



# Homeland Security

*Privacy Office, Mail Stop 0655*

December 15, 2009

Mr. Nathan D. Cardozo  
Open Government Legal Fellow  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco CA 94110-1914 USA

Re: **DHS/OS/PRIV 09-868**

Dear Mr. Cardozo:

This is an interim response to your June 19, 2009, Freedom of Information Act (FOIA) requests submitted to the Department of Homeland Security (DHS) Office of Inspector General (OIG) and the Office of the General Counsel (OGC). You requested copies of the following records:

- 1.) All reports submitted to the Intelligence Oversight Board ("IOB") pursuant to Section 2.4 of Executive order 12863 from February 25, 2008 to February 29, 2008; and
- 2.) All reports submitted to the IOB of the Director of National Intelligence ("DNI") pursuant to Section 1.7(d) of Executive order 12333 from February 29, 2008 to the present.
- 3.) All reports of any assessments or reviews of intelligence activities by the President's Intelligence Advisory Board (PIAB") to the DHS pursuant to Sec. 4(a)(ii) of Executive Order 13462 from February 29, 2008 to the present.
- 4.) All recommendations concerning intelligence matters identified by the PIAB to the DHS pursuant to Sec. 4(b) of Executive Order 13462 from February 29, 2008 to the present.
- 5.) All reports and recommendations by the IOB to the DHS pursuant to Sec. 6(c) of Executive Order 13462 concerning the performance of the DHS under Executive Order 13462 from February 29, 2008 to the present.
- 6.) All records containing information and all recommendations for corrective action submitted by the IOB to the DHS pursuant to Sec. 6(d) of Executive Order 13462 from February 29, 2008 to the present.
- 7.) All requester for investigations of intelligence activities by the IOB to the DHS and reports by the DHS to the IOB of the results of those investigations pursuant to Sec. 6(e) of Executive Order 13462 from February 29, 2008 to the present.
- 8.) All reports made by the DHS to the IOB or PIAB pursuant to Sec. 8(c) of Executive order 13462, concerning the reasons for not implementing a PIAB or IOB recommendation from February 29, 2008 to the present.

To date, our search has produced 51 pages of responsive records. Of those pages, I have determined that 31 pages are releasable in their entirety, 13 pages are partially releasable, and 7 pages are withheld in their entirety pursuant to the FOIA, 5 U.S.C. §§ 552 (b)(2)(high), (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E). Enclosed are 44 pages with certain information withheld, as described below:

Exemption 2 (high) protects information applicable to internal administrative matters to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk. Exemption 5 exempts from disclosure certain inter- and intra-agency communications protected by deliberative process privilege, attorney work-product privilege, and attorney-client privilege. Exemption 6 exempts from disclosure records the release of which would cause a clearly unwarranted invasion of personal privacy. Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

Although this matter is currently in litigation, please be advised that the DHS FOIA regulations, 6 C.F.R. § 5.9, set forth procedures for filing an appeal. Appeals must be submitted to DHS within 60 days of the date of our final response, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [http://www.dhs.gov/xlibrary/assets/FOIA\\_FedReg\\_Notice.pdf](http://www.dhs.gov/xlibrary/assets/FOIA_FedReg_Notice.pdf); Internet; accessed December 11, 2009.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. As a media requester, you are responsible for the cost of duplication only in excess of 100 pages. Therefore, there is no charge associated with this response. As such, your request for a fee waiver is moot.

Our office continues to process your request. If you have any questions regarding this response, you may contact this office at 866-431-0486 or 703-235-0790. Please reference **DHS/OS/PRIV 09-868** in any future correspondence with this office.

Sincerely,



Vania T. Lockett  
Associate Director, Disclosure & FOIA Operations

Enclosures: As stated, 44 pages

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U.S. Department of Homeland Security  
Washington, DC 20528



Homeland  
Security

Homer Pointer  
General Counsel, Intelligence Oversight Board  
New Executive Office Building, Room 5020  
Washington, DC 20500

Re: United States Coast Guard and Department of Homeland Security Office of Intelligence and Analysis Intelligence Oversight Quarterly Report

Dear Mr. Pointer:

Pursuant to Executive Order (EO) 12863, we are forwarding to you the October 2007 – December 2007 Intelligence Oversight Quarterly Report of the United States Coast Guard (USCG) and information about the intelligence oversight activities of the Office of Intelligence and Analysis (I&A).

I&A reported two questionable activities during the quarter. In late September 2007, an I&A intelligence analyst working at the department's National Operations Center allegedly performed and requested intelligence and law enforcement database checks on an individual for personal reasons. After learning of the alleged activity, the analyst's managers reported the incident to the Department of Homeland Security (DHS) Office of General Counsel (OGC), (b)(6) (b)(7)(c)

In early October 2007, I&A released an intelligence note entitled *Nation of Islam: Uncertain Leadership Succession Poses Risk*. I&A distributed the note by email to 482 addressees, including those of DHS staff, other members of the Intelligence Community, representatives of other federal departments and agencies, congressional staff, and at least one state government entity and one educational institution. Immediately after distribution of the intelligence note, both the Associate General Counsel for I&A and I&A's Intelligence Oversight Officer expressed concerns about the content and dissemination of the intelligence note. In response to these concerns, I&A recalled the intelligence note a few hours after the initial email distribution and requested that recipients delete and destroy their copies of the intelligence note.

After consulting with the Office of Inspector General (OIG), the Associate General Counsel for I&A verbally notified the IOB Acting General Counsel of the incident. I&A's Intelligence Oversight Officer subsequently conducted an inquiry into the matter. He determined that I&A had violated internal intelligence oversight guidelines by collecting and retaining information on the Nation of Islam and other U.S. Persons named in the intelligence note for more than 180 days without making

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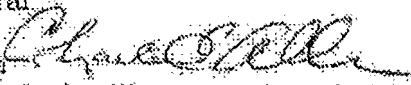


# Homeland Security

March 28, 2008

Memorandum For: Gus Cordebella  
Acting General Counsel

Richard Skinner  
Inspector General

From: Charles E. Allen   
Under Secretary for Intelligence and Analysis

Subject: Intelligence Oversight Inquiry into the Production and  
Dissemination of Office of Intelligence and Analysis  
Intelligence Note

I have reviewed the memorandum prepared by Mr. L.A. "Ole" Broughton, the Intelligence Oversight Officer for the Office of Intelligence and Analysis, on the intelligence note prepared on 12 October 2007, entitled, "Nation of Islam: Uncertain Leadership Succession Poses Risk." As Mr. Broughton notes in his memorandum, this intelligence note was recalled almost immediately after dissemination, based on concerns that it violated intelligence oversight rules involved in collecting, retaining, and disseminating information on US persons and on US organizations.

In my view, Mr. Broughton has conducted a thorough review of this matter, and I accept his conclusion that the Extremist and Radicalization Branch (ERB) may have unintentionally and inadvertently violated the "rules" set forth in the referenced "Oversight Memorandum." I endorse the additional protective measures recommended by Mr. Broughton and will direct their implementation. These protective actions should prevent any issuance of analytic pieces that could raise questions as to whether they meet the rule set contained in the Oversight Memorandum.

(b) (5)

(b) (5)

(b) (5)

This is not surprising  
as intelligence organizations prepare intelligence assessments and analytic pieces

on a vast array of issues where there are no "specific tasking." And the Intelligence Community has a long-established practice of disseminating written products widely in order to inform as many readers as possible on important intelligence issues. In fact, Intelligence Community analysts—in an environment of information sharing—are consistently reminded to "write for release" and to prepare analytic pieces at the lowest classification level possible. (b) (5)

(b) (5)

(b) (5) Analysts actually write analytic pieces to inform officials at the federal level as well as those at state, local, and private sector levels on potential threats or on issues that fall directly within homeland security intelligence parameters—including assessing groups or organizations extremist in nature—which may advocate violence or engage in violence.

(b) (5)

(b) (5)

I know of no analyst under my management who operates this way. Good analysts are always alert to the possibility of what I call "abrupt discontinuity" in order to warn of new threats. Analysts who operate only in a linear fashion are certain to fail to discern abrupt changes in the threat environment and thus fail to warn of impending threats that could damage US interests. We know the failure to discern "abrupt discontinuity" has always been an Achilles' heel of the Intelligence Community. This phenomenon, which occurs both strategically and tactically, has cost our country dearly in the past. The failure of 9/11 was not a failure to "connect the dots" but fundamentally a failure to understand al Qaeda's capacities to strike intercontinentally, using asymmetric means.

Nonetheless, I agree that the intelligence note on the Nation of Islam should not have been issued. The organization—despite its highly volatile and extreme rhetoric—has neither advocated violence nor engaged in violence. Moreover, we have no indications that it will change its goals and priorities, even if there is a near-term change in the organization's leadership.

I want to emphasize in my two-plus years in heading DHS Intelligence, my analysts have written thousands of analytic intelligence assessments. During that period, I know of no other case where questions have been raised about the appropriateness of I&A's analysis. We are, moreover, keenly aware of our responsibilities when it comes to the protection of the privacy, civil rights, and civil liberties of all Americans. I remain immensely proud of my analysts and of the quality of their work.

Cc: L. A. "Ole" Broughton  
Intelligence Oversight Officer

*Office of Inspector General*U.S. Department of Homeland Security  
Washington, DC 20528**Homeland  
Security**

MEMORANDUM FOR: Matthew Kronisch  
Associate General Counsel (Intelligence)

FROM: Carlton I. Mann  
Assistant Inspector General for Inspections

SUBJECT: Intelligence Oversight Quarterly Report for the  
First Quarter of Calendar Year 2009

Attached is the quarterly intelligence oversight report to the President's Intelligence Oversight Board (IOB) for the first quarter of the calendar year, January 2009 – March 2009. In preparing this letter, we consulted with your office and obtained concurrence with its contents.

