely perfunctory:

~~SECRET~~

SC Miller
CR3

DM 4/24/07
KW 04/25/07

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(U)

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b7E To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

(S)

(S)

4. [redacted] was advised 02/20/2007 that OIG had brought to the attention of NSLB a NSL, found at [redacted] which OIG believed was an IOB matter. Serial [redacted] Exhibit A, attached, is a copy of a NSL addressed [redacted]

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[redacted] In accordance with 18 U.S.C. § 2709(b) (2001) the NSL contained the required relevancy certification, [redacted] and was duly executed by the Special Agent in Charge at the time, [redacted]

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(S)

[redacted]

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[redacted] A NSL [redacted] was served [redacted] (EC at 2.) A NSL [redacted] was furnished [redacted] (EC at 2.) [redacted] (EC at 2.) The questioned NSL [redacted] NSL at 2.)

(S) In response to the questioned [redacted] NSL, [redacted]

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[redacted]

(S)

[redacted]

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(U) General Counsel EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 11/16/2006 observes that:

~~SECRET~~

(U)

b2 To: Inspection From:
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components ... 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.¹

(GC EC at 2.) The instant case involves no violation of any Executive Order, Presidential Directive, guideline, ethics rules or any other rule, regulation, order, or policy.

¹ (U) This interpretation of the reporting requirements was furnished to the FBI by the PIOB during a meeting on 06/18/1982. William H. Webster, then Director of the FBI, concurred with this interpretation and confirmed the immediate implementation of reporting procedures in adherence to this interpretation in a letter, dated 07/14/1982, to Dr. W. Glenn Campbell, Chairman of the PIOB. This interpretation was confirmed by Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, by letter dated 04/08/1983.

~~SECRET~~

~~SECRET~~

(U)

To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

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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.

◆◆

~~SECRET~~

SECRET

U.S. Department of Justice



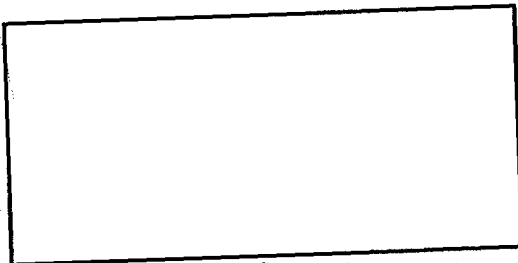
Federal Bureau of Investigation

In Reply, Please Refer to
File No.



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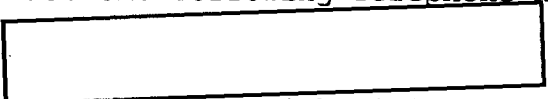


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(S)

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended October 26, 2001), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the name, address, and length of service of a person or entity to whom the following telephone numbers are registered:

(S)



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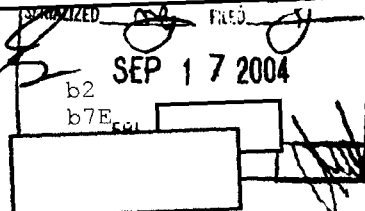
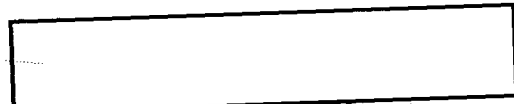
In accordance with Title 18, U.S.C., Section 2709(b), I certify that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, and that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment of the Constitution of the United States.

You are further advised that Title 18, U.S.C., Section 2709(c), prohibits any officer, employee or agent of yours from disclosing to any person that the FBI has sought or obtained access to information or records under these provisions.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

(S)



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9/22/04

~~SECRET~~

You are requested to provide records responsive to this request personally to an employee from the FBI [redacted] Office. Any questions you have pertaining to this request should be directed only to SA [redacted] at telephone number [redacted]. Due to security considerations, you should neither send the records through the mail or disclose the substance of this request in any telephone conversation.

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Your cooperation in this matter is greatly appreciated.

Sincerely yours, [redacted]

[redacted]
Special Agent in Charge

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/01/2004

To: General Counsel

Attn: UC [redacted]

CTLU1

Attn: Counterintelligence

From: [redacted]

Contact: SA [redacted]

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Approved By: SAC [redacted]
CDC [redacted]
PM [redacted]
SSA [redacted]

Drafted By: [redacted]

Case ID #: (S) [redacted]

66F-HQ-C1303375 (Pending) - 40693

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Title: (S) [redacted]

(U)

~~(S)~~ Synopsis: Approves the issuance of an ECPA National Security Letter (NSL); provides reporting data; and transmits the NSL for delivery to the telephone company.

Classification: This document is classified "~~SECRET~~" in its entirety unless otherwise marked.

(U)

~~(S)~~

Derived From: G-3

~~Declassify on: [redacted]~~

(S)

~~(U)~~

[redacted]

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(S)

Enclosure(s): ~~(U)~~ Enclosed for [redacted] Field Office is the original and one copy of a signed NSL [redacted]

[redacted]

~~SECRET~~

(S)

UNCLASSIFIED
WITHOUT TEXT
BY [redacted]
DATE 9/2/04

[redacted]
INDEXED
FILED
SEP 17 2004
[redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-05-2032

~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted] 09/01/2004

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(S)

[redacted]

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Details: (S) [redacted]

[redacted]

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(U) ~~(S)~~ This electronic communication documents the SAC's approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on a telephone number.

(U) ~~(S)~~ Arrangements should be made with the institution receiving the enclosed letter to produce the records personally to an employee of the FBI [redacted] Field Office. The institution should neither send the records through the mail nor utilize the name of the subject in any telephone calls to your office. The institution should not contact FBIHQ directly in any manner.

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(S) ~~(S)~~ You should remind the [redacted] representative that it is prohibited from disclosing that the FBI has made this request.

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(U) On November 9, 2001, the Director designated the official signing the enclosed letter as authorized to make the required certification. Any questions regarding the above can be directed to [redacted] Attention: SA [redacted] at [redacted]

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~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted] 09/01/2004

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LEAD(s) :

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Counterintelligence Law Unit is requested to record the appropriate information needed to fulfill the Congressional reporting requirements for NSL's.

Set Lead 2: (Action)

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(S)

[redacted]
by hand (D) [redacted] Field Office is requested to present [redacted]
[redacted] the enclosed original of the signed NSL [redacted]
[redacted] and report the results to [redacted] SA [redacted]
[redacted]

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/02/2005

To: [Redacted]
From: [Redacted]

Contact: SA [Redacted]

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

b1 Case ID #: (S) [Redacted]

b1 Title: (S) [Redacted]
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b4 Synopsis: (S) Results of an NSL [Redacted]
b7D

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

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

(S) [Redacted]

Details: (S) [Redacted]

b1 [Redacted]
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b2 (S) [Redacted]
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b1 [Redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

~~SECRET~~

(S)

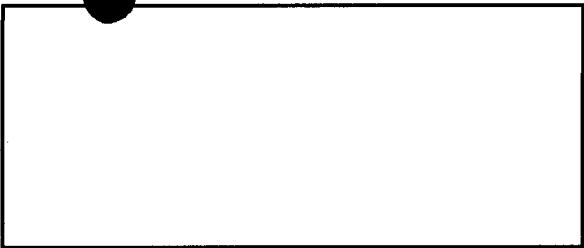
✓
3/5/05

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[Redacted]	
SERIALIZED	INDEXED
FILED	FILED
MAR 2 2005	
FBI - [Redacted]	
[Redacted]	[Redacted]

~~SECRET~~

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(S)



