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FEDERAL BUREAU OF INVESTIGATION

1010

Precedence: IMMEDIATE

Date: 11/19/2002

To: Inspection

Attn: IMU, Room 7837

General Counsel

NSLU

From: [Redacted]

Contact: SAC [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: (U) 278-HQ-C1229736-VIO - 40 (Pending)
(U) 278 [Redacted] 59479

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

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

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

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

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

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Details: (S) On 11/18/2002, the [Redacted] Division was contacted by [Redacted]

(S) [Redacted] Both are in violation of the most recent AGG guidelines.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

NSL VIO-99

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

~~SECRET~~

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

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(S) [redacted]
[redacted]

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

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

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

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

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LEAD(s)

Set Lead 1:

GENERAL COUNSEL

AT WASHINGTON, D.C.

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

Set Lead 2:

INSPECTION DIVISION

AT WASHINGTON, D.C.

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

~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/01/2005

To: Inspection

Attn: Internal Investigations Section

[Redacted]

Attn: SAC
CDC

[Redacted]

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

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Approved By: Thomas Julie F

[Redacted]

Drafted By:

[Redacted]

Case ID #: (S) 278-HQ-1406607-2
(S) 278-HQ-C1229736-VIO-40
(U) (S) 278-[Redacted]-59479-175

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(U) **Title:** (S)

SSA [Redacted]
SA [Redacted]
[Redacted] DIVISION
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2005-[Redacted]

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

(U)

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

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

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

1C [Redacted]
3A [Redacted]
3S [Redacted]

Handwritten: [Redacted]
[Redacted]
[Redacted]

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~~SECRET~~

[Redacted]

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

Handwritten: IPUC &

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

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

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

(S)

(S) [redacted]

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

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

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

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

~~SECRET~~

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

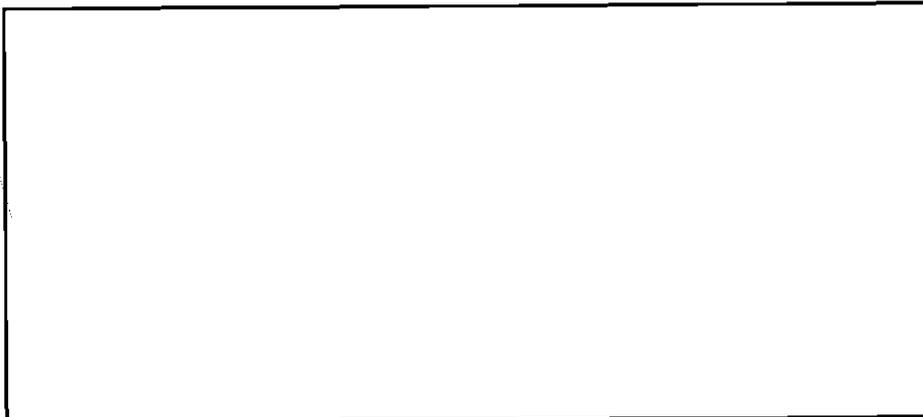
(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the receipt of unsolicited material described herein is a matter which must be reported to the IOB. It need not be.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated September 13, 1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language was adopted from E.O. 12334, dated December 4, 1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

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

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

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

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

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

[redacted]

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

(S)

[redacted]

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

~~SECRET~~

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

LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Info)

[Redacted]

AT [Redacted]

(U) ~~(S)~~ Read and clear.

CC: Ms. Thomas

SSA [Redacted]

[Redacted]

NSLB IOB Library

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(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/19/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Fogle Toni Mari

Drafted By: [redacted] *Kas*

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

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

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

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 11/19/2002, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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DECLASSIFIED BY 65179 dmh/kar/prs
ON 06-19-2007

~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/09/2005

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section IPU, Room 11102

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Fogle Toni Mari

Drafted By: [redacted] kas

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

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

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

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

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

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

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

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

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

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

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~~SECRET~~



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: July 26, 2006

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

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

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

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

IMPORTANT NOTICE

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

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

Attachment

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

OIG - INVESTIGATIONS DIVISION - Complaint Form

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

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

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

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

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

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

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

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

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

Remarks:

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

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U.S. Department of Justice

Classified Document Receipt

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

ACCOUNTABILITY

FROM: (Name) [Redacted] (Organization and Address) DOJ/CIG/HQ/INV
 TO: (Name) [Redacted] (Organization and Address) FBI/INV
 SIGNATURE: (of Recipient) & DATE: _____
 If sent outside DOJ, Return this copy to: _____

DOCUMENT IDENTITY

SUBJECT & DESCRIPTION: Other Complaint No. 2006 004484-M, 2006 004310-M, 2006 005203-M, 2006 004523-M, 2006 004525-M, 2006 005307-M, 2006 004910-M, 2006 004914-M, 2006 005298-M, 2006 004922-M, 2006 004924-M, 2006 005299-M, 2006 005301-M, 2006 005311-M
 Date of Document: 7/26/06 No. of pages: 54
 Copy _____ of _____ Copies.
 Classification of Document (Check Appropriate Box(es) Below):
 TS S CONF SCI Q OTHER

