

#07-168: 03-10-07 Fact Sheet: Department Of Justice Corrective Actions on the FBI's Use of National Security Letters

FOR IMMEDIATE RELEASE
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Fact Sheet:

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Department Of Justice Corrective Actions
on the FBI's Use of National Security Letters

WASHINGTON - Nearly two weeks ago, the Attorney General commended the work of the Inspector General in uncovering serious problems in the FBI's use of National Security Letters (NSLs). The Attorney General and the Director of the FBI agreed that such mistakes would not be tolerated, and the Attorney General ordered the FBI and the Justice Department to put in place safeguards to ensure greater oversight and controls over the use of NSLs.

Since that time, the FBI and Justice Department have moved expeditiously to implement the recommendations of the Inspector General's report and to create additional safeguards to ensure that NSLs are used properly. Below are some of the actions that the FBI and Justice Department have taken to date and will be taking in the near future to address these shortcomings:

New Oversight and Auditing of the FBI's Use of NSLs

*Initial Audit - Last Friday, the FBI's Inspection Division launched a retrospective audit of the use of NSLs in all 56 FBI field offices nationwide. The FBI consulted with and received input from the Justice Department's National Security Division (NSD) and the Department's Chief Privacy and Civil Liberties Officer (CPCLO) in developing its plan for the audit, which is based upon the Inspector General's methodology for identifying potential Intelligence Oversight Board (IOB) violations. While this audit is being led by the FBI's Inspection Division, the Justice Department's NSD and CPCLO are also participating in the audits at various FBI field offices.

*Regular Audits Going Forward - Starting next month, the Justice Department's NSD, in conjunction with the CPCLO, the FBI's Inspection Division and the FBI's Office of General Counsel, will begin conducting comprehensive reviews of the use of NSLs at FBI headquarters and in field offices around the country. It is expected that the findings of the FBI's initial audit will inform the process of these ongoing reviews. This is a new level of oversight by Department of Justice lawyers with years of experience in intelligence and law enforcement.

Prohibition on the Use of "Exigent" Letters

*On March 5, 2007, the FBI issued a Bureau-wide directive prohibiting the use of the exigent letters described in the Inspector General's report. All FBI field offices have been asked to identify any use in their office of an exigent letter or anything akin to an exigent letter.

*The FBI Director in February 2007 ordered an expedited review by the Inspection Division of the unit that issued the exigent letters described in the Inspector General's report, for the purpose of determining management accountability.

*The NSL audits described above will also include a review of whether exigent letters described in the Inspector General's report were issued in other FBI field offices.

*The Associate Deputy Attorney General and the Justice Department's Office of Professional Responsibility are also examining the role FBI officials played in the use of NSLs and exigent letters.

New Oversight of FBI-Reported IOB Violations

*The Justice Department's NSD will now review all Intelligence Oversight Board (IOB) violations that the FBI reports to the IOB. When reviewing these IOB

NSL
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referrals from the FBI, the NSD will promptly notify the Attorney General if it appears that the incident suggests the need for a change in policy, training or oversight mechanisms. The NSD will also report to the CPCLC any IOBs that raise serious civil rights or privacy issues. *The NSD will also report to the Attorney General every six months on all IOB referrals reported by the FBI during the preceding six-month period. This mechanism will help identify trends and potential future problems.

New Measures to Address NSL Tracking

*In early 2006, the FBI began developing a new NSL tracking database. The Web-based system will be piloted in the FBI's Washington Field Office in the summer of 2007 and will be deployed to four large field offices in late 2007. The new system will include a field that will identify whether the NSL recipient complied with the request and will possibly allow for entry of notes or comments on the response.

*Until the new system is deployed, FBI field offices will report monthly on NSLs that have been issued. The FBI Office of General Counsel will ensure that the NSLs comply with applicable statutes, guidelines, and policies.

*To obtain a better accounting of past use of NSLs and correct inaccuracies in past Congressional reports, the FBI Director has ordered an intensive process to query other computer systems to locate files where NSLs may have been issued but not reported to FBI Office of General Counsel for inclusion in its tracking database. In addition, the FBI Office of General Counsel is correcting any data entry errors in the existing database. The Attorney General has also mandated that the Justice Department's NSD and CPCLC advise him on additional steps that should be taken to correct the inaccurate numbers reported to Congress.

*On March 5, 2007, the FBI issued a new policy requiring the retention of copies of signed NSLs.