February 15, 2005

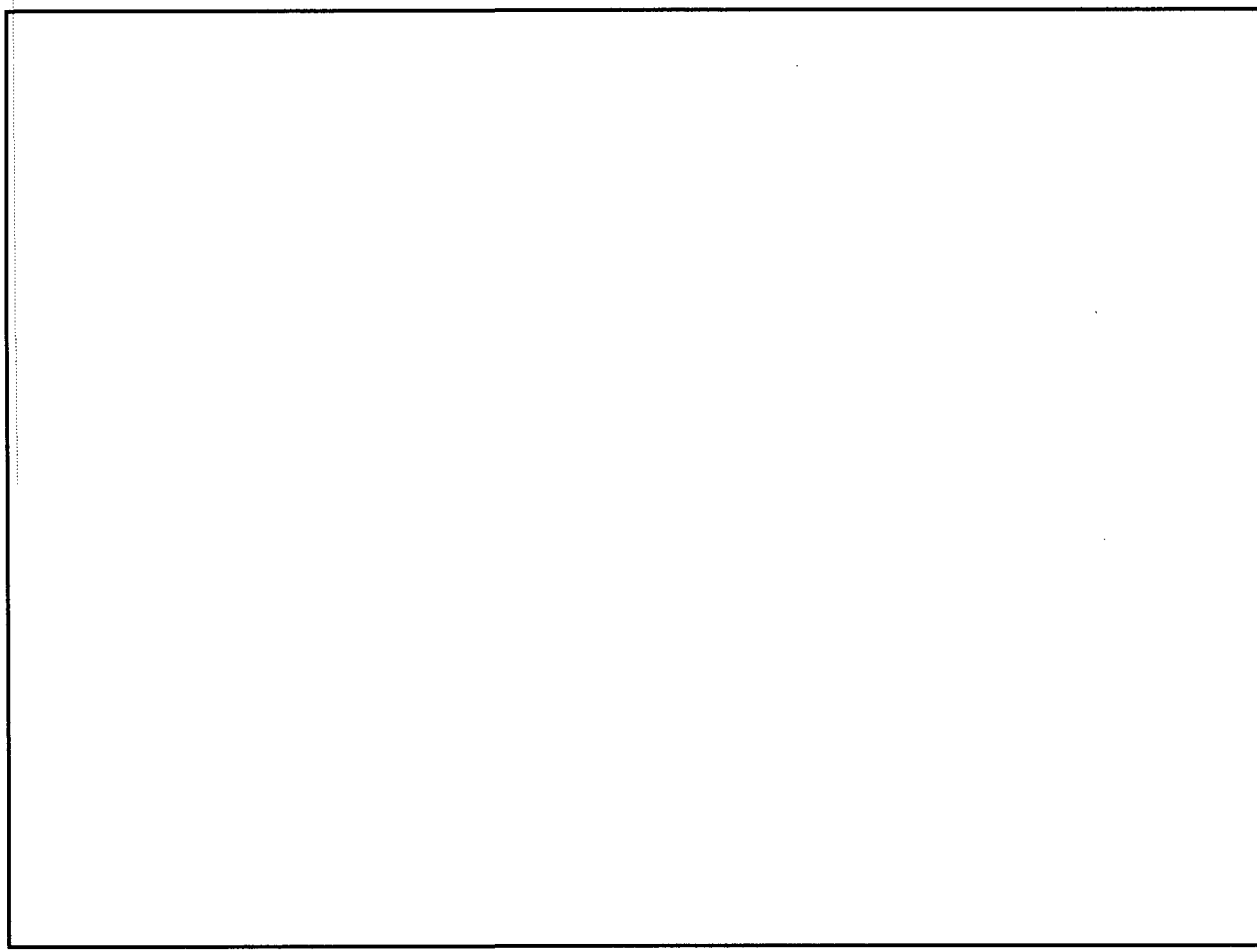
VIA HAND DELIVERY

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[Redacted] Special Agent in Charge
Federal Bureau of Investigation



(S)



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DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 3/7/07

To: [Redacted]

Attn: AD
SAC
CDC
SSA
SA

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Counterintelligence

Attn: AD

Inspection

Attn: IIS, CRS

From: General Counsel
National Security Affairs/Room 7974
Contact: Julie F. Thomas

Approved By: Thomas Julie F. [Signature]

Drafted By: [Redacted]

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 2733

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(S)

(U)

Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER
2007-731

(U)

Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that no error was committed in this matter, and therefore nothing need be reported to the IOB. A record of this decision should be maintained in the investigation control file for review by the Counsel to the IOB.

(U) Derived from : G-3
Declassify On: X1

(U)

Reference: ~~(S)~~ 278-HQ-C1229736-VIO - Serial 2300

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

DATE: 4-19-07

~~SECRET~~

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/07/07

(U) Details: (S) After OIG reported on a potential IOB as part of its NSL audit, [redacted] was advised to report this matter as a potential IOB. b2 b7E

(S)

[redacted]

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(S)

(S) [redacted] sent an NSL pursuant to 18 U.S.C. § 2709(b) (2001), requesting subscriber information [redacted]

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(S)

[redacted]

(S) In response to the NSL [redacted]

[redacted]

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(S)

(S) The fact that this [redacted] came back as [redacted], rather than [redacted] does not make it an "unauthorized collection by a third party provider." This was not an error by [redacted] or any kind of over collection by [redacted] or [redacted] was disclosed pursuant to a duly authorized NSL, in a counterintelligence investigation [redacted] and as such does not constitute an error reportable to the IOB, (or any error at all). OGC notes that no report of a potential IOB would have been

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~~SECRET~~

required absent its extraordinary mandate. OGC commends for its assistance in this matter. 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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~~SECRET~~

~~SECRET~~

Set Lead 1: (Info)



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(U) Read and clear.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

1-Ms. Thomas

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1-IOB Library

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FEDERAL BUREAU OF INVESTIGATION

b2

07

Precedence: ROUTINE

Date: 02/23/2007

To: Inspection
General Counsel

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

From:

Contact: SSA

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Approved By:

Drafted By:

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO -2181

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

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

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

Details:

b1 (S) 1.
b6
b7C (S) 2.

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

b1 (S)

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

b2 (U) ~~(S)~~ On 02/21/2007, CDC advised SSA of a potential IOB violation identified during an audit by the Office of Inspector General (OIG).
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(S)

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(S) ~~(S)~~ a National Security Letter (NSL) as issued requesting financial records pertaining to

b6 *Miller* *Jan 4/24/07*
b7C *CRS* *KW CA 25/07*

~~SECRET~~

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

[redacted] b1
(S) [redacted] Although financial records were requested, the NSL was issued under authority of Executive Order 12333, dated 12/04/1981, and pursuant to Title 18, U.S.C. Section 2709 (as amended, 10/26/2001). The NSL certified that the FBI complied with all applicable provisions of the Right to Financial Privacy Act (RFPA) in accordance with Title 12, U.S.C. Section 3403(b).

(S) ~~(S)~~ Further, a review of the initiating EC dated [redacted] showed a request for an Electronic Communications Privacy Act (ECPA) NSL be approved and authorized [redacted] b1 b7D b4
[redacted] The NSL
EC stated for mandatory reporting purposes that the accompanying NSL sought financial documentation records [redacted]

(U) At the time of the above, SA [redacted] was the case agent and SSA [redacted] was the supervisor. This investigation was closed [redacted] b6 b7C

(U) ~~(S)~~ It should be noted that a previous potential IOB violation reported on this investigation, 278-HQ-C1229736-VIO, Serial 584, was determined by the Office of General Counsel (OGC) as non-reportable, 278-HQ-C1229736-VIO, Serial 780.

9/30/04

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(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-V10, 02/23/2007

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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: 03/14/2007

To: [Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS1, CONUS 2, [Redacted]

Inspection

Attn: IIS

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From: Office of General Counsel /
NSLB/CTLU I
Contact: [Redacted]

Approved By: Thomas Julie F [Redacted]

(U) Drafted By: [Redacted]

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

Case ID #: (S) 278-HQ-C1229736-VIO (Pending) 2155
(S) [Redacted]

b1

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b2

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

(U) (S) Derived From: G-3
Declassify On: 03/14/2032

(U) Reference: (S) 278-HQ-C1229736-VIO Serial 2181

(U) Details: (S) By electronic communication (EC) dated
02/23/2007 and referenced above, the [Redacted] Division [Redacted]
reported to the OGC's National Security Law Branch (NSLB) and
the Inspection Division this potential IOB matter.

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(S) [Redacted]

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~~SECRET~~

OIG/DOJ REVIEW [Redacted] DATE: 4-17-07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

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(U)

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To: [redacted] From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/14/2007

(S)

~~(S)~~ An EC dated [redacted] approved issuance of "an ECPA National Security Letter (NSL)" [redacted]. The acronym ECPA was in reference to the Electronic Communications Privacy Act. The EC enclosed an National Security Letter (NSL) [redacted]

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(S)

[redacted]

(S)

~~(S)~~ On [redacted] the NSL directed [redacted] to provide "all financial records" pertaining to the subject. The first paragraph of the letter cited for authority Executive Order 12333 and, incorrectly, Title 18, U.S.C. Section 2709 (the ECPA). The second paragraph of the letter correctly referenced the Right to Financial Privacy Act, 12 U.S.C. Section 3414(a)(5)(A) and certified that the records were relevant to an authorized investigation. Further, the third paragraph certified that the FBI had complied with Title 12, Section 3403(b) of the RFPA.

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(S)

~~(S)~~ On 08/29/2004, the results from the NSL were received [redacted]

(S)

[redacted]

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(S)

[redacted]

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(U)

~~(S)~~ On 02/21/2007, the [redacted] CDC advised SSA [redacted] of the potential violation, which had first been identified in the course of an audit by the Office of Inspector General (OIG).