Please pass the enclosed letter to the General Counsel for his signature. When he has reviewed, signed, and dated the letter, please forward it to the General Counsel of the IOB in accordance with IOB procedures. In addition, please provide copies to the indicated Office of the Director of National Intelligence IOB Team, the U.S. Coast Guard's Senior Counsel for Intelligence and Criminal Investigations, the Office of Intelligence and Analysis' Intelligence Oversight Officer, and one an additional copy to me, for our records.

Should you have any questions, please contact me, or your staff may contact (b) (6) at  
(202) 254-(b) (6)

Attachment

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U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

Homer Pointer  
General Counsel, Intelligence Oversight Board  
New Executive Office Building, Room 5020  
Washington, DC 20500

Re: United States Coast Guard and Department of Homeland Security, Office of Intelligence and Analysis Intelligence Oversight Quarterly Report

Dear Mr. Pointer:

This Intelligence Oversight Quarterly Report for the United States Coast Guard (USCG) and Department of Homeland Security (DHS) Office of Intelligence and Analysis (I&A) for the period January 2009 – March 2009 is submitted pursuant to Executive Order (E.O.) 13462.

**Office of Intelligence and Analysis Reports**

During the covered period, I&A reported one questionable activity which was investigated, assessed and resolved as follows:

During the first week of February, 2009, I&A's representative to the State of Wisconsin Fusion Center, having received erroneous guidance from his supervising DHS program office regarding his authority to support local police and public safety efforts, prepared a threat assessment regarding a local demonstration by pro- and anti-abortion groups. Only two copies of the threat assessment were distributed: one to the fusion center director and one to the local police department. Recognizing the sensitivity of the reporting, the I&A representative sought assistance from DHS' Office for Civil Rights and Civil Liberties and Office of the General Counsel. This activity, requiring the collection, retention, and dissemination of U.S. person information regarding protest groups which posed no threat to homeland security was outside of I&A's authorized mission and violated the I&A Interim Intelligence Oversight Guidelines.

The report is unlikely to have any effect on national security or international relations. Due to the limited dissemination, the report is unlikely to have any impact on civil rights or civil liberties. All copies of the report held by I&A have been destroyed or deleted.

The Intelligence Oversight Officer conducted remedial training with the Field Representative emphasizing I&A's authorities, which must be followed at all times and the requirement pursuant to I&A's Interim Intelligence Oversight Procedures to coordinate any initiative with the Office of General Counsel (Intelligence) that may impact constitutionally protected activities. Additionally,

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the Office of General Counsel (Intelligence) met with the representative's supervisory program office to discuss and advise regarding its guidance to the field.

**United States Coast Guard Intelligence Element Reports**

The intelligence elements of the United States Coast Guard (USCG) did not report any questionable or unlawful intelligence activities during the reporting period. The Coast Guard Criminal Investigative Service continues to monitor and assist the FBI with two cases referred pursuant to 50 U.S.C. §402a or 28 U.S.C. §533.

Should you have any questions, please contact Mr. Matthew L. Kronisch, DHS Associate General Counsel for Intelligence, who may be reached at 202-282(b)(6) or Mr. Carlton I. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,

Ivan Fong  
General Counsel

Richard L. Skinner  
Inspector General

cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of National Intelligence  
Office of the Director of National Intelligence, Office of General Counsel IOB Team  
Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG  
Intelligence Oversight Officer, I&A

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Office of Inspector General

U.S. Department of Homeland Security  
Washington, DC 20528

# Homeland Security

JAN 07 2009

Homer Pointer  
General Counsel, Intelligence Oversight Board  
New Executive Office Building, Room 5020  
Washington, DC 20500

Re: United States Coast Guard and Department of Homeland Security, Office of Intelligence and Analysis Intelligence Oversight Quarterly Report

Dear Mr. Pointer:

This Intelligence Oversight Quarterly Report for the United States Coast Guard (USCG) and Department of Homeland Security (DHS) Office of Intelligence and Analysis (I&A) for the period July 2008 – September 2008 is submitted pursuant to Executive Order (E.O.) 13462.

### Office of Intelligence and Analysis Reports

I&A reported one new incident and provided an update on a past incident in its quarterly report.

#### Homeland Intelligence Report on a Muslim Conference in Georgia

On May 22, 2008, I&A released (b)(2) High (b)(7e)

—titled, *TERRORISM WATCHLIST: Information Regarding a Flier Posted at a Mosque in Ohio Announcing an Upcoming Conference in Georgia*. (b)(2) reported on the activities of two individuals with (b)(2) High (b)(7e) and information in a flier posted outside a U.S. mosque. The flier announced an upcoming conference at a mosque in Georgia and listed all the speakers. Several speakers were U.S. citizens. One of the speakers was seen outside the Columbus mosque speaking to one of the individuals (b)(2) (b)(2). However, there was no information in the flier or the website tying the conference to radical extremism or terrorist activity. It was within I&A's authority to collect, retain, and disseminate information regarding the activities of the two individuals (b)(2) (b)(2) High (b)(7e) but outside I&A's authority to collect, retain, and disseminate information regarding the conference in Georgia or the speakers who were U.S. persons. I&A did not have any evidence the conference or the speakers promoted radical extremism or terrorist activity, and their activity is protected by the First Amendment of the Constitution. Reporting on it violated I&A's Interim Intelligence Oversight Guidelines. However, due to the limited distribution (b)(2) (b)(2) there is no evidence of any lasting impact on civil liberties and privacy rights, nor is there any evidence of impact on national security or U.S. relations with other nations.

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The source information has been destroyed or deleted, except for information relating to (b)

(2)

In an effort to prevent future incidents of this type, Office of General Counsel (OGC) staff and the I&A Intelligence Oversight Officer plan to continue to meet with I&A personnel to identify issues regarding the collection, retention, and dissemination of U.S. person information.

Congressional Correspondence

The Secretary of Homeland Security received correspondence from U.S. Senators Feingold and Rockefeller (see classified attachment) expressing their concern regarding certain I&A intelligence products which had previously been reported to the IOB, I&A's conduct of analysis regarding certain domestic matters, and the role of another DHS component in a related initiative. The Office of the Director of National Intelligence (ODNI) was notified of the letter and is coordinating on the anticipated response.

Update to Corrective Actions Related to the HSDN Posting

I&A is in the process of drafting a Privacy Impact Assessment (PIA) for I&A's Homeland Secure Data Network (HSDN) webpage. The HSDN PIA remains in draft pending the issuance of final I&A information handling guidelines, currently in development by an I&A working group. In the interim,


(b)(2) High (b)(7e)

**United States Coast Guard Intelligence Element Reports**

The intelligence elements of the United States Coast Guard (USCG) did not report any questionable or unlawful intelligence activities during the reporting period. In addition, the Coast Guard Counter Intelligence Service (CGCIS) completed its biannual oversight inspection, and did not note any deficiencies or reportable issues. CGCIS continues to monitor and assist the Federal Bureau of Investigation with three cases referred pursuant to 50 U.S.C. §402a or 28 U.S.C. §533. One of these three cases is being closed.

Should you have any questions, please contact Mr. Matthew L. Kronisch, DHS Associate General Counsel for Intelligence, who may be reached at 202-282-(b)(6), or Mr. Carlton I. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,



Gus P. Coldebella  
General Counsel



Richard L. Skinner  
Inspector General

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cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of  
National Intelligence  
Senior Associate General Counsel, Office of the Director of National Intelligence  
Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG  
Intelligence Oversight Officer, I&A

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Office of Inspector General

U.S. Department of Homeland Security  
Washington, DC 20528



Homeland  
Security

FEB 23 2009

MEMORANDUM FOR: Matthew Kronisch  
Associate General Counsel (Intelligence)

FROM: Carlton I. Mann *Carlton I. Mann for*  
Assistant Inspector General for Inspections

SUBJECT: Intelligence Oversight Quarterly Report for the  
Fourth Quarter of Calendar Year 2008

Attached is the quarterly intelligence oversight report to the President's Intelligence Oversight Board (IOB) for the fourth quarter of the calendar year, October 2008 – December 2008. In preparing this letter, we consulted with your office and obtained concurrence with its contents.

Please pass the enclosed letter to the Acting General Counsel for his signature. When he has reviewed, signed, and dated the letter, please forward it to the General Counsel of the IOB with four copies. In addition, please provide copies to the indicated Office of the Director of National Intelligence representatives, one to the U.S. Coast Guard's Senior Counsel for Intelligence and Criminal Investigations, one to the Office of Intelligence and Analysis' Intelligence Oversight Officer, and an additional copy to me, for our records.

Should you have any questions, please contact me, or your staff may contact (b) (6) at (202) 254(b) (6)

Attachment

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U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

Homer Pointer  
General Counsel, Intelligence Oversight Board  
New Executive Office Building, Room 5020  
Washington, DC 20500

Re: United States Coast Guard and Department of Homeland Security, Office of Intelligence and Analysis Intelligence Oversight Quarterly Report

Dear Mr. Pointer:

This Intelligence Oversight Quarterly Report for the United States Coast Guard (USCG) and Department of Homeland Security (DHS) Office of Intelligence and Analysis (I&A) for the period October 2008 – December 2008 is submitted pursuant to Executive Order (E.O.) 13462.