New Training and Guidance on NSLs

*The FBI will re-issue comprehensive guidelines throughout the Bureau concerning the proper use of NSLs. The FBI Office of General Counsel will evaluate existing guidance and make necessary revisions in consultation with the Department of Justice's National Security Division.

*The FBI has begun developing a new training course on the proper use of NSLs that will be available to FBI personnel through the Internet. After the course development is complete, the FBI will issue a directive mandating training for all Special Agents-in-Charge, Assistant Special Agents-in-Charge, as well as all appropriate FBI agents and analysts.

*In the meantime, the FBI has ordered that anytime an FBI Office of General Counsel attorney is traveling in the field for any reason, the attorney must schedule mandatory NSL training. The FBI will consider whether additional training on NSLs for new agents is needed.

*The Justice Department's Executive Office of U.S. Attorneys will review its existing training materials and guidance for terrorism investigations and prosecutions to ensure that NSLs are properly described in such materials.

New Oversight of the Use and Retention of NSL-Derived Information

*A working group co-chaired by the Office of the Director of National Intelligence and the Justice Department's CPCLC has been convened to examine how NSL-derived information is used and retained by the FBI. The FBI's Privacy Officer as well as a representative from the Justice Department's NSD will be represented on this working group. The working group will examine how the NSL records are stored and disseminated and determine the retention practices of other agencies with NSL authorities.

Review of Role of FBI's Division Counsel

*The Justice Department's NSD and the FBI have begun examining whether the FBI's organizational structure should be changed to have FBI's Division Counsel in field offices report to the FBI's Office of General Counsel in Headquarters rather than to field office Special-Agents-in-Charge.

Proposed Legislation

*The Inspector General recommended in its report that the term "toll billing records information" in the Electronic Communications Privacy Act NSL statute be clarified. The Justice Department and FBI are developing a proposal to address this concern.

Future Oversight

*The Attorney General has asked the Inspector General to report to him in four months on the FBI's implementation of the recommendations contained in the Inspector General report.

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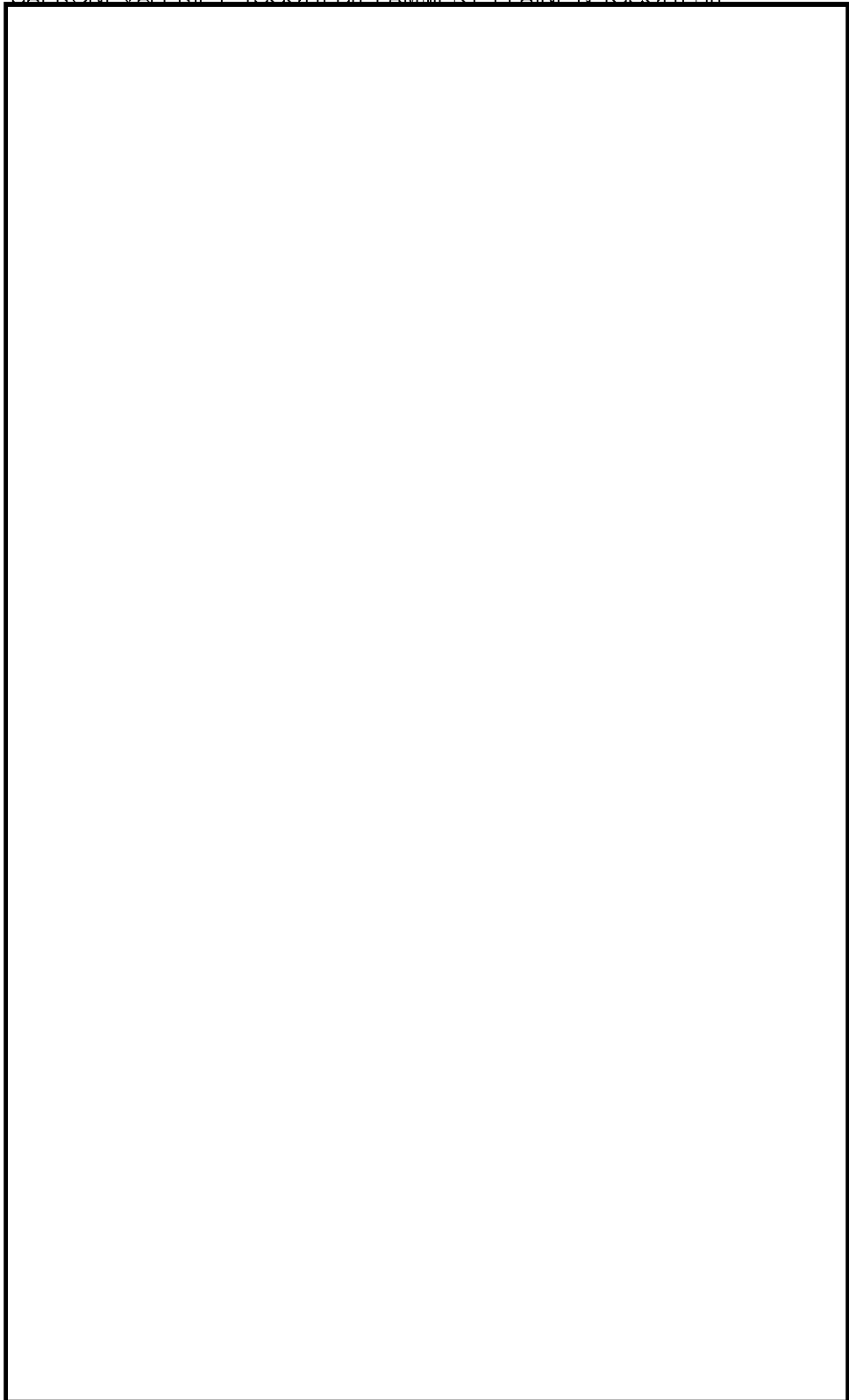
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(OGC) (FBI)