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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

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b7E (U) To: [redacted] From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/14/2007

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: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709; (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted]

b1

(U) ~~(S)~~ In this instance, the EC did not cite proper legal authority for issuing the NSL. The EC referenced the Electronic Communications Privacy Act, 18 U.S.C. § 2709, which would provide the authority for a request for telephone and email communication records from telephone companies and internet service providers, rather than the Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A) which would provide the

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(U) To: [redacted] From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/14/2007

(S)

authority to request financial information [redacted]
In addition to citing the incorrect authority in the EC, the EC did not explain why the investigation justified obtaining the financial records. We note that the facts disclosed in the investigation file would have supported issuance of the NSL under RFPA [redacted]. However, these facts were not articulated in the EC.

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(S)

~~(S)~~ In addition, the NSL [redacted] signed by the SAC did not fully and correctly reference the authority to obtain financial records [redacted].

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(S) [redacted] Again, the facts of the investigation would have supported issuing the NSL under the legal authority to obtain financial records under RFPA [redacted] however, the NSL did not correctly articulate the authority.

(U) ~~(S)~~ In conclusion, the EC and NSL were not issued in full compliance with the requirements of the Right to Financial Privacy Act. Accordingly, these errors must be reported to the IOB.

(U) In accordance with reporting requirements of Section 2.4 of EO 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

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b2 (U) To: [redacted] From: Office of General Counsel
b7E Re: (S) 278-HQ-C1229736-VIO, 03/14/2007

LEAD(s):

Set Lead 1: (Action)

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[redacted]

(U) Provide training and review procedures for requesting and issuing National Security Letters.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

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

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~~SECRET~~

~~SECRET~~//20320307

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/07/2007

7

To: Inspection
General Counsel

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

b2

From:

Contact:

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b7C

Approved By:

Drafted By:

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-2232

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

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

(U) ~~(S)~~ Derived From: ~~FBI G3 SEC, Jan. 1997~~
Declassify On: ~~20320307~~

Details:

(S) 1.
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(S) b7A

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

b1 (S)

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

(S) Improper NSL collection due to an error of the recipient,

(S)
NSL before. The NSL results who had never dealt with an
b1 b7D included information for
(S) expressly prohibited in the NSL provided

SC Miller Call 4/24/07
CR8 *Raw 4/25/07*

~~SECRET~~//20320307

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DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~//20320307

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(U) To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/07/2007

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~~//20320307

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/18/2007

To: [Redacted]

Attn: SSA [Redacted]
SA [Redacted]

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Inspection

(S)

Attn: IIS, Room 11861

Counterterrorism

Attn: ITOS II, [Redacted]

b1

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

Contact: AGC [Redacted]

Approved By: Thomas Julie *(VW)*

Drafted By: [Redacted]

(U)

Case ID #: (S) 278-HQ-C1229736-VIO/ [Redacted] *3196*

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(U)

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

b2

(U)

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

(U)

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

ref

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Reference: (S) [Redacted]

(U) 278-HQ-C1229736-VIO Serial 2232

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Details: (U) The referenced electronic communication ("EC") from [Redacted] in file 278-HQ-C1229736, dated 03/07/2007, 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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(S)

[Redacted]

~~SECRET~~

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

DATE: *4.20.07*

~~SECRET~~

b2
b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/18/2007

(S)

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[redacted]

(S) ACS also reflects that, on 01/31/07, a National Security Letter ("NSL") seeking electronic communication transactional records [redacted]

(S) b1
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[redacted] In its text, the letter requested electronic communication transactional records but expressly stated that such records did not include [redacted]

(S)

[redacted] (S) Shortly thereafter, [redacted]

(S)

[redacted] provided the records but included [redacted]

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[redacted]. Immediately upon discovering the error, the case agent sequestered the material and notified [redacted] which

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[redacted] subsequently provided a "clean" copy of the records. The agent

(S) b7A

never uploaded any information from the first set of documents to ACS or any of the Bureau's computer systems. The only record

(S)

remaining [redacted] overproduction of documents is the initial CD-ROM, which is now sequestered within a safe.

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

(S)

(S) Here, an error on the part [redacted] resulted in the unintentional acquisition of information outside the scope of the NSL. This matter thus constitutes a third-party error in

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/18/2007

responding to the NSL and is therefore not reportable to the IOB.¹

(S)

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~~(S)~~ Further, for the sake of completeness, it should be noted that, immediately upon learning that [redacted] had provided an overbroad response, the [redacted] Field Office took steps to ensure that the information was not disseminated and requested legal guidance. Examination of the record reveals no evidence of unlawful actions by the FBI or actions contrary to Executive Order or Presidential Directive. Accordingly, we opine that this incident is not reportable to the IOB.

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~~(S)~~ By this EC, we request that the [redacted] Field Office sequester and destroy any remaining record of [redacted] giving rise to this inquiry. Inspection is hereby requested to maintain a copy of this record in the event that it is requested by the Counsel to the IOB.

¹ On 03/28/2006, NSLB sent a letter to the Counsel for the IOB requesting their concurrence to treat these third party errors as non-reportable, though we will require the field to continue to report any improper collection under an NSL as a potential IOB matter. By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to OGC, but are not reportable to the IOB.

~~SECRET~~

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/18/2007

LEAD(s) :

Set Lead 1: (Action)

[redacted]

b2
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(U) [redacted] is requested to destroy the sequestered information erroneously provided by ASU.

Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

CC: Ms. Thomas
[redacted]
IOB Library

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

3211
7

Precedence: ROUTINE

Date: 02/22/2007

To: Inspection
General Counsel

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

From:

Contact:

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b6
b7C

Approved By: SAC
ASAC
CDC
SSA

Drafted By:

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 2211 (Pending)
~~(S)~~ 278 136372 (Pending)

b2
b7E

Title: (U) INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: (U) To report possible IOB error.

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

Details:

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(S)

~~(U)~~ ~~(S)~~ 2. Case Agent: SFO
Supervisor: SSA

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~~(U)~~ ~~(S)~~ 3. Possible IOB Error: Receiving telephone records outside the dates requested in the National Security Letter.

(S) ~~(U)~~

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SC Miller 4/24/07
CPS Kae 04/25/07

~~SECRET~~

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

never rec'd
download for ACS 04/19/07 hu

(U) To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 02/22/2007

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(U) (S) 5. Description of possible IOB Error (including any reporting delays).

(S) (X) [redacted] upon opening the above noted investigation, issued a National Security Letter (NSL) requesting [redacted] records associated [redacted]

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[redacted] for periods [redacted] and [redacted]. Pursuant to the NSL [redacted] sent [redacted] As noted above, [redacted] requested telephone records for two sets of date ranges. [redacted] upon receipt of the telephone records checked to make sure the telephone number and the name of the subscriber matched the name and telephone number requested. Additionally, [redacted] checked to make sure the telephone date ranges requested were "included".

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(U) During a 2006 review of NSL's by NSLB [redacted] was notified that information not requested by the NSL noted above had been received. A review of the NSL related to this matter revealed records requested for the first set of dates [redacted]. Records actually received [redacted] addressing that date range were [redacted]. [The possible IOB violation would be the records received "prior to and after" the requested date range. These dates were identified as [redacted] through and including [redacted] through and including [redacted].

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(U) Telephone records requested for the second set of dates were [redacted] (date of NSL). Records actually received addressing this date range were [redacted]. [The possible IOB violation would be the telephone records received "prior to" the requested date range. These dates were identified as [redacted].

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(S) [redacted] was interviewed during the NSL review by NSLB regarding the excess information received [redacted]. There was no notification at that time that this was a possible IOB violation. [redacted] was notified by CDC on November 21, 2006 that this was a possible IOB violation.

~~SECRET~~

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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(U) Upon notification by CDC of the possible violation, [redacted] retrieved the above noted file from closed files and manually removed the telephone records suspected of being possible IOB violations. The removed records were subsequently sequestered with the [redacted] Division CDC pending results of the IOB inquiry. Additionally, [redacted] [redacted] was notified and initiated the process of removing the noted records from ACS.

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~~SECRET~~

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(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 3/12/2007

To: [Redacted]

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

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Counterterrorism
Inspection

Attn: ITOS I, CONUS IV

Attn: [Redacted] IIS,
[Redacted]

From: General Counsel
National Security Law Branch/CTNL II/LX-1 [Redacted]
Contact: [Redacted]

Approved By: Thomas Julie F [Signature]

Drafted By: [Redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO (pending) 2546

Title: (U) Intelligence Oversight Board
b2 (IOB) Matter 2007 [Redacted]

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

(S) ~~Derived From : G-3
Declassify On: 03/07/2032~~

(U) Reference: (S) 278-HQ-C1229736-VIO serial 2211
b2 278-[Redacted]-1136372 [Redacted]
(S) b7E [Redacted]
b1 [Redacted]

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

b2 JJ) b7E Details: (S) By electronic communication (EC) dated 02/22/2007 (278-HQ-C1229736 Serial 2211), [Redacted] Field Office [Redacted]

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (S)
DECLASSIFY ON: 06-05-2032

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

OIG/DOJ REVIEW [Redacted] DATE: 4-20-07
FBI INVESTIGATION [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

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b7C

~~SECRET~~

(U) To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/12/2007

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b7E

[redacted], reported to the Office of the General Counsel (OGC) this potential IOB matter.