**Office of Intelligence and Analysis Reports**

I&A reported no new incidents in its quarterly report.

DHS has updated its implementer required by Section 2.3 of Executive Order 12333, taking into account the recent revisions to the Executive Order. DHS Instruction 215-001 was coordinated with the Department of Justice and its recommendations incorporated into the document. DHS continues to consult with the Office of the Director of National Intelligence (ODNI) regarding its recommendations.

Following coordination with the ODNI, the Federal Bureau of Investigation and the National Counter Terrorism Center, DHS provided a response to Senators Feingold and Rockefeller regarding their correspondence (reported in the previous quarterly report) concerning certain I&A intelligence products and other matters. A copy of the response has been previously provided your office and is attached hereto.

**United States Coast Guard Intelligence Element Reports**

The intelligence elements of the United States Coast Guard (USCG) did not report any questionable or unlawful intelligence activities during the reporting period. The Coast Guard Criminal Investigative Service continues to monitor and assist the Federal Bureau of Investigation with two cases referred pursuant to 50 U.S.C. §402a or 28 U.S.C. §533. One of these three cases is being closed.

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Should you have any questions, please contact Mr. Matthew L. Kronisch, DHS Associate General Counsel for Intelligence, who may be reached at 202-284(b)(6) or Mr. Carlton I. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,

David Martin  
Acting General Counsel



Richard L. Skinner  
Inspector General

cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of National Intelligence  
Senior Associate General Counsel, Office of the Director of National Intelligence  
Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG  
Intelligence Oversight Officer, I&A

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Office of Inspector General

U.S. Department of Homeland Security  
Washington, DC 20528**Homeland  
Security**

NOV 24 2008

Homer Pointer  
General Counsel, Intelligence Oversight Board  
New Executive Office Building, Room 5020  
Washington, DC 20500

Re: United States Coast Guard and Department of Homeland Security, Office of Intelligence and Analysis Intelligence Oversight Quarterly Report

Dear Mr. Pointer:

Pursuant to Executive Order (E.O.) 13462, we are forwarding to you the April 2008—June 2008 Intelligence Oversight Quarterly Report of the United States Coast Guard (USCG) and Office of Intelligence and Analysis (I&A).

**Office of Intelligence and Analysis Reports**

I&A reported several incidents and activities of interest during the quarter. When I&A has become aware of a potential intelligence oversight violation, it has taken timely steps to investigate the activity, mitigate the consequences of a violation where one is deemed to have occurred, and identify appropriate corrective actions.

***Mainstream Voices Intelligence Note***

On April 29, 2008, I&A released an intelligence note entitled, *Identifying Mainstream Voices: Influential Speaker Counters Islamic Extremism*. The intelligence note focused on the role of a known U.S. Muslim leader in countering violent Islamic extremism, and identified possible misinformation about the leader. The intelligence note also contained other information on groups and individuals considered to be U.S. Persons. I&A prepared the note for the DHS Office for Civil Rights and Civil Liberties (CRCL) for it to use in its outreach program, and subsequently distributed the note to a broader audience. I&A was within its authority to prepare the intelligence note and disseminate it to additional recipients. However, I&A did not minimize U.S. person information in the note prior to its further dissemination, which is in violation of I&A's interim intelligence oversight procedures.

After reviewing the intelligence note and its dissemination list, (b) (5)

The intelligence note was administratively recalled and removed

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from web portals where it had been posted. I&A is minimizing the note's U.S. Person information and will disseminate the revised note to a limited audience.

I&A personnel were subsequently queried about the intelligence note by staff members from the Senate Select Committee on Intelligence and Senate Judiciary Committee. The Under Secretary and members of his staff and Counsel met with staff from both committees on two separate occasions in mid-May 2008, and continue to maintain an active dialogue concerning this product.

*Hizb ut-Tahrir Special Assessment*

On May 14, 2008, I&A released a Special Assessment entitled, *Hizb ut-Tahrir United States: Emerging Threat for Radicalizing American Muslims*. Hizb ut-Tahrir United States (HTUS) was not marked as a U.S. Person in the assessment's initial release. After reviewing the assessment, as well as background information on the group, (b) (5)

and HTUS be marked as a U.S. Person. On May 15, 2008, the assessment was administratively recalled, HTUS was marked as a U.S. Person, and the assessment was re-released.

*Homeland Security Data Network Postings*

On May 20, 2008, I&A's Intelligence Oversight Officer learned that I&A has been posting products from state and local agencies on the Homeland Secure Data Network (HSDN), DHS's Secret Internet Protocol Router Network (SIPRNET) equivalent, since at least 2005. The HSDN web-based portal has several sub-portals that provide users access to I&A intelligence products as well as products originated by other DHS components, federal agencies outside of DHS, and state and local agencies. In a review conducted by the I&A Intelligence Oversight Officer, it was determined that more than 350 state and local agency products were posted onto I&A's HSDN sub-portal. I&A's Intelligence Oversight Officer reviewed these products and identified numerous state and local agency reports on U.S. Person activities, including, in some cases, activities that could be considered constitutionally protected. It was determined that the posting on I&A's HSDN sub-portal of these state and local agency products violated I&A's interim U.S. Person procedures.

(b) (5)

*Update on Corrective Actions Related to the Nation of Islam Intelligence Note*

I&A has taken several corrective actions to address concerns raised following the release of its October 2007 intelligence note, *Nation of Islam: Uncertain Leadership Succession Poses Risk*.

- Copies of each of I&A division's mission statements were forwarded to the Office of General Counsel (Intelligence) and Office of Inspector General for review. (b) (5)

I&A drafted a revised mission statement for the division that prepared the Nation of Islam note, the Homeland Environment Threat Analysis Division (HETA).

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- I&A's Intelligence Oversight Officer and representatives of the Office of General Counsel held a workshop in May 2008 with HETA analysts. Discussions centered on collection, analysis, and reporting on the radicalization process while ensuring the protection of civil rights and civil liberties.

(b)(2) High (b)(7e)

- I&A's Production Management Division has updated the dissemination matrix in its Product Abstract that will allow analysts to further delineate which entities should receive particular intelligence products.
- The Office of General Counsel (Intelligence) and the I&A Intelligence Oversight Officer continue to work closely with analysts from HETA and reports officers from the Collection Requirements Management Division on various intelligence products and requests for information associated with sensitive issues related to civil rights and civil liberties.

*Training, Inspections, Assistance, and Spot Checks*

I&A offered intelligence oversight training on seven occasions during the reporting period to orient new I&A employees to intelligence oversight responsibilities and refresh the related understanding of continuing staff. In addition, I&A's Intelligence Oversight Officer conducted an informal inspection of the Borders and Chemical Biological Radiological and Nuclear Threat Analysis Division (BCTA) in May 2008. I&A also performed several spot checks during the quarter.

*Other Intelligence Oversight Program Developments*

On April 3, 2008, the I&A Under Secretary and Associate General Counsel (Intelligence) signed a memorandum entitled, *Interim Intelligence Oversight Procedures for the Office of Intelligence and Analysis*. (b)(2) High (b)(7e)

A copy of the memorandum is enclosed. (b)(2) High (b)(7e)

At the request of an I&A State and Local Fusion Center field representative, I&A's Intelligence Oversight Officer developed several flow charts that illustrate the collection, retention, and dissemination of U.S. Person information in accordance with E.O. 12333 and I&A's interim intelligence oversight guidance. These flow charts were distributed to all I&A State and Local Fusion Center field representatives, and have been incorporated into I&A's intelligence oversight training materials. Copies of the flow charts are also enclosed.

On April 3, 2008, I&A's Information Sharing and Knowledge Management Division (IM) announced the initial operating capability of the (b)(2) High (b)(7e)

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(b)(2) High (b)(7e)

This is consistent with I&A guidelines.

**United States Coast Guard Intelligence Element Reports**

The intelligence elements of the United States Coast Guard (USCG) did not report any questionable or unlawful intelligence activities during the reporting period. In addition, the Coast Guard Counter Intelligence Service (CGCIS) completed its biannual oversight inspection, and it also did not note any deficiencies or reportable issues. CGCIS continues to monitor and assist the Federal Bureau of Investigation with three cases referred pursuant to 50 U.S.C. §402a or 28 U.S.C. §533.

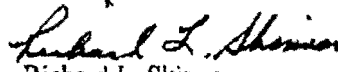
New personnel assigned to USCG intelligence elements received initial intelligence oversight training during this reporting period.

Should you have any questions, please contact Mr. Matthew L. Kronisch, DHS Associate General Counsel for Intelligence, who may be reached at 202-282-(b)(6) or Mr. Carlton I. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,



Gus P. Coldebella  
Acting General Counsel



Richard L. Skinner  
Inspector General

- cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of National Intelligence
- Senior Associate General Counsel, Office of the Director of National Intelligence
- Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG
- Intelligence Oversight Officer, I&A

Attachments:

- USCG Intelligence Oversight Quarterly Report, August 2008
- I&A Intelligence Oversight Quarterly Report, July 2008
- Interim Intelligence Oversight Procedures for the Office of Intelligence and Analysis, April 2008
- I&A Collection and Retention of U.S. Person Information Flow Chart, April 2008

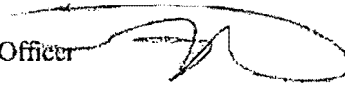
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~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~U.S. Department of Homeland Security  
Washington, DC 20528**Homeland  
Security**

July 15, 2008

MEMORANDUM FOR: Gus Coldebella  
Acting General Counsel

Richard Skinner  
Inspector General

FROM: L. A. "Ole" Broughton  
Intelligence Oversight Officer 

SUBJECT: Intelligence Oversight Quarterly Report

This is the Office of Intelligence and Analysis (I&A) Quarterly Intelligence Oversight Report for the period April 1, 2008 to June 30, 2008.