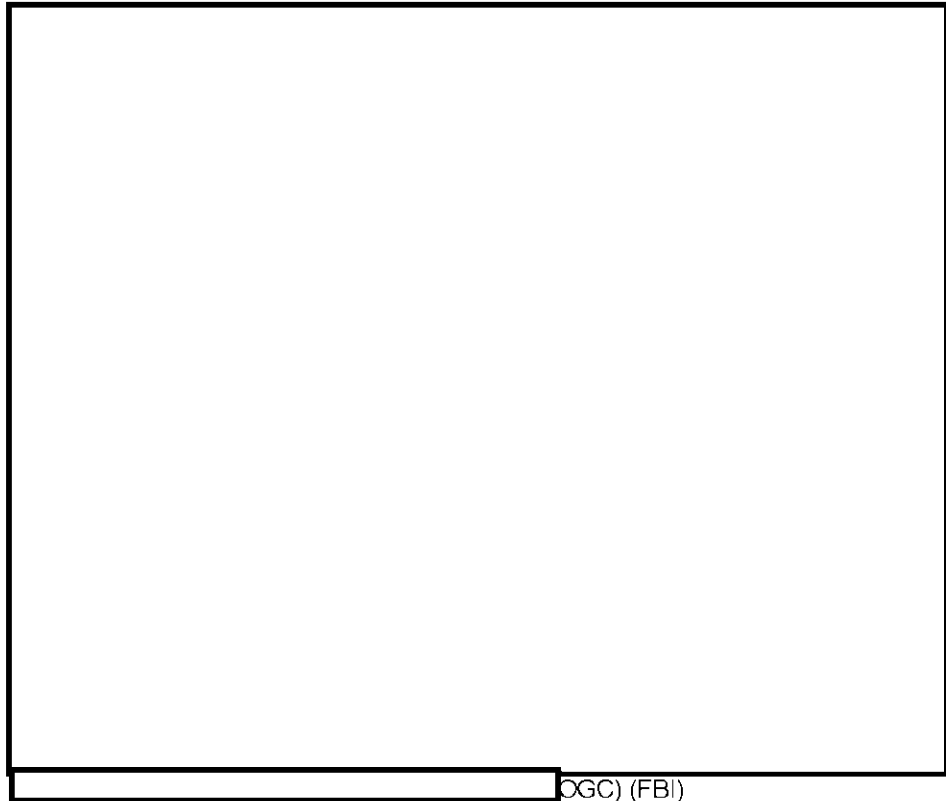
Wednesday, August 16, 2006 4:52 PM

CAPRONI VALERIE E. (OGC) (FBI); LAMMERT, ELAINE N. (OGC) (FBI);



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Subject: DOJ Guidance RE National Security Letters
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OGC) (FBI)