(S)

[redacted]
[redacted] a National Security Letter (NSL) was issued
[redacted] which requested [redacted]
[redacted] records [redacted]
[redacted] periods [redacted] and [redacted]
[redacted] In response to the NSL, [redacted] provided [redacted]
[redacted] The records [redacted]
[redacted] provided [redacted] exceeded

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the scope of the NSL. The agent did not realize at the time that the information was received that the additional information constituted a potential IOB violation. However, when the case agent was informed by the CDC on November 21, 2006 that there was a problem with the additional information, the case agent immediately retrieved the excess information from the closed case file and sequestered the information with the CDC. In addition, the excess records were removed from the Automated Case Support system.

(S) ~~(S)~~ In this case, an error on the part [redacted] resulted in the unintentional acquisition of information. Upon learning that there was information received [redacted] that exceeded the scope of the NSL, the case agent responded immediately by removing and sequestering the information with the CDC pending disposition of the matter.

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(U) ~~(S)~~ Based upon our analysis, the carrier's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive. Pursuant to the Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Reports of potential IOB matters determined by OGC not to require notification to the IOB will be retained by INSD for three years for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required.¹ Accordingly, OGC will

¹ By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to OGC, but are not reportable to the IOB.

~~SECRET~~

~~SECRET~~

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(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 03/12/2007

request that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

~~SECRET~~

(U)

~~SECRET~~

To: [REDACTED] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/12/2007

LEAD(s) :

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b7E

Set Lead 1: (Action)

[REDACTED]

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

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FEDERAL BUREAU OF INVESTIGATION

07 b2

Precedence: ROUTINE

Date: 02/28/2007

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975
Attn: CDC/Legal Unit

From:

Contact: SA

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b6
b7C

Approved By:

Drafted By:

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending)-2235

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(S)
b7A

(U)

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) **Synopsis:** ~~(S)~~ To report a potential IOB matter.

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

(S)
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Details: ~~(S)~~ 1.

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(S)

as set forth above, with appropriate extensions and approvals obtained by FBIHQ, Counterterrorism Division.

(U)

~~(S)~~ 2. **Case Agent:** SA
Supervisor: SSA

(S)

3.

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SA Miller 8/24/07

b6
b7C

CRS

kw 04/25/07

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(U)

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b7E

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

(U) ~~(S)~~ 4. No Foreign Intelligence Surveillance Act (FISA) request has been submitted to the Office of Intelligence Policy and Review, Department of Justice (OIPR).

(U) ~~(S)~~ 5. Description of IOB Error (including any reporting delays):

(S)

[redacted]

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(S)

[redacted]

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(S)

[redacted]

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(S)

[redacted]

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~~SECRET~~

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(U) To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 02/28/2007

(S)

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[redacted]
[redacted] a National Security Letter (NSL) was prepared
[redacted] requesting [redacted]
[redacted] records [redacted]
[redacted] provided [redacted]
Division with records for their response to this NSL.

(S) [redacted] SA [redacted] reviewed [redacted]
[redacted] response to [redacted] NSL and discovered that
[redacted] provided records that were over-inclusive to the
request of the NSL. [redacted]

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[redacted]
[redacted] provided [redacted]
[redacted] that were not requested by
SA [redacted].

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b7E
b7A
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(S) [redacted] SA [redacted] informed Associate
Division Counsel [redacted] of this matter. SA [redacted] then
contacted [redacted] liaison to [redacted] to report the
over-inclusive response [redacted] so that contact could
be made to appropriate [redacted] to inform them of these
issues. All documents included in the response [redacted]
[redacted] will be locked in a safe maintained by SSA [redacted]
until appropriate resolution of the matter is determined.

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~~SECRET~~

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(U) To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For whatever action is deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For whatever action is deemed appropriate.

◆◆

~~SECRET~~

~~SECRET~~

b2

FEDERAL BUREAU OF INVESTIGATION

7

Precedence: ROUTINE

Date: 02/28/2007

To: Inspection
General Counsel

Attn: Internal Investigations
Section, Room 11861
Attn: National Security Law Branch
(NSLB), Room 7975

From:
Legal Section

Contact:

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Approved By:

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

Drafted By:

(U)

Case ID #: (S) 278-HQ-C1228726-VIO-2223
b1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(S) **Title:** (U) REPORT OF A POTENTIAL
IOB MATTER (PIOB)

(U) **Synopsis:** (S) Response to telephonic and e-mail mandate by NSLB of
02/20/2007 to report as a potential IOB matter, a National Security
Letter (NSL) believed by the Office of the Inspector General (OIG),
Department of Justice, to be an IOB matter.

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

Details:

(S) b1 1.
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(S) The case Special Agent (SA) at the time of
the issuance of the questioned NSL and receipt of the
response to the NSL was SA The
Supervisory Special Agent (SSA) for the investigation was
former SSA

(S) b1 2.
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3. No IOB error occurred. This report is purely perfunctory:

SC Miller 02/24/07
CRS 02/25/07 ~~SECRET~~

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(U)

~~SECRET~~

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To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

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4. (S) [redacted] was advised 02/20/2007 that OIG had brought to the attention of NSLB a NSL, found [redacted] which OIG believed was an IOB matter. [redacted] attached, is a copy of a NSL [redacted]

[redacted] In accordance with 15 U.S.C. § 1681u(a)(2001), the NSL contained the required relevancy certification, (NSL at 1), and was duly executed by a Special Agent in Charge at the time, [redacted], (NSL at 2).

(S) [redacted]

[redacted]

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(S) [redacted]

[redacted]

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b7C

(S) The aforementioned questioned NSL [redacted] requested [redacted]

[redacted] (NSL at 1.) The response to the NSL supplied information beyond that requested [redacted]

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~~SECRET~~

(U)

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

(S)

[redacted]

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(S) No use appears to have been made of any of the information [redacted]

[redacted]

[redacted] Review of the file disclosed no requests for information submitted under the Right to Financial Privacy Act to any [redacted]

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[redacted]

(U)

~~(S)~~ No policy prior to the General Counsel EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 11/16/2006, characterized as a PIOB matter, a provision of information beyond the scope of an NSL resulting in the unintentional acquisition of data. (See Inspection EC to All Divisions, captioned, "INTELLIGENCE OVERSIGHT BOARD," dated 12/24/2002; Director's EC to All Divisions captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 03/08/2004; Inspection EC to All Divisions, captioned, "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB) MATTERS," dated 02/10/2005. Inasmuch as the EC of 11/16/2006 was not the controlling authority at the time the results of the questioned were received and as no use was made of those results, no PIOB violation occurred.

(S)

[redacted]

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[redacted] clearly, the information sought in the questioned request [redacted] was for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities. Further, the investigation was not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States.

~~SECRET~~

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(U)

To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

(U) General Counsel EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 11/16/2006 observes that:

Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components ... 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.¹

(GC EC at 2.) The instant case involves no violation of any Executive Order, Presidential Directive, guideline, ethics rules or any other rule, regulation, order, or policy.

¹ (U) This interpretation of the reporting requirements was furnished to the FBI by the PIOB during a meeting on 06/18/1982. William H. Webster, then Director of the FBI, concurred with this interpretation and confirmed the immediate implementation of reporting procedures in adherence to this interpretation in a letter, dated 07/14/1982, to Dr. W. Glenn Campbell, Chairman of the PIOB. This interpretation was confirmed by Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, by letter dated 04/08/1983.

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~~SECRET~~

(U)

To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

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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~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

b2

Precedence: ROUTINE

Date: 02/21/2007

07

To: Inspection

Attn: Internal Investigations
Section, Room 3041

General Counsel

Attn: National Security Law Branch
Room 7947

From:

[Redacted]

Contact: SSA [Redacted]

Approved By:

[Redacted]

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Drafted By:

Case ID #: (S) 278-HQ-C1229736-VIO (Pending) 2014

b2 (S) 278-[Redacted]-C136372 (Pending) 172

b7E (S) [Redacted]

b1 (S)

Title: (U) IOB MATTER

Synopsis: (U) Report of a previously addressed IOB matter.