**Issues:****Mainstream Voices Intelligence Note**

On April 29, 2008 I&A Production Management (PM) released an intelligence note entitled: "*Identifying Mainstream Voices: Influential Speaker Counters Islamic Extremism.*" The intelligence note was prepared by the Radicalization and Extremism Branch, Homeland Environment Threat Analysis Division and focused on the role of a known U.S. Muslim leader in countering violent Islamic extremism and to respond to possible misinformation on this individual. This intelligence note was written in consultation with DHS Civil Rights and Civil Liberties (CRCL) and initially provided to just CRCL for use as part of their outreach program. The intelligence note was written pursuant to I&A's authority under Section 201(d)(17) of the Homeland Security Act of 2002 which allows I&A "[t]o provide intelligence and information analysis and support to other elements of the Department." The intelligence note contained information on a number of groups and individuals considered to be U.S. Persons. This information was needed in order for CRCL to fully understand and assess the product. Since other governmental agencies have outreach programs similar to CRCL, (b)(2) High (b)(7e) it was decided within I&A to further disseminate this note to members of the Intelligence Community, DHS components, and I&A's Field Representatives at the State and Local Fusion Centers. In general, this dissemination was within I&A's authority pursuant to Section 201(d)(17) and Section 201(d)(3) as part of our mission "to identify priorities and protective and support measures..."

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The intelligence note was not minimized prior to dissemination and as a result of an informal policy within PM to include other agencies of the Federal Government to the distribution list when products were being distributed to the State and Local Fusion Centers, it was disseminated to a broader audience than originally contemplated. This resulted in a violation of I&A's Interim Intelligence Oversight Guidance. After reviewing the intelligence note and the dissemination list, (b)(2) High (b)(7e)

The intelligence note was administratively recalled and removed from the portals on which it had been posted. The intelligence note is currently under revision to properly minimize the U.S. Person information and will be disseminated to a limited audience in line with I&A's authority under Sections 201(d)(3) and (17) mentioned above.

As a side note, several members from I&A were asked to answer questions regarding the intelligence note from staff members from the Senate Select Committee on Intelligence and the Senate Judiciary Committee. A meeting was held on May 19, 2008. The Senate Staffers' questions centered primarily on I&A's authorities to research and write this product.

#### HTUS Special Assessment

On May 14, 2008 I&A PM released a Special Assessment entitled: "*Hizb ut-Tahrir United States: Emerging Threat for Radicalizing American Muslims.*" The assessment was prepared by the Strategic Analysis Group, Homeland Environment and Threat Analysis Division. The question was raised after its release by a Divisional Intelligence Oversight Representative as to whether Hizb ut-Tahrir United States (HTUS) should have been marked as a U.S. Person. Hizb ut-Tahrir (HT) is an international Sunni political movement which seeks to establish a caliphate where all Muslim countries are united into a single state ruled by Islamic Sharia law, by leading the ummah in struggle against secular and Western systems of governance and thought. HT operates in 50 countries with some of the most active groups located in Central Asia, Indonesia, and Western Europe.

HTUS is a name used by various law enforcement and intelligence analysts when discussing the U.S. affiliate of HT. (b)(2) High (b)(7e)

(b)(2) High (b)(7e)  
(b)(2) High (b)(7e)

Due to its loose affiliation within the United States and its international ties, a good argument can be made that HTUS should not be considered a U.S. Person. (b)(2) High (b)(7e)

(b)(2) High (b)(7e)  
(b) (5)

(b) (5)

On May 15 the assessment was administratively recalled, HTUS marked as a U.S. Person, and re-released. This incident was not considered an intelligence oversight violation.

#### Homeland Secure Data Network (HSDN) Posting

On May 20, 2008 together with the Office of General Counsel, (Intelligence), the Intelligence Oversight Officer attended a meeting with the PM Team Lead for Dissemination regarding the

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posting of information from State and Local agencies on to the Homeland Secure Data Network (HSDN). I&A has a webpage on HSDN (HSDN itself is owned by the DHS Chief Information Office (CIO)). The I&A webpage has various portals which allow access to I&A intelligence products as well as products disseminated by other DHS agencies, agencies outside of DHS, and State and Local agencies.

While I&A has been posting products on behalf of and/or at the request of State and Local Agencies since 2005, more tailored guidelines than that found within the I&A Interim Intelligence Oversight Guidelines is warranted. Also, a Privacy Impact Assessment (PIA) was not completed. The Privacy Office is addressing the potential Privacy Act issues associated with I&A's use of this system.

There were over 350 products posted on HSDN on behalf of State and Local Agencies. The Intelligence Oversight Officer reviewed each of the State and Local Agency products, numerous instances were found where State and Local Agencies were reporting on activities by U.S. Persons which, in some instances, are considered Constitutionally protected activities that may be lawful to report on under law enforcement authorities but are outside of I&A's authorities.  
(b) (5)

The posting on HSDN of State and Local Agency products that contain U.S. Person information outside I&A's authorities was a violation of I&A's Interim Intelligence Oversight Guidelines. Since I&A, not the States, control the content of information posted on I&A's webpage on HSDN, these products should not have been disseminated by I&A on HSDN.

Information Sharing and Knowledge Management Division (IM) is in the process of drafting a PIA for I&A's HSDN webpage. Additionally, IM is looking at setting up I&A's webpage similar to HS-SLIC where the States, not I&A, control the content of what is posted on their individual portals. In the interim, all products sent to I&A by our State and Local Partners are now being reviewed for content by the Office of General Counsel (Intelligence) and the Intelligence Oversight Officer prior to posting on HSDN.

#### **Wikipedia Posting**

On June 5, 2008 the Office of General Counsel (Intelligence) was notified by a member of I&A of a possible questionable activity involving the Wikipedia website. The Office of General Counsel (Intelligence) notified the Intelligence Oversight Officer of the possible questionable activity on June 6, 2008.

Wikipedia is an online encyclopedia which allows anyone with internet access to provide contributions. There is a webpage on Wikipedia which contains information about the Under Secretary of Intelligence and Analysis. Contributions can be made anonymously, although the IP address of the contributor is displayed on the webpage.

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An I&A contractor at home on his own time provided a contribution to the site regarding the Under Secretary's management style. Another I&A contractor at home and on his own time discovered the contribution and conducted an IP address search. The second I&A contractor then came to work, and, using an I&A alpha roster, determined who he thought had made the contribution. He told several I&A employees of his discovery.

Several DHS Management Directives allow the limited use of the internet at work for personal use subject to a number of caveats. An I&A full-time employee (FTE) went to the Under Secretary's webpage on Wikipedia during his limited personal use time and read the contribution made by the first I&A contractor. He disagreed with the remarks and deleted them, which is allowed on the Wikipedia site. However, Wikipedia contributions are not actually deleted; they are simply moved to the history portal of the subject's webpage. The IP address of the person who deletes a contribution is also displayed on the site. In this case, based on the IP address, it is relatively easy for someone using an IP address locator to surmise it was someone within the federal government that deleted the I&A contractor's contribution.

The I&A FTE's actions probably violated DHS policy as outlined in Management Directive (MD) 4600.1 *Personal Use of Government Office Equipment*. Section VI, Paragraph F.(1) states: "DHS employees must ensure that personal use (of the internet at the office) does not give the appearance of acting in an official capacity. For example, DHS employees may not post DHS information to external news groups, bulletin boards, or other public forums without DHS authorization." Even though the Management Directive does not specifically address editing or deleting material on the internet during personal use time, arguably the intent is to refrain from that type of behavior as well. The second I&A contractor misused government resources by using the alpha roster to attempt to locate the first I&A contractor. Government alpha rosters, phone trees, etc. are for official use only; the improper use of these resources is also a violation of MD 4600.1. Neither the I&A FTE or the second I&A contractor were engaged in intelligence activities when they violated DHS policy. Therefore, this incident was not considered an intelligence oversight violation. (b) (6)

(b) (6)

**Update on Corrective Actions Related to the NOI Intelligence Note:**

The other corrective actions outlined in the NOI inquiry have also been implemented. On December 14, 2007 a copy of each I&A Division mission statement was forwarded to the Office of General Counsel (Intelligence) for review. Additionally, the Associate General Counsel (I&A) requested the Intelligence Oversight Officer draft a new mission statement for Homeland Environment Threat Analysis (HETA) Division which was forwarded to the Associate General Counsel on November 21, 2007. The Intelligence Oversight Officer completed the Product Justification Worksheet on April 1, 2008, after receiving input from the Office of General Counsel (Intelligence), DHS Privacy Office, and DHS Civil Rights and Civil Liberties. It was forwarded to HETA the same day and is currently under review by a HETA working group for incorporation into their SOP. Additionally, PM has updated the dissemination matrix in their Product Abstract which will allow analysts to further delineate which entities should receive an intelligence product.

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The Office of General Counsel (Intelligence) and the Intelligence Oversight Officer continue to work closely with analysts from HETA and reports officers from Collection Requirements Management Division on various intelligence products and requests for information associated with sensitive issues related to civil liberties.