INTERNAL DOJ ROUTING

NAME OF RECIPIENT (Print)	ORGANIZATION & DATE REC'D.
[Redacted]	<u>11/21/06 FBI</u>
2. _____	_____
3. _____	_____ b6
4. _____	_____ b7C
5. _____	_____

INSTRUCTIONS ON BACK OF LAST PAGE

FORM DOJ-34
JUN. 81

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

(Rev. 01-21-2003)

~~SECRET/ORCON/NOFORN~~

1015

FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 03/02/2005

To: Counterintelligence

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

OGC

Attn: NSLB, [redacted]

INSD

Attn: IIS

From: [redacted]

CD-11

Contact: [redacted]

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Approved By: [redacted]

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

Richard S. Helge

Drafted By: [redacted]

fjd

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Case ID #: (S) [redacted]

278-HQ-C1229736-VIO - 196

Title: (S) [redacted]

[redacted]

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

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(U)

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

(U)

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

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

Details: (S) [redacted]

[redacted]

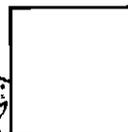
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Handwritten signature/initials

ORCON/NOFORN
DECLASSIFIED
DATE: 4/18/05



DC WEST

~~SECRET~~/ORCON/NOFORN

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

(S)

[redacted]

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(S)

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

(S)

[redacted]

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(U)

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

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(U)

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

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~~SECRET~~/ORCON/NOFORN

~~SECRET/ORCON/NOFORN~~

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

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LEAD(s) :

Set Lead 1: (Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

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

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ----- ~~(S)~~ Read and clear.

♦♦

~~SECRET/ORCON/NOFORN~~

~~SECRET//ORCON//NOFORN~~



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

[Redacted]

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March 2, 2005

BY FEDERAL EXPRESS

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

RE:

[Redacted] X

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Dear Mr. Baker:

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

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[Redacted]

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

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

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

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

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(S) ~~SECRET//ORCON//NOFORN~~

DATE: 06-26-2007
FBI INFO.
CLASSIFIED BY 65179 dmh /kze/pls
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~//ORCON//NOFORN

(S)

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(S)

[Redacted]

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

(S)

Although (1) a valid FISC Order authorized the interception of communications occurring over telephone number [Redacted] (2) the FBI's interception of such

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(S)

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

~~SECRET~~//ORCON//NOFORN

~~SECRET~~//ORCON//NOFORN

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

(S) [Large redacted block]

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

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Sincerely yours,

[redacted]
Assistant Director in Charge

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~~SECRET~~//ORCON//NOFORN

(01/26/1998)

~~SECRET~~/ORCON/NOFORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/06/2005

To: Inspection

Attn: Internal Investigations Section

[Redacted]

Attn: ADIC [Redacted]

Counterintelligence

Attn: CD-3A, room 4155

SSA [Redacted]

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From: Office of the General Counsel

National Security Law Branch/CILU/Room 7947

Contact: [Redacted]

Approved By: Thomas Julie F

[Redacted]

Drafted By:

[Redacted]

handle & cover.
Y

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(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 302

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

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

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

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Reference: (S) [Redacted]

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

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~~SECRET~~/ORCON/NOFORN

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To: [redacted]
From: General Counsel

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

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

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

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

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

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

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

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~~SECRET~~/ORCON/NOFORN

~~SECRET/ORCON/NOFORN~~

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

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(S) [redacted]

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

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

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

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(U) Section 2.4 of Executive Order (E.O.) 12863, dated September, 13, 1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language was adopted from E.O. 12334, dated December 4, 1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB).

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated December 4, 1981, if such provisions were specifically intended to ensure the protection of the individual rights of U.S. persons.

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

~~SECRET/ORCON/NOFORN~~

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

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

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

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

(C)

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

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

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(S)

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

~~SECRET~~/ORCON/NOFORN

~~SECRET/ORCON/NOFORN~~

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To:
From: General Counsel

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

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

~~SECRET/ORCON/NOFORN~~

~~SECRET/ORCON/NOFORN~~

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

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

[redacted]

AT [redacted]

(U) For information.