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

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

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Reference: (U) 278-HQ-C1229736 Serial 2570

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

Administrative: (U) This IOB matter was addressed during an FBI [Redacted] 2006 OIG audit. Per 04/05/2006 6:31 AM email from OGC's [Redacted] regarding NSL overcollection, in cases where the FBI overcollects because of the provider, if the information that the provider gave the FBI beyond what was asked for (e.g., more telephone accounts of the same subscriber) is relevant to an authorized investigation, it will not have to be reported as an IOB.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ap070531.wpd

~~SECRET~~

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sc inner [Signature] 4/27/07
CRS [Redacted] 05/04/07

~~SECRET~~

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

Enclosure(s): (U) For all recipients: 278-HQ-C1229736 Serial 2570, dated 11/16/2006; and 04/05/2006 6:31 AM email from OGC's [redacted] regarding overcollection. b6 b7C

Details: (U) The purpose of this EC is to report a previously-cleared potential IOB matter involving an NSL for telephone toll records requested by SA [redacted] as well as to satisfy the new requirements set forth by referenced serial 2570, dated 11/16/2006, regarding the revised procedures for submission of potential IOB matters. b6 b7C b2 b7E

(U) ~~(S)~~ 1. Identification of the substantive investigation in which the activity occurred, including the names of relevant personnel including the case agent and his supervisor

(S) CaseID#: [redacted]
Case Agent: SA [redacted]
Supervisor at time of activity: [redacted] (retired)
Supervisor during [redacted] 2006 OIG audit: [redacted] b1 b6 b7C

(U) 2. Identification of subject's status as USPer or non-USPer: Non-USPer

(U) 3. Complete and thorough explanation of matter, including all relevant facts:

(U) 3(a). Statement regarding when matter occurred (including, in instances of delayed reporting, explanation for delayed reporting): Referenced serial [redacted] and referenced serial [redacted] advised of results of initial NSL (referenced [redacted]). Per OGC guidance at the time (referenced email dated 04/05/2006 at 6:31 AM), [redacted] determined the NSL results, which contained a second associated telephone number, did not constitute an IOB violation, thus a potential IOB was not reported. b2 b7E

(U) 3(b). Statement concerning controlling law, regulation or NSIG provision pertaining to the matter: Under authority of EO 12333, dated December 4, 1981, and pursuant to Title 18, U.S.C., §2709 (Section 201 of ECPA of 1986) (as amended), a communications carrier was directed to provide to the FBI the name, address, length of service, and local and long distance toll billing records associated with a telephone number.

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

(U) 3(c). Complete statement of status of matter, including when it was initiated and whether it currently is opened or closed: During an OIG audit of FBI [redacted] NSLs from [redacted] [redacted] 2006, the results of the subject NSL were called into question by the IG as a potential IOB violation, since a second telephone number was identified by the communications carrier in their reply. The Case Agent was interviewed by the IG, during which it was agreed that the second telephone number was associated with the subject telephone number. At the time, this was allowed (per referenced OGC email dated 04/05/2006 at 6:31 AM), as it was a situation where the information provided by the communications carrier beyond what was asked for was relevant to an authorized investigation, and did not have to be reported as an IOB. [redacted] considers this matter closed.

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(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

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LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT IIS, DC

(U) For information.

Set Lead 2: (Info)

GENERAL COUNSEL

AT NSLB, DC

(U) For information.

CC:

1 - CDC [REDACTED]
1 - SA [REDACTED]
1 - SSA [REDACTED]

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~~SECRET~~

NON-RECORD

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Concerning your ten day overrun, [redacted] and I just talked to Julie Thomas on this issue. She wants these, as well as all annual LHM overruns, USP and non USP, reported as potential IOBs, and we will then decide whether to report them as IOBs. The non-USPs overruns will probably not be reported to the IOB but she wants them reported as potential IOBs so OGC can keep track of problems generally in following procedures, even though not reported to the IOB. USP overruns may or may not be reported as IOBs, depending in part upon how long the delay was in reporting.

I know this is new, particularly with respect to annual LHMs, so we will be sending something out on this.

[redacted]

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/17/2004

To: General Counsel

Attn: [Redacted]
Chief, NSLU

[Redacted]

From: [Redacted]

SAC [Redacted]

Contact: SA [Redacted]

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Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: (S) [Redacted]
(U) ~~(S)~~ 66F-HQ-C1303375

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Title: (S) [Redacted]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL); provides reporting data; and, if necessary, transmits the NSL for delivery to the telephone company or electronic communications service provider.

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

b1 (S) ~~(S)~~ [Redacted]

Enclosure(s): ~~(S)~~ [Redacted]

(S)
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DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted]

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(S)

[redacted]

b1
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b7D

Details: (S) [redacted]

[redacted]

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(S)

~~(S)~~ This electronic communication documents the SAC's approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks [redacted] records on cellular phone number [redacted].

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(U) Arrangements should be made with the institution receiving the enclosed letter to produce the records personally to an employee of your office. The institution should neither send the records through the mail nor utilize the name of the subject in any telephone calls to your office. The institution should not contact FBIHQ directly in any manner.

(U) You should remind the telephone company that it is prohibited from disclosing that the FBI has made this request.

(U) On 11/09/2001, the Director designated the official signing the enclosed letter as authorized to make the required certification.

(U) The Squad Supervisor affirms that SA [redacted] [redacted] has checked all appropriate databases for a prior request by any field office for the material sought. Additionally, the requested material does not appear to be available from public sources.

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b7C

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~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted]

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(U) Any questions regarding the above can be directed
to the [redacted] Attention: SA [redacted]
[redacted]

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~~SECRET~~

~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted]

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LEAD(s) :

Set Lead 1:

[redacted] (ACTION)
[redacted]

b2
b7E

(U) Deliver the attached letter as indicated above.
Upon receipt of information from the carrier, [redacted] is
requested to submit results to [redacted]

Set Lead 2:

GENERAL COUNSEL (ACTION)

AT WASHINGTON, DC

(U) NSLU is requested to record the appropriate
information needed to fulfill the Congressional reporting
requirements for NSLs.

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/26/2004

To: [Redacted]

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From: [Redacted]

Contact: SA [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: (S) [Redacted]
(S) [Redacted]

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Title: (S) [Redacted]

Synopsis: (S) Results [Redacted] NSL [Redacted]
[Redacted]

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

Enclosure(s): (S) [Redacted] NSL [Redacted]

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[Redacted]

(U) ~~(S)~~ Details: On 07/13/2004, results from NSL [Redacted] was received by [Redacted] from [Redacted] with the following results:

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(S) [Redacted]
currently used [Redacted]

(S) [Redacted]

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

~~SECRET~~

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

*never rec'd
downloaded by ACS
04/19/07 kws*

~~SECRET~~

To:
Re:

[Redacted]

From:

[Redacted]

07/26/2004

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[Redacted]

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[Redacted]

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~~SECRET~~

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To: [redacted] From: [redacted]
Re: (S) [redacted] 07/26/2004

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[redacted]

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[redacted]

~~SECRET~~

~~SECRET~~

To: [redacted] From: [redacted]
Re: (S) [redacted] 07/26/2004

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Accomplishment Information:

Number: 1
Type: NSL TO FINANCIAL INSTITUTION PREPARED & APPROVED
ITU: NATIONAL SECURITY LETTER
Claimed By: [redacted]
SSN: [redacted]
Name: [redacted]
Squad [redacted]

Number: 1
Type: NSL SERVED TO FINANCIAL INSTITUTION
ITU: NATIONAL SECURITY LETTER
Claimed By: [redacted]
SSN: [redacted]
Name: [redacted]
Squad [redacted]

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/16/2006

To: All Divisions

Attn: ADIC/SAC
CDC

From: Office of the General Counsel
National Security Law Branch

Contact: National Security Law Branch, (202) 324-



b2

Approved By: Pistole John S
Hulon Willie T
Caproni Valerie E
Thomas Julie F

b6
b7C

Drafted By:



Case ID #: (U) 278-HQ-C1229736 Serial 2570

Title: (U) REVISED PROCEDURES FOR THE SUBMISSION
OF REPORTS OF POTENTIAL INTELLIGENCE
OVERSIGHT BOARD MATTERS

Synopsis: (U) To provide legal guidance to all divisions regarding changes to the requirements and procedures to report conduct that may be unlawful or contrary to Executive Order or Presidential Directive (potential IOB matters). This electronic communication (EC) supersedes all previous oral and written guidance relating to reporting potential IOB matters.

(U) ~~Derived From: G-3~~
~~Declassify On: X25-1~~

Details: (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.

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DATE: 06-06-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-06-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

(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.¹ 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.² 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

¹ (U) The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations (AG Guidelines on General Crimes), effective 05/30/2002, are not considered guidelines or regulations approved by the Attorney General in accordance with EO 12333. Accordingly, any potential violation of the AG Guidelines on General Crimes should not be reported to OGC as a potential IOB matter.