#### Training:

Intelligence Oversight training was held for I&A personnel on April 10, April 14, May 13, May 15, June 3, June 5, and June 17, 2008. Additionally, the Intelligence Oversight Officer and several members from the Office of General Counsel (Intelligence) held a workshop on the afternoon of May 15, 2008 with the Homeland Environment Threat Analysis Division analysts. Discussions centered on collection, analysis, and reporting on the radicalization process while ensuring civil rights/civil liberties are protected. This workshop was held as part of the corrective actions recommended as a result of the Nation of Islam (NOI) inquiry.

#### Inspections/Assist Visits/Spot Checks:

An Informal Intelligence Oversight Inspection/Assist Visit of Borders and CBRN Threat Analysis (BCTA) Division was conducted on May 14, 2008. As mentioned in last quarter's report, the purpose of these visits is to see where Divisions are in regards to intelligence oversight compliance, identify areas for improvement, and provide assistance. The Intelligence Oversight Officer will continue conducting assist visits with the remaining Divisions within I&A throughout the course of the year. Several spot checks were also conducted this quarter by the Intelligence Oversight Officer.

#### Improvements to the Intelligence Oversight Program:

##### **New Interim Guidance**

On April 3, 2008 the Under Secretary and Associate General Counsel (I&A) signed out a memorandum entitled "Interim Intelligence Oversight Procedures for the Office of Intelligence and Analysis." The new memorandum revoked the previous "Intelligence Oversight Basics," dated March 27, 2006. (b)(2) High (b)(7e)  
(b)(2) High (b)(7e)

(b)(2) High (b)(7e)

memorandum is attached.

A copy of the

##### **Flow Charts**

At the request of an I&A State and Local Fusion Center Field Representative, the Intelligence Oversight Officer developed several flow charts illustrating the collection, retention, and dissemination of U.S. Person information in accordance with E.O. 12958 and I&A Interim Intelligence Oversight Guidance. These flow charts were distributed to all I&A State and Local Fusion Center Field Representatives. Additionally, they have been incorporated as part of I&A

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Intelligence Oversight Training. Copies of the flow charts are attached.

(b)(2) High (b)(7e)

On April 3, 2008, I&A Information and Knowledge Management Division (IM) announced Initial Operating Capability (IOC) (b)(2) High (b)(7e)

(b)(2) High (b)(7e)

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Suggestions for Improvement:

There are no suggestions for improvements to the intelligence oversight system for this period.

Point of Contact:

Mr. L. A. "Ole" Broughton, Intelligence Oversight Officer (I&A), 202-282-<sup>(b)(6)</sup>, fax: 202-447-3464, e-mail address: (b)(6)

Cc: Under Secretary for Intelligence and Analysis

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U.S. Department of  
Homeland Security  
  
United States  
Coast Guard



Public Availability to be Determined Under 5 U.S.C. §552

Commandant  
United States Coast Guard

2100 Second Street, S.W.  
Washington, DC 20593-0001  
Staff Symbol: CG-094  
Phone: (b) (6)  
Fax: (b) (6)

**MEMORANDUM**

(b) (6)

**MAY 05 2008**

3810

From

Judge Advocate General

Reply to: CG-0941  
Attn of: (b) (6)To: General Counsel  
Department of Homeland SecurityGeneral Counsel  
Intelligence Oversight BoardSubj: CONSOLIDATED INTELLIGENCE OVERSIGHT AND INTELLIGENCE  
OVERSIGHT BOARD QUARTERLY REPORT

Ref: (a) Executive Order 12333 and 12836  
(b) Memorandum dtd 14 June 07 from Director J.M. McConnell and Chairman Stephen Friedman SUBJ: Intelligence Oversight Board Reporting Criteria.  
(c) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)  
(d) Oversight of Coast Guard Intelligence Activities, COMDTINST 3821.14 (series)

1. This intelligence oversight quarterly report for the Coast Guard National Intelligence Element covers the period from January through March 2008 and is submitted in compliance with references (a) and (b).
2. No reports of questionable or unlawful intelligence activities were received during the reporting period. There are no indications that Coast Guard intelligence activities have been conducted contrary to law, Executive Order, or Presidential Directive.
3. During this quarter, recently assigned Coast Guard intelligence personnel at Maritime Intelligence Fusion Center Atlantic received the initial training as required in reference (c). An informal oversight inspection was conducted by the Intelligence Oversight Officer (IOO) at the Maritime Intelligence Fusion Center Atlantic. All informal inspections resulted in satisfactory evaluations of retained records and collection practices.
4. CGCIS continues to monitor and assist the Federal Bureau of Investigation (FBI) with four cases referred to the FBI as required by 50 U.S.C. §402a or 28 U.S.C. §533.
5. Please call (b) (6) at (202) (b) (6) if there are any questions.

#

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DHS Office of Inspector General  
DNI General Counsel

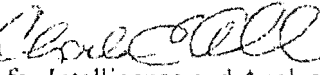
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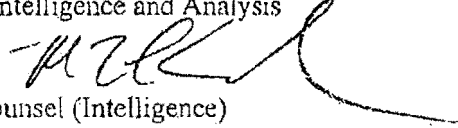
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Washington, DC 20528

# Homeland Security

April 3, 2008

MEMORANDUM FOR: All Employees, Detailees, and Contractors Supporting the Office of Intelligence and Analysis

FROM: Charles E. Allen   
Under Secretary for Intelligence and Analysis

Matthew L. Kronisch   
Associate General Counsel (Intelligence)

SUBJECT: Interim Intelligence Oversight Procedures for the Office of Intelligence & Analysis<sup>1</sup>

## Introduction

The Department of Homeland Security ("DHS" or "Department") Office of Intelligence and Analysis (I&A) is a member of the United States Intelligence Community.<sup>2</sup> As such, I&A is subject to Executive Order 12333, "United States Intelligence Activities," which establishes the basic tenets of Intelligence Oversight. The purpose of Intelligence Oversight is to enable I&A intelligence professionals to effectively carry out their authorized functions while ensuring that their activities affecting U.S. persons<sup>3</sup> are conducted in a manner that protects the constitutional rights and privacy of those U.S. persons and maintains the integrity of the intelligence profession.

Pending approval by the Attorney General of I&A's formal implementing procedures for EO 12333, this document is designed to serve as interim guidance for all I&A personnel (employees, detailees, and contractors supporting I&A) involved in intelligence activities. The guidance contained herein, however, does not substitute for legal review of specific intelligence activities, and any questions on the applicability or interpretation of this guidance should be directed to the Office of General Counsel (Intelligence).

<sup>1</sup> This memorandum revokes the memorandum, "Intelligence Oversight Basics" dated March 27, 2006.

<sup>2</sup> <http://www.intelligence.gov>; See also, § 201(h) of the Homeland Security Act of 2002, as amended, the National Security Act of 1947, as amended, and Executive Order 12333, as amended by Executive Order 13284.

<sup>3</sup> For purposes of Intelligence Oversight, the definition of a United States (U.S.) person includes: (a) a U.S. citizen; (b) an alien known by I&A to be a permanent resident alien; an unincorporated association substantially composed of (a) or (b); (c) a corporation incorporated in the U.S., except for a corporation directed and controlled by a foreign government(s). A corporation or corporate subsidiary incorporated abroad, even if partially or wholly owned by a corporation incorporated in the U.S., is not a U.S. person. A person or organization outside the U.S. shall be presumed not to be a U.S. person unless specific information to the contrary is obtained. A person or organization within the U.S. shall be presumed to be a U.S. person unless specific information to the contrary is obtained. However, an alien within the U.S. shall be presumed not to be a U.S. person unless I&A obtains specific information to the contrary.

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(b)(5)(b)(7)(e)

### Conclusion

As mentioned above, these procedures are designed to serve as a reference tool for all I&A personnel involved in intelligence activities. It does not substitute for legal review of specific intelligence activities, and any questions on the applicability or interpretation of these procedures should be directed to the legal staff.

These procedures are set forth solely for the purpose of internal DHS I&A guidance. They do not create any rights, substantive or procedural, enforceable by law by any other party in any civil or criminal matter, nor does it place any limitation on otherwise lawful investigative and litigative prerogatives of the U.S. Government.

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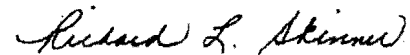
a conclusive determination that the information was necessary for the conduct of I&A's mission and responsibilities. Moreover, I&A had violated its guidelines by disseminating the U.S. Person information contained in the intelligence note to recipients who were not reasonably believed to have a need for the information in the performance of lawful governmental functions. I&A's Intelligence Oversight Officer could not conclude in this instance that I&A's actions constituted a violation of Attorney General approved E.O. 12333 guidelines, because I&A's E.O. 12333 implementing procedures remain under Attorney General review. The I&A Intelligence Oversight Officer's inquiry report, a copy of which will be provided with our next quarterly report, recommended a number of corrective actions. These recommendations, together with several related OIG requests, were submitted to I&A leadership for its consideration and action, as appropriate.

The intelligence elements of the USCG did not report any questionable activities during the quarter.

Both I&A and USCG provided EO 12333 training to newly assigned intelligence employees, and I&A offered annual refresher training to continuing staff.