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cc: Ms. Thomas
[redacted]
IOB Library

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~~SECRET~~

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

BY COURIER

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

Dear Mr. Langdon:

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

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

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

DATE: 06-20-2007
CLASSIFIED BY 65179 dmh/kar/ps
REASON: L4 (c)
DECLASSIFY ON: 06-20-2032

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Page 2

Derived From: G-3
Declassify On: X1

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Mr. James Langdon

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

~~SECRET~~

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

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

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

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

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

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

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(S) [redacted]

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~~SECRET~~

---- Working Copy ----

Page

4

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

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

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

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~~SECRET~~/ORCON/NOFORN~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/04/2005

To: General Counsel

Attn: National Security Law
Branch, Room 7975

From: Counterintelligence
CD-3A, Room 4155

Contact: [Redacted]

Approved By: [Redacted]

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Drafted By: [Redacted] jjg

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

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

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

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

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

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Details: (S) [Redacted]

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

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(S) [Redacted] in the United States, including [Redacted] utilizing several telephone numbers which, among others [Redacted] was discontinued on December 17, 2004 at 10:55 a.m. EST because subsequent investigation revealed that this number was not being utilized by captioned target [Redacted]

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

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(S) [Redacted] is also providing OIPR with the [Redacted]

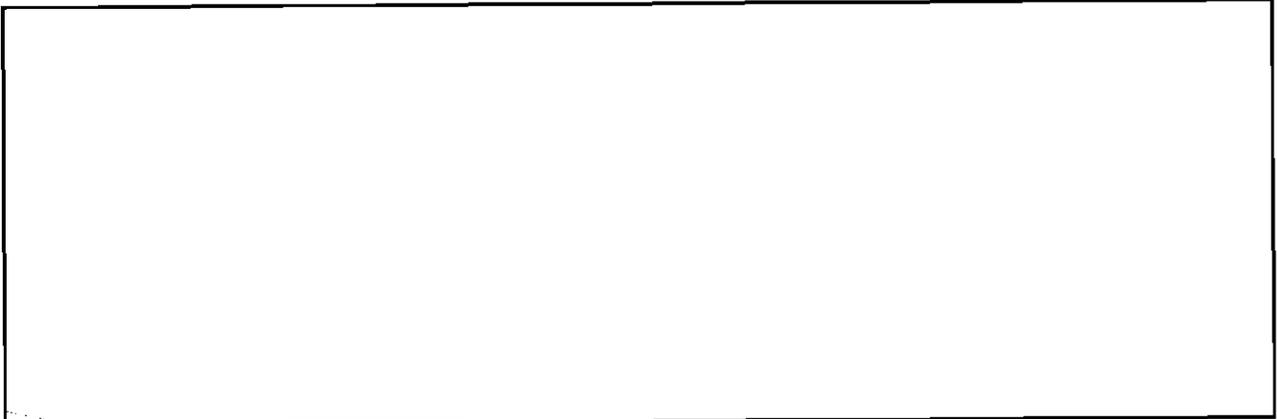
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~~SECRET~~

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

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

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

LEAD(s) :

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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~~SECRET~~

(01/26/1998)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/11/05

To: Director's Office

Attn: OPR

Counterintelligence

Attn: AD

From: General Counsel

National Security Law Branch/Rm. 7975

Contact: [Redacted]

Ext. [Redacted]

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Approved By: Thomas Julie F

[Redacted]

Drafted By:

[Redacted]

DATE: 06-21-2007

FEI INFO.

CLASSIFIED BY 65179 dmh/prs/esk

REASON: 1.4 (c)

DECLASSIFY ON: 06-21-2032

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

(U) ~~(S)~~ **Title:** INTELLIGENCE OVERSIGHT BOARD
(IOB) MATTER 2005-[Redacted]

b2

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

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

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

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

UC [Redacted]

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IOB
Please handle
revised in ACS
already 74

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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To: Counterintelligence From: General Counsel

(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/11/05

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

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

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

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[redacted]

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[redacted]

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(S)

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

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

~~SECRET~~

~~SECRET~~

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

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

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[Redacted]

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

(S)

[Redacted]

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

(U) Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." In this instance, the FISA collection on telephone number [Redacted] was done without the authorization required by law. Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

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~~SECRET~~

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

Lead(s):

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR, FO, DC

(U) For review and action deemed appropriate.

Set Lead 2: (Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

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

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

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~~SECRET~~

BY COURIER

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

Dear Mr. Langdon:

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

b2

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

Enclosure

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

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**UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE**

(U)

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

~~SECRET~~

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzalez
Attorney General
U.S. Department of Justice
Room 5111
- 1 - Mr. James A. Baker III
Counsel for Intelligence Policy and Review
U.S. Department of Justice
Room 6000

~~SECRET~~

~~SECRET~~

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

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(S)

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

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

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

~~SECRET~~~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/19/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section IPU, Room 11102

Contact: CRS [redacted] Ext. [redacted]

Approved By: Fogle Toni Mari

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Drafted By: [redacted] kas

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1015
OGC/IOB# 2005 [redacted]

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

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

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial XXX
278-HQ-C1229736-VIO Serial 835

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Office dated 3/2/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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DECLASSIFIED BY 65179 dmh/kst/pts
ON 06-22-2007

~~SECRET~~



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

Washington, D.C. 20530

DATE: July 20, 2005

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

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

SUBJECT: OIG Complaint No. 2005005804
Subject: Unidentified
[redacted] Division
FBI No. 278-HQ-C1229736-VIQ

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We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

This complaint will be investigated by the OIG.

IMPORTANT NOTICE

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

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

Attachment

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

NSL VIO-141

Fogel
Att