² (U) This interpretation of the reporting requirements was furnished to the FBI by the PIOB during a meeting on 06/18/1982. William H. Webster, then Director of the FBI, concurred with this interpretation and confirmed the immediate implementation of reporting procedures in adherence to this interpretation in a letter, dated 07/14/1982, to Dr. W. Glenn Campbell, Chairman of the PIOB. This interpretation was confirmed by Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, by letter dated 04/08/1983.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

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.

PROCEDURES

1. (U) **Obligation to Report Potential IOB Matters.** All FBI employees have an obligation to report conduct that may be unlawful or contrary to Executive Order or Presidential Directive, as described in the previous paragraph, within 14 days of the discovery of the possible error or violation. The failure to report such matters, for whatever reason, may result in severe disciplinary action, up to and including dismissal from the FBI.

2. (U) **Reporting Procedures.** FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to Internal Investigations Section (IIS), INSD, and National Security Law Branch (NSLB), Office of the General Counsel, as discussed in this section.

3. (U) **Contents of IOB Reporting EC.** Reports of potential IOB matters are to be reported to INSD (Attn: IIS) and OGC (Attn: NSLB) by electronic communication (EC), uploaded into Case ID Number 278-HQ-C1229736-VIO, and should include the following information:

- A. The caption of the reporting EC should state: REPORT OF A POTENTIAL IOB MATTER;
- B. Identification of the substantive investigation in which the questionable activity occurred, including the names of relevant personnel including the case agent and his/her supervisor;³

³ (U) It is no longer necessary to put the names of the case agent and supervisor in the caption, but the names should be included in the text of the reporting EC.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

- C. Identification of the subject's (or asset's) status as a United States (U.S.) person or non-U.S. person;
- D. A complete and thorough explanation of the error believed to have been committed and all relevant facts. The explanation should include:
- (1) A statement regarding when the error occurred (including, in instances of delayed reporting, an explanation for the delayed reporting);
 - (2) A statement concerning the controlling law, regulation or NSIG provision that pertains to the violation [for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)"];
 - (3) A complete statement of the status of the investigation or matter including, if applicable, when it was initiated, when it expired, when it was renewed, and whether it currently is opened or closed; and
 - (4) A statement if and when a Foreign Intelligence Surveillance Act (FISA)

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

request has been submitted
to
Office of Intelligence
Policy
and Review, Department of
Justice (OIPR), if relevant.

4. (U) **Approval Level of Reportable IOB Matters.**
EC reports of potential IOB matters must be approved by the ADIC/SAC or Assistant Director, as appropriate. FBI personnel are encouraged to call NSLB with any questions as to what is required or should be included in initial reports of IOB matters.

5. (U) **Quarterly Reports.** In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to OGC (Attn: NSLB) an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOB matters. (See MAOP, Part 1, 1-22.) The canvassing of employees may be accomplished by e-mail within field offices and HQ divisions. EC certifications to OGC/NSLB may be approved by an ASAC or Deputy Assistant Director, as appropriate. If a field office or FBIHQ division has already reported the matter to OGC, such matter does not need to be included in the quarterly report.

6. (U) **Action by OGC/NSLB.**⁴ Following receipt of the information required by paragraph 3 above, OGC/NSLB will review the conduct described to determine if the reported error or violation requires notification to the IOB. OGC/NSLB will prepare a written opinion as to whether the matter is reportable to the IOB. If the reported matter is determined to require IOB notification, OGC/NSLB will prepare the necessary correspondence to the IOB setting forth the basis for the notification (see paragraph 8 below). That correspondence will be signed by the General Counsel or the General Counsel's designee. A copy of the correspondence will also be sent to INSD/IIS and to the SAC or Assistant Director who initially reported the matter for action deemed

⁴ (U) Once INSD has been notified that a potential IOB error has occurred, it will take any action which it deems appropriate.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

appropriate. Copies of that correspondence will also be delivered to the Office of the Attorney General, Department of Justice (DOJ), and OIPR.

7. (U) **Retention of reports of potential IOB matters that are not reported.** Reports of potential IOB matters determined by OGC/NSLB not to require notification to the IOB will be retained by INSD for three years for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required.

8. (U) **Conduct that must be reported as potential IOB violations.** The following incidents **must be reported** to OGC/NSLB as potential IOB violations. OGC/NSLB will then evaluate the potential IOB violation and determine whether the violation is reportable to the IOB. **This list is not exhaustive.** If there are any concerns regarding whether an incident is reportable to OGC/NSLB, please contact NSLB to discuss the matter.

A. (U) Engaging in activities believed to be unlawful or contrary to Executive Orders or Presidential Directives.

B. (U) Engaging in activities believed to violate the United States Constitution.

C. (U) Initiating electronic surveillance or physical search without authorization from the Foreign Intelligence Surveillance Court (FISC) or other legal authorization.

D. (U) Failing to terminate an authorized surveillance at the time prescribed by the FISC or other relevant legal authority.

E. (U) Engaging in investigative activity beyond the scope of the FISC order or other relevant legal authority.

F. (U) A carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

G. (U) Failing to adhere to the minimization or dissemination requirements specified in a FISC order or other relevant legal authority.

H. (S) [redacted]

I. (S) [redacted]

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J. (U) Failing to submit the annual LHM within 90 days of the date that it was due.⁵

K. (S) [redacted]

(U)

L. ~~(S)~~ Serving a National Security Letter (NSL) that contains a substantive typographical error that results in the acquisition of data that is not relevant to an authorized investigation (i.e., numbers on telephone number transposed).

(U)

M. ~~(S)~~ Serving an NSL that requests information that is beyond the scope permissible by statute (i.e. content information).

⁵ (S) [redacted]

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

(U) N. ~~(S)~~ A carrier providing information beyond the scope of an NSL resulting in the unintentional acquisition of data.

O. (S)

P. (S)

Q. (S)

R. (S)

S. (S)

9. (S)

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(U) If the potential IOB violation involves the unintentional acquisition of information under the Foreign Intelligence Surveillance Act, the field should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to the FISC, via OIPR, for appropriate disposition.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

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10. (U) This EC supersedes all previous oral and written guidance relating to IOB matters. Questions concerning the IOB process or reporting procedures should be directed to OGC/NSLB.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

LEAD(s):

Set Lead 1: (Action)

ALL RECEIVING OFFICES

(U) Disseminate to all division personnel.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 03/22/2007

To: [Redacted]

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

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Counterintelligence
Inspection

Attn: CD-1
Attn: IIS, CRS [Redacted]

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

Approved By: Thomas Julie [Signature]
[Redacted]
Drafted By: [Redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) ²⁴⁹⁹

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

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(U) **Synopsis:** ~~(S)~~ The [Redacted] Field Office [Redacted] requested that the Office of the General Counsel (OGC) review an incident and determine whether it warrants reporting to the Intelligence Oversight Board (IOB). It is the opinion of OGC that the incident does not need to be reported to the IOB. Rather, this electronic communication (EC) should be maintained in the control file for periodic review by Counsel to the IOB.

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(U) ~~Derived From:~~ G-3
~~Declassify On:~~ 03/21/2032

(U)

Administrative: ~~(S)~~ This EC contains information from the EC dated 2/21/2007 from [Redacted] to OGC reporting a potential IOB matter, a phone conversation between author and SSA [Redacted] on 3/13/2007 and an email dated 3/15/2007 from SA [Redacted]

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(S) **Reference:** ~~(S)~~ [Redacted]

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DATE: 06-06-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: [Redacted]

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WHERE SHOWN OTHERWISE

OIG/DOJ REVIEW: [Redacted] **DATE:** 4-24-07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

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b7E To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

Details: (S) By EC dated 2/21/2007, [redacted] requested that OGC review an incident and determine whether it warrants reporting to the IOB.¹ [redacted]

[redacted] As part of its investigation, [redacted] sought transactional information pursuant to 18 U.S.C. §2709 [redacted]

[redacted] A National Security Letter (NSL) [redacted] served [redacted]

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[redacted]

(S) ~~(S)~~ Upon review of the documents provided to [redacted] it was learned that the information provided, pursuant to the NSL, included information [redacted]

[redacted] reported that they did not upload nor analyze the results for the [redacted]

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[redacted]

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

[redacted] was placed in the file. [redacted] determination at the time was [redacted]

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[redacted] was entirely lawful and therefore no further action was necessary (i.e. reporting or sequestering).²

(U) ~~(S)~~ Thereafter, the Department of Justice, Office of the Inspector General (OIG) conducted an NSL audit [redacted] 2006. The audit called into question the acquisition of [redacted] At that time, [redacted] discussed [redacted]

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¹It should be noted that this submission was at the request of OGC in response to the OIG report on the FBI's use of national security letters wherein they reference 22 instances where they thought a potential IOB submission was in order. As discussed infra, [redacted] was not otherwise required to submit a potential IOB EC to OGC.