Should you have any questions, please contact Mr. Matthew Kronisch, DHS Associate General Counsel (Intelligence), who may be reached at 202-282-(b)(6), or Mr. Carlton I. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,



Gus P. Coldebella  
Acting General Counsel

Richard L. Skinner  
Inspector General

cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of National Intelligence  
Senior Associate General Counsel, Office of the Director of National Intelligence  
Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG  
Intelligence Oversight Officer, I&A

Attachments:

IOB Summary Sheet, 4<sup>th</sup> Quarter 2007  
USCG Intelligence Oversight Quarterly Report, 4 February 2008  
DHS OIG Semiannual report

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## Intelligence Oversight Board (IOB) Summary Sheet

Name of Department or Agency:  
**Department of Homeland Security**  
DATE OF INCIDENT:  
**20 September 2007**

CY Quarterly Report:  
**CY 2007 4<sup>th</sup> Qtr**  
DATE OF REPORT TO IOB:

Date of Report to Department: **28 September 2007**

Date Report submitted to other entity (i.e., DoJ, Congress, Civil Liberties Office): **N/A**

**POSSIBLE VIOLATION OF:**

Statute (United States Code Citation)

FISA (50 U.S.C. 1801)

Other (U.S.C. Citation \_\_\_\_\_)

Executive Order 12333:

- Section 2.3 collection & dissemination of USP info  
 Section 2.4 preamble: least intrusive collection  
 Section 2.4(a) CIA electronic surveillance w/in US  
 Section 2.4(b) unconsented physical search w/in US  
 Section 2.4(c) physical surveillance of USP w/in US  
 Section 2.4(d) physical surveillance of USP abroad  
 Section 2.5 AG approval w/in US or against USP abroad  
 Section 2.6 assistance to law enforcement  
 Section 2.7 contracting  
 Section 2.9 undisclosed participation  
 Section 2.10 human experimentation  
 Section 2.11 prohibition on assassination  
 Section 2.12 indirect participation  
 AG APPROVED EO 12333 GUIDELINES

OTHER EXECUTIVE ORDER (SPECIFY)

Creation of unauthorized SAP (EO 12958, as amended)

Other (EO citation: E.O. 12968 and E.O. 12674)

PRESIDENTIAL DIRECTIVE (SPECIFY)

COVERT ACTION FINDING/MEMORANDUM OF NOTIFICATION

Other (Presidential Directive citation: \_\_\_\_\_)

**DEPARTMENT/AGENCY ACTION:** (b)(6) (b)(7)(c)

(b)(1)(A)

**\*DATE OF FINAL DISPOSITION:** N/A

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## Intelligence Oversight Board (IOB) Summary Sheet

Name of Department or Agency:  
**Department of Homeland Security**  
DATE OF INCIDENT:  
**August 2007 - 4 October 2007**

CY Quarterly Report:  
**CY 2007 4<sup>th</sup> Qtr**  
DATE OF REPORT TO IOB:  
**17 October 2007**

Date of Report to Department: **4 October 2007**

Date Report submitted to other entity (i.e., DoJ, Congress, Civil Liberties Office): **N/A**

**POSSIBLE VIOLATION OF:**

Statute (United States Code Citation)

FISA (50 U.S.C. 1801)

Other (U.S.C. Citation \_\_\_\_\_)

Executive Order 12333:

Section 2.3 collection & dissemination of USP info

Section 2.4 preamble: least intrusive collection

Section 2.4(a) CIA electronic surveillance w/in US

Section 2.4(b) unconsented physical search w/in US

Section 2.4(c) physical surveillance of USP w/in US

Section 2.4(d) physical surveillance of USP abroad

Section 2.5 AG approval w/in US or against USP abroad

Section 2.6 assistance to law enforcement

Section 2.7 contracting

Section 2.9 undisclosed participation

Section 2.10 human experimentation

Section 2.11 prohibition on assassination

Section 2.12 indirect participation

**AG APPROVED EO 12333 GUIDELINES (Guideline name and section: I&A procedures implementing EO 12333 are still pending review and approval by the AG. The current version of I&A's Interim intelligence oversight guidelines were issued to I&A personnel in a March 18, 2006, memorandum entitled "Intelligence Oversight Basics.")**

OTHER EXECUTIVE ORDER (SPECIFY)

Creation of unauthorized SAP (EO 12958, as amended)

Other (EO citation: \_\_\_\_\_)

PRESIDENTIAL DIRECTIVE (SPECIFY)

COVERT ACTION FINDING/MEMORANDUM OF NOTIFICATION

Other (Presidential Directive citation: \_\_\_\_\_)

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**DEPARTMENT/AGENCY ACTION:** I&A recalled its intelligence note on the Nation of Islam and requested that recipients delete and destroy their copies of it. I&A's Intelligence Oversight Officer conducted an inquiry into the case, and recommended a number of corrective actions in his report of inquiry. These recommendations were forwarded to I&A leadership, along with several related OIG requests.

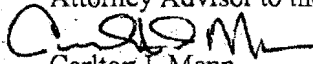
**\*DATE OF FINAL DISPOSITION:** N/A

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*Office of Inspector General*U.S. Department of Homeland Security  
Washington, DC 20528**Homeland  
Security**

JUL 8 2008

MEMORANDUM FOR: Nicholas Gray  
Attorney Advisor to the General Counsel

FROM:   
Carlton I. Mann  
Assistant Inspector General for Inspections

SUBJECT: Intelligence Oversight Quarterly Report for the  
First Quarter of Calendar Year 2008

Attached for your review and signature is the quarterly intelligence oversight report to the President's Intelligence Oversight Board (IOB) for the first quarter of the calendar year, January 2008 – March 2008. In preparing this letter, we consulted with Matthew Kronisch, Associate General Counsel for Intelligence, and obtained his concurrence with its contents.

Please pass the enclosed letter to the Acting General Counsel for his signature. When he has reviewed, signed, and dated the letter, please forward it to the General Counsel of the IOB with four copies. In addition, please provide copies to the indicated Office of the Director of National Intelligence representatives, one to your Associate General Counsel for Intelligence, one to the U.S. Coast Guard's Senior Counsel for Intelligence and Criminal Investigations, one to the Office of Intelligence and Analysis' Intelligence Oversight Officer, and an additional copy to me, for our records.

Should you have any questions, please contact me, or your staff may contact (b) (6) at (202) 254-(b) (6).

Attachment

cc: Associate General Counsel, Office of Intelligence and Analysis

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U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

Homer Pointer  
General Counsel, Intelligence Oversight Board  
New Executive Office Building, Room 5020  
Washington, DC 20500

**Re: United States Coast Guard and Department of Homeland Security, Office of Intelligence and Analysis Intelligence Oversight Quarterly Report**

Dear Mr. Pointer:

Pursuant to Executive Order (EO) 13462, we are forwarding to you the January 2008 – March 2008 Intelligence Oversight Quarterly Report of the United States Coast Guard (USCG) and Office of Intelligence and Analysis (I&A).

In April 2008, I&A issued its first quarter 2008 intelligence oversight report to the General Counsel and Inspector General. The report notes that I&A's Intelligence Oversight Officer completed his report of inquiry regarding I&A's October 2007 intelligence note, *Nation of Islam: Uncertain Leadership Succession Poses Risk*. A copy of this report and comments from the Under Secretary for I&A are attached. In his comments, the Under Secretary accepts the Intelligence Oversight Officer's recommendations. The I&A Intelligence Oversight Officer will update the status of these recommendations in future quarterly reports. I&A's responses to several related Office of Inspector General requests are still pending, and we will update as appropriate.

I&A's first quarter 2008 report notes that two significant intelligence oversight policy development efforts are on hold in anticipation of the release of a successor order to EO 12333, *United States Intelligence Activities*. The release of an EO 12333 successor order will require rewrites of two draft Management Directives: *Oversight of Intelligence Activities within DHS*, and *DHS Intelligence Activities that Affect US Persons*.

The I&A intelligence analyst who, in September 2007, misused intelligence and law enforcement databases by performing checks for personal reasons, (b)(6) (b)(7)(c)

The intelligence elements of the USCG did not report any questionable activities during the quarter.

The USCG's Counterintelligence Service continues to monitor and assist with four cases the USCG referred to the Federal Bureau of Investigation in previous quarters, pursuant to 50 U.S.C. §402a and 28 U.S.C. §533.

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Both I&A and USCG conducted informal intelligence oversight inspections and provided EO 12333 training to newly assigned intelligence employees. I&A also conducted annual refresher training for its staff. In addition, I&A held an intelligence oversight workshop for personnel assigned to State and Local Fusion Centers, and is developing I&A mission category/collection and intelligence oversight checklists for those personnel. These checklists will ensure that I&A personnel supporting State and Local Fusion centers maintain compliance with EO 12333 and applicable intelligence oversight regulations and guidance. I&A reports its close consultation between attorneys, intelligence oversight staff, and analysts in two analytical divisions to ensure that they properly protect civil rights and liberties in conducting analytical and information gathering activities.

Should you have any questions, please contact Mr. Matthew L. Kronisch, DHS Associate General Counsel for Intelligence, who may be reached at 202-282-(b)(6), or Mr. Carlton I. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,

Gus P. Coldebella  
Acting General Counsel

  
Richard L. Skinner  
Inspector General

cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of National Intelligence  
Senior Associate General Counsel, Office of the Director of National Intelligence  
Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG  
Intelligence Oversight Officer, I&A

Attachments:

IOB Summary Sheet, 1<sup>st</sup> Quarter 2008  
USCG Intelligence Oversight Quarterly Report, May 2008  
I&A Intelligence Oversight Quarterly Report, April 2008  
I&A Intelligence Oversight Officer Report of Inquiry on I&A Intelligence Note, March 2008  
I&A Under Secretary Comments on Report of Inquiry on I&A Intelligence Note, March 2008

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## Intelligence Oversight Board (IOB) Summary Sheet

Name of Department or Agency:  
Department of Homeland Security  
DATE OF INCIDENT:  
20 September 2007

CY Quarterly Report:  
CY 2008 1<sup>st</sup> Qtr  
DATE OF REPORT TO IOB:

Date of Report to Department: **28 September 2007**

Date Report submitted to other entity (i.e., DoJ, Congress, Civil Liberties Office): N/A

**POSSIBLE VIOLATION OF:**

Statute (United States Code Citation)

FISA (50 U.S.C. 1801)  
 Other (U.S.C. Citation \_\_\_\_\_)

Executive Order 12333:

Section 2.3 collection & dissemination of USP info  
 Section 2.4 preamble: least intrusive collection  
 Section 2.4(a) CIA electronic surveillance w/in US  
 Section 2.4(b) unconsented physical search w/in US  
 Section 2.4(c) physical surveillance of USP w/in US  
 Section 2.4(d) physical surveillance of USP abroad  
 Section 2.5 AG approval w/in US or against USP abroad  
 Section 2.6 assistance to law enforcement  
 Section 2.7 contracting  
 Section 2.9 undisclosed participation  
 Section 2.10 human experimentation  
 Section 2.11 prohibition on assassination  
 Section 2.12 indirect participation  
 AG APPROVED EO 12333 GUIDELINES

OTHER EXECUTIVE ORDER (SPECIFY)

Creation of unauthorized SAP (EO 12958, as amended)  
 Other (EO citation: E.O. 12968 and E.O. 12674)

PRESIDENTIAL DIRECTIVE (SPECIFY)

COVERT ACTION FINDING/MEMORANDUM OF NOTIFICATION  
 Other (Presidential Directive citation: \_\_\_\_\_)

DEPARTMENT/AGENCY ACTION:

(b)(6) (b)(7)(c)

1

\*DATE OF FINAL DISPOSITION: N/A

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Homeland SecurityUnited States  
Coast Guard

Public Availability to be Determined Under 5 U.S.C. §552

Commandant  
United States Coast Guard2100 Second Street, S.W.  
Washington, DC 20593-0001  
Staff Symbol: CG-094  
Phone: (b) (6)  
Fax: (b) (6)**MEMORANDUM**

(b) (6)

**MAY 05 2008**

3810

From: (b) (6)

Judge Advocate General

Reply to: CG-0941

Attn of: Mr. Tolbert

To: General Counsel  
Department of Homeland SecurityGeneral Counsel  
Intelligence Oversight BoardSubj: **CONSOLIDATED INTELLIGENCE OVERSIGHT AND INTELLIGENCE  
OVERSIGHT BOARD QUARTERLY REPORT**Ref: (a) Executive Order 12333 and 12836  
(b) Memorandum, dtd 14 June 07 from Director J.M. McConnell and Chairman Stephen Friedman SUBJ: Intelligence Oversight Board Reporting Criteria.  
(c) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)  
(d) Oversight of Coast Guard Intelligence Activities, COMDTINST 3821.14 (series)

1. This intelligence oversight quarterly report for the Coast Guard National Intelligence Element covers the period from January through March 2008 and is submitted in compliance with references (a) and (b).
2. No reports of questionable or unlawful intelligence activities were received during the reporting period. There are no indications that Coast Guard intelligence activities have been conducted contrary to law, Executive Order, or Presidential Directive.
3. During this quarter, recently assigned Coast Guard intelligence personnel at Maritime Intelligence Fusion Center Atlantic received the initial training as required in reference (c). An informal oversight inspection was conducted by the Intelligence Oversight Officer (IOO) at the Maritime Intelligence Fusion Center Atlantic. All informal inspections resulted in satisfactory evaluations of retained records and collection practices.
4. CGCIS continues to monitor and assist the Federal Bureau of Investigation (FBI) with four cases referred to the FBI as required by 50 U.S.C. §402a or 28 U.S.C. §533.
5. Please call (b) (6) (b) (6) if there are any questions.

#

Copy: COMDT (CG-2)  
DHS Office of Inspector General  
DNI General Counsel~~FOR OFFICIAL USE ONLY~~

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~U.S. Department of Homeland Security  
Washington, DC 20528**Homeland  
Security**

April 15, 2008

**MEMORANDUM FOR:** Gus Coldebella  
Acting General Counsel

Richard Skinner  
Inspector General

**FROM:** L. A. "ole" Broughton  
Intelligence Oversight Officer

**SUBJECT:** Intelligence Oversight Quarterly Report

This is the Office of Intelligence and Analysis (I&A) Quarterly Intelligence Oversight Report for the period January 1, 2008 to March 31, 2008. This is I&A's inaugural report.

Executive Order 13462 *President's Intelligence Advisory Board and Intelligence Oversight Board* was signed by the President on February 29, 2008. It replaces Executive Order 12863. The new directive requires the Director of National Intelligence (DNI) to provide guidance to members of the Intelligence Community (IC) regarding the submission of intelligence oversight reports on a semi-annual basis. Until the DNI issues formal guidance, I&A will continue to submit quarterly intelligence oversight reports.

On March 28, 2008 the Under Secretary for Intelligence and Analysis has signed out his cover letter on the Nation of Islam inquiry. The Under Secretary approved the recommendations of the Intelligence Oversight Officer. A copy of the inquiry and cover letter is attached. A status of implementing the recommendations will be provided in the next quarterly report. Additionally, the Under Secretary has attempted to contact the Inspector General to discuss the Inspector General's request for additional information related to the Nation of Islam Intelligence Note. Scheduling conflicts have delayed this discussion.

On January 4, 2008 the Under Secretary was briefed by the Intelligence Oversight Officer on the proposal for the way ahead to establish a formal intelligence oversight program for I&A. The Under Secretary approved the proposal. Part of this program is formalizing intelligence oversight procedures in a management directive or some other formal document. A management directive drafted by the Intelligence Oversight Officer entitled *Oversight of Intelligence Activities within DHS* was in final draft form with input from the Divisions incorporated and was about to be sent out for formal review and approval. However with the successor to Executive Order 12599 close to a final draft, the promulgation of Executive Order 13462 (mentioned

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above), and the required rewrite of DHS MD 8702 *DHS Intelligence Activities that Affect U.S. Persons*, this directive will also have to be updated to reflect the changes and new procedures reflected in these other documents.

Attorneys from the Office of General Counsel (Intelligence) and the Intelligence Oversight Officer have been working closely with analysts from Homeland Environment Threat Analysis (HETA) Division and Critical Infrastructure Threat Analysis (CITA) Division on various intelligence products and requests for information associated with sensitive issues related to civil liberties. The goal with these working groups is to make sure I&A is able to meet its mission requirements while ensuring the civil rights and liberties of U.S. citizens are protected.

Intelligence Oversight training was held for I&A personnel on February 12, 2008 and March 25, 2008. Additionally, a workshop was held on March 17, 2008 with all of the I&A Field Representatives assigned to State and local fusion centers the day prior to the formal State and Local Fusion Center Conference. (b) (5)  
(b) (5)

An Informal Intelligence Oversight Inspection/Assist Visit of Collections and Requirements (CR) Division was conducted on March 26-27, 2008. The purpose of this visit was to see where the Division is in regards to intelligence oversight compliance, identify areas for improvement, and provide assistance. The Intelligence Oversight Officer will be conducting assist visits with all of the Divisions within I&A throughout the course of the year. Several spot checks were also conducted this quarter by the Intelligence Oversight Officer.

There are no suggestions for improvements to the intelligence oversight system for this period.

Point of Contact: Mr. J. A. "Ole" Broughton, Intelligence Oversight Officer (I&A), 202-382-(b)(6); fax: 202-447-3464, e-mail address: (b)(6)

cc: Under Secretary for Intelligence and Analysis


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Washington, DC 20528**Homeland  
Security**

March 28, 2008

**MEMORANDUM FOR:** Gus Coldebella  
Acting General Counsel

Richard Skinner  
Inspector General

**THROUGH:** Charles E. Allen  
Under Secretary for Intelligence and Analysis

**FROM:** L. A. "Ole" Broughton   
Intelligence Oversight Officer

**SUBJECT:** Intelligence Oversight Inquiry into the Production and  
Dissemination of an Office of Intelligence and Analysis  
Intelligence Note

**Purpose**

To determine whether the Department of Homeland Security, Office of Intelligence and Analysis (DHS/OIA) violated its intelligence oversight rules by collecting, retaining, and disseminating information regarding the Nation of Islam (NOI) and several of its members.

**Background**

On October 12, 2007 the DHS/OIA Production Management Division Staff (PM) released a DHS Intelligence Note entitled "Nation of Islam: Uncertain Leadership Succession Poses Risk." The intelligence note was widely disseminated via the internet to representatives from numerous federal agencies, state and local law enforcement agencies, several Congressional Committees, members of the Intelligence Community (IC), and the private sector. The intelligence note was prepared by the DHS/OIA Homeland Environment and Threat Analysis Division (HETA), Extremism and Radicalization Branch (ERB) and reviewed by the Deputy Assistant Secretary for Intelligence. It had not been read by the Assistant Secretary for Intelligence and Analysis (ASIA) prior to release.

Shortly after the intelligence note was released, the Associate General Counsel (Intelligence & Analysis) (AGC (I&A)) contacted the Division Director of HETA (b) (5)  
(b) (5)

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(b) (5)

The Division Director of HETA directed PM to recall the intelligence note. A substantive recall of the intelligence note was disseminated by PM requesting all recipients delete and/or destroy the intelligence note.

I was asked by the DHS General Counsel to conduct an inquiry into the potential violation of I&A Intelligence Oversight rules. The ASIA approved the initiation of the inquiry.