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²Since that time, on 3/13/2007, author advised [redacted] to sequester the records, out of an abundance of caution.

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b7E To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

(U) this with the OIG "during which it was agreed [redacted]
[redacted]
[redacted]"

(U) The plain language and legislative history of §2709 supports the position that the FBI is permitted to acquire information on associated numbers attributable to the same account. The plain language of §2709 allows the FBI to "request . . . toll billing records of a person." (emphasis added) Thereby allowing the FBI to acquire the records for all numbers subscribed to by the "person." Additionally, the legislative history of §2709 defines "toll billing records" and states:

As used in this section, toll billing records consist of information maintained by a wire or electronic communication service provider identifying the telephone numbers called from a particular phone or attributable to a particular account for which a communication service provider might charge a service fee. H.R. REP. 103-46, 1993 U.S.C.C.A.N. 1913. (emphasis added)

(U) Read together, §2709 and its legislative history clearly contemplate the acquisition of "associated" numbers. The use of the word "person" by Congress in section 2709 indicates that it did not seek to limit the acquisition of records to a particular number. The legislative history itself supports this interpretation by defining "toll billing records" as numbers called "from a particular phone" or "attributable to a particular account." Thus, Congress seemingly contemplated that a single subscriber ("person") might have multiply numbers in his/her name.

(S) [redacted] Here [redacted] [redacted] as

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b7D (S) required by statute. As a result, [redacted] issued an NCR

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b7E (S) [redacted] (emphasis added) In response, [redacted] provided [redacted]

(S) [redacted] [redacted]

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b7E (S) 'EC from [redacted] to General Counsel dated 2/21/2007 [redacted]
[redacted]

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To: [REDACTED] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

(S)

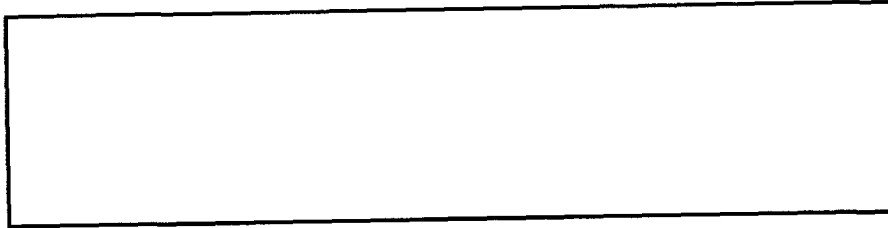
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[REDACTED] as well as the toll records for the other number subscribed to by the subscriber (i.e. the "associated" number).

(U) To prohibit the acquisition of this information would not only contravene the plain language and legislative history of §2709, but would also impede investigations by limiting the information that can be lawfully obtained.

(U) Although the attachment was not provided in this case it is nonetheless instructive on the point of whether [REDACTED] [REDACTED] should have reported this as a potential IOB. The attachment lists several items that can be considered "toll billing records" to include:

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(U) This attachment language mirrors the types of records contemplated by Congress and otherwise comports with the mandates of §2709.

(U) ~~(S)~~ Moreover, although released after the acquisition of information in this case, the official OGC IOB guidance released on 11/16/2006 is instructive. This guidance does not require reporting in the situation at hand and states in relevant part ". . . conduct that must be reported as potential IOB violations" include situations where, "[A] carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data." This, however, is inapposite to the situation at hand. Here, as discussed above, the associated number was not "beyond the scope of the . . . relevant legal authority," nor did it result in the "unintentional acquisition of data," because the NSL expressly requested "associated" records. Therefore, there was neither a carrier error nor an unlawful request.

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

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

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

(U) ~~(S)~~ In the instant case, the collection of information in July 2004 by the FBI was lawful. The plain language of §2709 and the accompanying legislative history allow for the acquisition of records for multiple numbers attributable to the same account. [redacted]

[redacted] in fact [redacted]

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(U) ~~(S)~~ Therefore, the acquisition of toll records for the associated number was entirely lawful and did not require reporting to OGC and subsequently does not need to be reported to the IOB.

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

LEAD(s):

Set Lead 1: (Info)

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[redacted]

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(S) ~~(S)~~ The records received pursuant to [redacted] NSL
request pertaining [redacted] do
not require further sequestration and can be analyzed and
uploaded as appropriate per logical investigation.

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(U) In addition, [redacted] is advised to include
the attachment (found on the OGC/NSLB website) along with every
NSL sent to each carrier.

Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

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cc: 1- Ms. Thomas
1- [redacted]
1- [redacted]
1- IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/22/2007

To: General Counsel

Attn: SSA [Redacted]
National Security Law Branch
Counterintelligence Law Unit

From: [Redacted]
Chief Division Counsel

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Contact: [Redacted]

Approved By: [Redacted]

Drafted By:

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-2218
(U) 62F [Redacted] 97317

Title: (U) Potential IOBs

See P.3 for violation # 8

(U) Synopsis: ~~(S)~~ Response to NSLB review/document request made by OGC on 02/20/2007.

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

(U) Enclosure(s): ~~(S)~~ Documents responsive to NSLB request.

b2 b7E (U) Details: ~~(S)~~ The enclosed documentation is provided to the NSLB as requested in the 02/20/2007 e-mail to the [Redacted] Division.

(S) A. [Redacted]

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

b1 (S) ~~(S)~~ 2. Potential IOB error: The National Security Letter was issued without approval to extend the [Redacted]

b2 b7E b1 (S) ~~(S)~~ 3. Description of potential IOB error: [Redacted] Division submitted an EC [Redacted] to Counterterrorism, ITOS I, on [Redacted] requesting Headquarters approval for [Redacted] extension

Schiller [Redacted] 5707
CRS [Redacted] Raw 05/08/07 ~~SECRET~~

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DATE: 06-06-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-06-2032

(U) To: General Counsel From: [redacted]
b2 Re: (S) 278-HQ-C1229736-VIO, 02/22/2007
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(S) of captioned [redacted] Per the NFIP manual,
(S) [redacted] Division needed such approval for an extension. [redacted]
[redacted] and therefore, [redacted] Division's
EC of [redacted] was well in advance [redacted]
(S) Counterterrorism responded via an EC on [redacted]

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b7E (S) [redacted] Since the EC and the National Security
Letter in question [redacted] was well
within the authorization period. [redacted] Division does note that
an EC [redacted] was written on [redacted] which noted the
(S) [redacted] Division believes the
author of [redacted] used the date of the EC [redacted]

(S) B. [redacted]

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b7C (S) 1. [redacted]

(U) (S) 2. Potential IOB error: A National Security Letter requesting
FCRA consumer full credit report data was issued in a
counterintelligence case.

(U) (S) 3. Description of potential IOB error: In this case, two
National Security Letters were issued for financial data, [redacted]
[redacted] and the other to [redacted]. The National Security Letter sites
Title 15, USC, section 1681v. This is the legal provision allowing
for full credit reports in terrorism matters. In counterintelligence
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b7D matters, under Title 15, USC 1681u(a), agents are entitled to credit
listings (information pertaining to financial institutions, addresses
of those institutions, places of employments, etc.), but not to a full
credit report.

(S) C. [redacted]

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b7C (S) 1. [redacted] was
initiated by the [redacted] Division [redacted]

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b7E (S) 2. Potential IOB error: The National Security Letter contained a
typographical error.

(U) (S) 3. Description of potential IOB error: An electronic
communication dated 04/11/2005 requested the issuance of three FCRA
National Security Letters pursuant to Title 15, USC, section 1681u(a)

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To: General Counsel From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 02/22/2007

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and 1681u(b). The National Security Letters, also dated 04/11/2005, contained the language that, pursuant to Executive Order 12333, dated 12/04/1981, and Title 15, USC, section 1681v. There was a typographical error on the part of the drafter of the National Security Letter who, instead of properly drafting 1681u(a) and 1681u(b), drafted 1681v on all three National Security Letters.

(U)

(S) 4. The Office of General Counsel guidance per EC dated 11/16/2006 provides that a typographical error of this type must be reported as a potential IOB violation.

(S) D. [redacted]

(S) 1. [redacted]

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(S) 2. Potential IOB error: The information obtained was not relevant to an authorized National Security investigation as it was a third party error.

(S)

(S) 3. Description of potential IOB error: The specific request was to [redacted] for [redacted]. A review of the response [redacted] revealed that there [redacted] mixed in with the package of [redacted] results provided to the [redacted] Division of the FBI. The amount of material received [redacted] was voluminous. As such, the case agent did not catch this as it appears to be an over-collection. None of this information was indexed and no follow up investigation was conducted on the toll record information.

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(S) E. [redacted]

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(S) 1. [redacted]

(U)

(S) 2. Potential IOB error: Carrier error in providing agent with information not authorized by National Security Letter.