### Discussion

#### Current DHS I&A Intelligence Oversight Rules

Management Directive 8202, *Procedures Governing Activities of the Office of Intelligence and Analysis that Affect United States Persons* implements Executive Order 12333 for DHS and is currently under review by the Attorney General. As an interim measure, the ASIA promulgated a memo on March 28, 2006 entitled *Intelligence Oversight Basics* (hereinafter referred to as the Oversight memo). Another document entitled *Information Handling Guidelines for the Office of Information Analysis (IA)* (hereinafter referred to as the Handling memo) was disseminated on October 5, 2005. (Both memos are attached.)

#### Collection

The Oversight memo outlines a two-part test for determining whether or not the collection, retention, and dissemination of U.S. Person information is permitted. The first part of the test requires that the quest for information falls within the framework of I&A's intelligence authorities and responsibilities listed in Section 201(d) of the Homeland Security Act of 2002. The Oversight memo delineates I&A's primary authorities and responsibilities as follows:

\* Access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the federal government, state and local government agencies (including law enforcement agencies), private sector entities, and integrate such information in order to (a) identify and assess the nature and scope of terrorist threats to the homeland; (b) detect and identify threats of terrorism<sup>1</sup> against the United States; and (c) understand such threats in light of actual and potential vulnerabilities of the homeland.

<sup>1</sup>The term terrorism is defined in 6 U.S.C. § 101(b)(16) as any activity that--

(1) Involves an act that--

- a. Is dangerous to human life or potentially destructive of critical infrastructure or key resources; and
- b. Is a violation of the criminal laws of the United States or of any other State or other subdivision of the United States; and

(2) Appears to be intended--

- a. To intimidate or coerce a civilian population;
- b. To influence the policy of government by intimidation or coercion; or
- c. To affect the conduct of a government by mass destruction, assassination or kidnapping.

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- Integrate relevant information, analyses, and vulnerability assessments in order to identify priorities for protective and support measures by DHS, other agencies of the federal government, state and local governments, the private sector, and other entities.
- Ensure the timely and efficient access by DHS to all information necessary to discharge the responsibilities contained in Section 201(d) of the Homeland Security Act of 2002, including obtaining such information from other agencies of the federal government.
- Review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the federal government and state and local governments.
- Disseminate, as appropriate, information analyzed by DHS and IA (1) within DHS, (2) to other federal government agencies relating to homeland security, and (3) to agencies of state and local governments and appropriate private sector entities, in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.
- Consult with the Director of National Intelligence and other appropriate intelligence, law enforcement, or other elements of the federal government to establish collection priorities and strategies for information relating to threats of terrorism against the U.S. through such means as representation of DHS in discussions regarding requirements and priorities in the collection of such information.
- Consult with state and local governments and private sector entities to ensure appropriate exchange of information relating to threats of terrorism against the U.S.
- Establish and utilize, in conjunction with DHS's chief information officer, a secure communications and information technology infrastructure, including data mining and other advanced analytical tools, in order to accomplish IA's mission.

The first two bullets in the Oversight memo are derived from Sections 201(d)(1) and (3) of the Homeland Security Act. They establish the authority and outline the parameters for I&A to conduct collection and analysis of terrorism threats as well as other threats to the Homeland. Section 201(d) sets out two additional subsections that provide authority for I&A to conduct collection and analysis. Section 201(d)(17) allows I&A "[t]o provide intelligence and information analysis and support to other elements of the Department." In this case another agency or element within DHS can either request specific assistance from I&A or I&A can determine on its own how best to provide intelligence support to agencies or elements within the department. In either case, I&A can provide support as long as it is within the framework of the agency or element's mission. Finally, 201(d)(24) allows I&A to "[p]erform such other duties relating to such responsibilities as the Secretary may provide." Here tasking from the Secretary would have to fall within the Secretary's authority. Management Directive 8[00] *Organization of the Office of the Under Secretary for Information Analysis and Infrastructure Protection* also states all four authorities in paragraph B.1.

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To conclude, in order to lawfully collect information on a U.S. Person and satisfy the first part of the test, the collection has to be based on one or more of these four subsections of 201(d).

The second part of the test is that the information must fall within one or more of the delineated categories for which U.S. Person information can be collected by I&A. These categories include information obtained with consent, publicly available information, terrorism information, vulnerabilities information, international narcotics activities information, border security information, threats to safety information, and administrative information.

The Oversight memo defines collection as "...the gathering or receipt of information, regardless of source, by I&A, coupled with an affirmative act demonstrating intent to use or retain that information for intelligence purposes." According to the Handling memo: "I&A personnel have up to 180 days to review all collected U.S. Person information and determine if it was properly collected and therefore may be retained. If the information should not have been collected, or it is not needed, it must be destroyed immediately."

#### **Dissemination and Minimization**

The Oversight memo also sets out the criteria for dissemination of and minimizing U.S. Person information. According to the memo:

Information about a U.S. Person that identifies that person may be disseminated without the consent of that person only if the information was collected and/or retained (meets the two-part test outlined above) and the recipient of the information is reasonably believed to have a need to receive such information for the performance of a lawful governmental function, such as:

o An employee of a law enforcement intelligence or non-intelligence component of DHS who has a need to know the information to perform his or her official duties;

o A federal, state, or local law enforcement entity when the information indicates violation of laws enforced by the law enforcement entity;

o An agency of a state or local government, or a private sector entity with responsibilities relating to homeland security, in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the U.S.;

o An agency within the Intelligence Community, provided that information, other than information collected pursuant to the Foreign (Intelligence) Surveillance Act, may be disseminated within the Intelligence Community to such appropriate agency for the purpose of allowing the recipient agency to determine whether the information is relevant to its responsibilities without such a determination being required of the disseminator;

o A protective, immigration, national defense, or nation security agency of the federal government authorized to receive such information in the performance of a lawful governmental function; or

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• A foreign government and dissemination is undertaken pursuant to an agreement or other understanding with such government in accordance with applicable foreign disclosure policies and procedures.

• In general, U.S. Person information slated for dissemination shall not contain the U.S. Person's name or other identifying information, unless such data is deemed necessary for the intended recipient to understand, assess, or act on the information provided.

• Non-publicly-available information about U.S. Person obtained through court-authorized electronic surveillance and physical searches should not be provided to state, local, or private sector authorities unless it is confirmed that the information is not FISA-derived, does not concern a U.S. Person, or is provided in conformance with court-approved procedures.

• Other dissemination. Any dissemination that does not conform to the conditions set forth above must be approved by the Assistant Secretary for Intelligence and Analysis after consultation with the DHS Office of General Counsel.

#### **Questionable Activities**

The Oversight Basics memo does not specifically address what constitutes questionable activities. However, over the past several years, the staff from AGC (I&A) has provided in-depth, in-person initial and annual training to every member of I&A, including contractors and detailees. During this training, attendees learn about the rules for the collection, retention, and dissemination of (including the need to minimize) U.S. Person information in relation to I&A's authorities and responsibilities. That training includes the definition of Questionable Activities, the obligation to report them, and to whom they are to be reported. Additionally, all personnel receive copies of the Oversight memo as well as the Handling memo. The AGC (I&A) staff have also made themselves available to answer questions regarding the parameters of I&A's authorities and responsibilities, and the need to minimize U.S. Person information.

#### **Applying the Interim Measures to the Nation of Islam (NOI) Intelligence Note**

##### **Collection**

(b)(5) (b)(2) High

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The intelligence note written by ERB discussed the possible succession of leadership of NOI and the direction the group may take depending on who becomes the new leader, their personal philosophy, and their ability to keep the organization from further splintering. This project was initiated around February 2007. All of the information used in the intelligence note came from open sources. The intelligence note was not drafted in response to a request from another agency or element within DHS or at the direction of the Secretary. It was produced in the regular course of ERB's radicalization work.

(b)(2) High (b)(5) (b)(7)(e)

(b)(5) (b)(2) High

As discussed earlier, under current guidelines it would have been permissible for ERB to review the NOI information for up to 180 days to determine whether or not there was an intelligence nexus to one or more of I&A's authorities. However, once it determined there was not an intelligence nexus, ERB should have stopped the project and the U.S. Person information should have been deleted/destroyed unless it was determined the information could be relevant to another agency's mission. Then consideration should have been given to forwarding the information to those other agencies, consistent with all applicable laws, executive orders and regulations.

**Dissemination**

(b)(2) High (b)(7)(e)

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(b)(2) High (b)(7e)

Conclusion

The ERB violated the intelligence oversight rules outlined in the Oversight Memo by collecting, retaining, and disseminating information regarding NOI and the individuals named in the intelligence note.

Mitigating Circumstances

As mentioned earlier, all of the background information used in the intelligence note came from open sources.

I do not believe this was a case where ERB intentionally disregarded the rules in order to produce and disseminate this intelligence note. (b)(2) High (b)(7e)

(b)(2) High (b)(7e)

As outlined

below, corrective measures are needed in order to strengthen the procedures and processes regarding the handling and dissemination of U.S. Person information. The implementation of these procedures, as well as standing up a formal DFIS intelligence oversight program, will reduce the possibility of this type of infraction in the future.

(b)(2) High (b)(5) (b)(7)(e)

When the "ALL" boxes are checked on the I&A Product Abstract Form all Federal, state, local, tribal, private sector and other homeland security partners or stakeholders otherwise identified or contemplated by the legal market of I&A are sent copies of the product as well as several Congressional Committees, FFRDC, labs, and others.

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(b)(2) High (b)(5) (b)(7)(e)

(b)(2) High (b)(5) (b)(7)(e)

(b) (5)

(b) (5)

(b) (5)

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