(S)

(S) 3. Description of potential IOB error: In accordance with an approved ECPA National Security Letter [redacted] returned to the [redacted] Division records [redacted] for [redacted]. Additionally, records were also provided to the [redacted] Division from [redacted]. This error was on the part [redacted] and not [redacted].

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To: General Counsel From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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b7D (U) the case agent. The National Security Letter specifically requested records for the e-mail account from [redacted]

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(U) To: General Counsel From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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(Rev. 01-31-2003)

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-06-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-06-2032

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FEDERAL BUREAU OF INVESTIGATION 1073946

Precedence: ROUTINE

Date: 03/08/2007

To: [Redacted]

Attn: SAC [Redacted]
ASAC [Redacted]
CDC [Redacted]

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Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLB/CILU/Room 7947
Contact: SSA [Redacted]

Approved By: Thomas Julie F. [Signature]

(U) Drafted By: [Redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) 2742

b2 Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD [SEE P. 5 FOR OGC OPINION]
MATTER 2007 [Redacted] [SEE P. 6 OF FRIEDMAN LETTER FOR LHM]

(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that the matters in sections A and B (designated below) must be reported to the Intelligence Oversight Board (IOB). OGC will prepare and deliver the necessary correspondence to the IOB.

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

(U) Administrative: ~~(S)~~ This electronic communication (EC) contains information from the following documents: (1) a copy of the EC dated 02/22/2007 from the [Redacted] Field Office [Redacted] to OGC reporting eight potential IOB matters, and (2) the FBI's Automated Case Support system (ACS).

(U) ~~(S)~~ [Redacted] opted to submit all eight potential IOB issues in one EC. The EC was divided into five separate sections, A-E, and our response will be drafted in a similar manner for continuity purposes. These reported IOB matters are all derived from the audit conducted by the Office of Inspector General (OIG) which took place over the summer of 2006 at four FBI field offices.

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OIG/DOJ REVIEW: [Redacted]
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]
DATE: 4-24-07
(12)

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

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Reference: ~~(S)~~ 278-HQ-C1229736-VIO, serial 2218
(U) 62F [redacted]-97317, serial [redacted]

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Details: ~~(S)~~ By EC dated 02/22/2007, [redacted] provided OGC written documentation of eight issues that require a review of the facts in order to determine whether they warrant reporting to the IOB. In our opinion, as to three issues (the one in section A and the two in section B), it does. Our analysis follows.

(S) A. [redacted]

(S)

~~(S)~~ [redacted]
[redacted] During the investigation the case agent obtained several extensions. [redacted] Extensions were granted [redacted] or [redacted] and OGC, by the OIG, was that [redacted] allegedly issued a National Security Letter (NSL) without obtaining required approval. [redacted] A detailed review of ACS and the [redacted] EC indicate that [redacted] s actions may have resulted in an unintentional error.

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(S) [redacted] drafted and submitted an EC to FBIHQ requesting [redacted]

[redacted] FBIHQ did not respond to his request until [redacted] response, FBIHQ granted [redacted] as opposed to the requested [redacted] in its response. [redacted]

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[redacted] because of this failure, to all now reading this document, a presumption is made that [redacted] granted by FBIHQ should be [redacted] However, [redacted] date was never formally approved by FBIHQ. Therefore, [redacted] given by FBIHQ should have been [redacted] date which would have made [redacted] Since [redacted] the NSL written [redacted]

(S)

~~(S)~~ To make the matter above more complicated, FBIHQ, after already having granted [redacted] extension [redacted] requested [redacted] that [redacted] submit an annual Letterhead Memorandum (LHM) because FBIHQ advised that [redacted]

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[redacted] without an annual LHM. [redacted] after receiving an [redacted]

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

(S)

LHM [redacted] FBIHQ submitted the LHM to OIPR and advised that [redacted] had been granted. However, the [redacted] still had to revert back to the last officially known [redacted] date, which was [redacted] not [redacted]

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(S) It is apparent, that the error was compounded by the fact that a new set of Attorney General Guidelines came into effect on 10/31/2003, further confusing [redacted]. Any error made by [redacted] in the described case was not malicious in nature, and was made in good faith. Had the case agent been aware that the case actually [redacted] and not the mistakenly believed date [redacted], this error would have never occurred. Unfortunately for [redacted] the errors reflected on the previous communications in the case file caused an NSL to be issued [redacted]

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[redacted] never received any information from the carrier concerning this request, the issuing of the NSL still constitutes a violation which is reportable to the IOB.

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(S) B. [redacted]

(S)

(S) [redacted] investigation, [redacted] submitted two NSL requests, [redacted]. Both of the NSLs and the cover [redacted] quoted the statutory authority to be Title 15, USC 1681v. This authority, however, deals solely with terrorism investigations and allows the FBI to obtain full credit reports. The authority that should have been quoted by [redacted] in a counterintelligence investigation was Title 15, USC 1681u(a), which enables the FBI to obtain [redacted] [redacted], but not full credit reports.

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(S) [redacted] advised that all information received by this unintentional oversight was sequestered in the safe of their Chief Division Counsel. [redacted] advised that the improperly obtained information has not been used in their investigation. [redacted] recognizes the error and that the improperly collected information, although unintentional, constitutes a violation which is reportable to the IOB.

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(S) C. [redacted]

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

(S) (X) [redacted] pursuant to a terrorism investigation, [redacted] issued three NSLs [redacted] pursuant to Title 15, USC 1681v, the terrorism statute, requesting full credit reports on the subject of the investigation. The cover EC [redacted] used to request the issuance of the three NSLs used the language stating the authority was being granted pursuant to Title 15, USC 1681u(a), the counterintelligence statute. In the cover EC [redacted] only asked for [redacted] as opposed to the full credit reports requested in the NSLs.

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(U) (S) (X) A review of the 02/22/2007 EC from [redacted] reporting the potential IOB infractions caused some confusion for the writer, so on 03/08/2007 the writer had a phone conversation with the drafter of the [redacted] EC. [redacted] explained that since it was a terrorism case, the verbiage in the NSLs was correct, and each of the NSLs were reviewed and signed. [redacted] informed that the EC that was used was a mistake on the part of the agent that drafted the cover document. [redacted] added that the investigation warranted the requested NSLs and [redacted] companies never would have been confused by the EC because they do not receive a copy of that document. The EC is merely used as a means of submitting the NSLs (that were attached) to the case file. The mistake in the EC, although sloppy, did not alter the investigation in anyway, and this scrivener's error, citing to 1681u rather than 1681v, did not violate any law. [redacted] had the ability under a terrorism investigation to request credit reports, and they made that request. Therefore, OGC believes that the mistake made by [redacted] was administrative in nature, and does not warrant reporting to the IOB.

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b1 (S) D. [redacted]

(S) (X) [redacted] On 10/03/2005 [redacted] issued a NSL which requested that [redacted] records [redacted] sent records to [redacted] for information from [redacted] learned of the third-party mistake and took the appropriate steps to sequester the additional [redacted] records that were sent to them. [redacted] advised that they did not do any indexing or follow-up analysis on the over-collected information.

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b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007

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(S) Despite the mistake [redacted] the FBI had a legal right to the over-collected information they received. However, since the records were not requested, [redacted] sequestered the documents. Therefore, no improper action on the part of [redacted] occurred, and OGC believes that this matter does not warrant reporting to the IOB.

b1 (S) E. [redacted]

(S)

[redacted] issued a NSL requesting information [redacted]

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In response to that request, the provider produced information [redacted]. This additional [redacted]

[redacted] data [redacted] would have been obtainable by the field office had they requested it. The over-collected information has been sequestered by [redacted]

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(S) A review of all the facts in this section demonstrates that [redacted] was not at fault in receiving [redacted] records outside the scope of the properly issued NSL. OGC believes this matter does not warrant reporting to the IOB.

SUMMARY

(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

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

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

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

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(U) ~~(S)~~ In these eight potential IOB matters, OGC believes that only three, these in sections A and B, warrant reporting to the IOB. The other five matters are a result of administrative or third-party errors. In regard to the relevant, but unintentionally collected information, [REDACTED] is instructed to keep all information sequestered until a discussion is had with the issuing entity. As to the reportable matters in sections A and B, OGC will prepare a cover letter and a memorandum to report these matters to the IOB.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

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[redacted]

(U) In matters involving over-collected materials, the [redacted] Field Office should contact the parties in which NSLs were served and allow the entities to determine whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. If the information is relevant, a new NSL requesting the previously unrequested information may be submitted to the entity.

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(U) [redacted] is reminded of its responsibility, pursuant to Deputy Director Pistole's directive of 03/06/2007, to review all counterintelligence cases utilizing NSLs to determine if other full credit reports under 15 U.S.C. § 1681v were improperly obtained.

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cc: Ms. Thomas

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[redacted]
IOB Library

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