Ladies and Gentlemen,

Attached is a recent DOJ Monograph titled, **Guidance on the Use of National Security Letters to Obtain Certain Information Relevant to an FBI National Security Investigation (June 2006).**

As soon as the next CD for DOJ USABOOK comes out, this will be added to the OGC Law Library webpage.



nslm.wpd (358 KB)

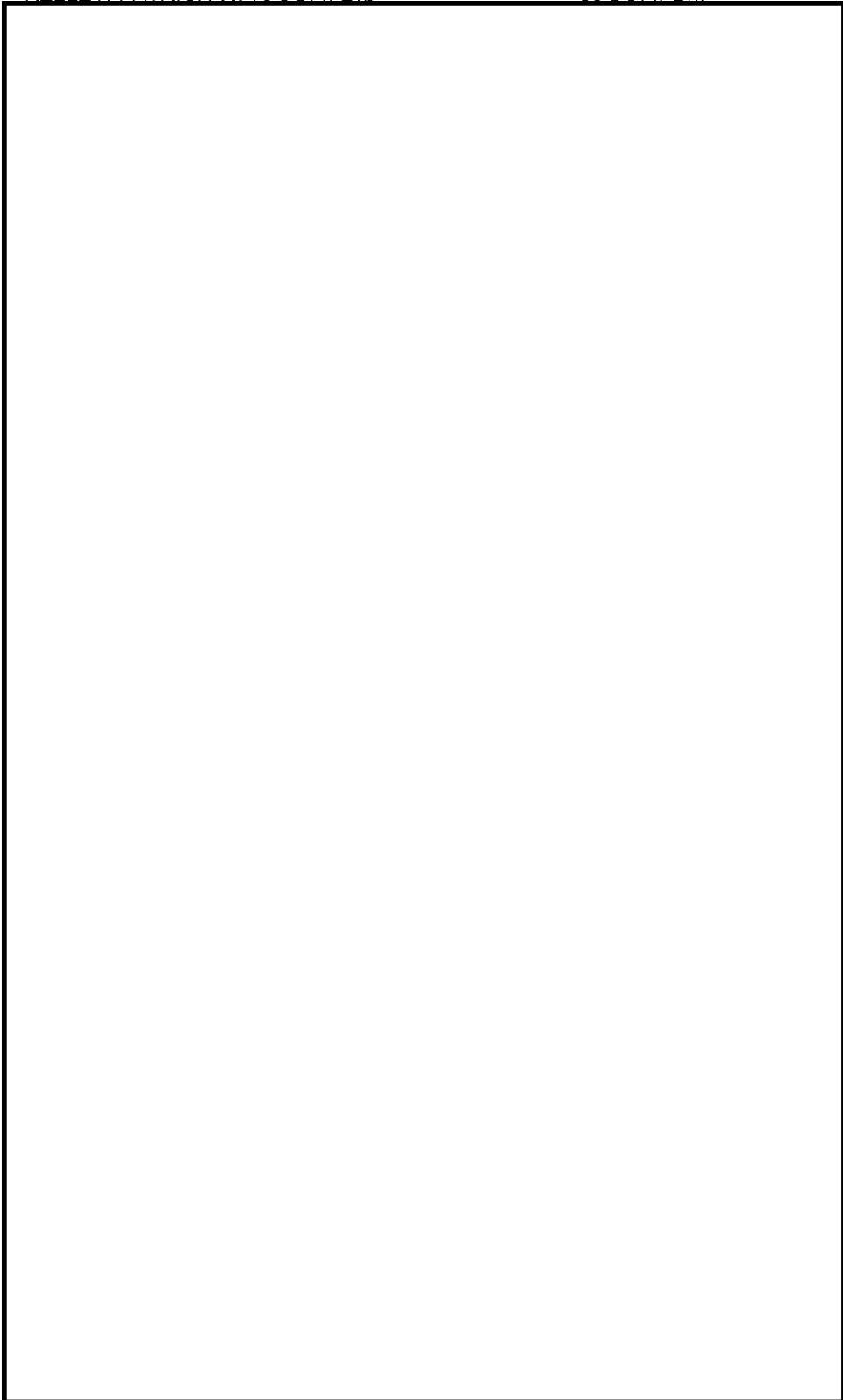
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From:
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To:

[REDACTED] (OGC) (FBI)
Wednesday, March 14, 2007 5:40 PM
KELLEY, PATRICK W. (OGC) (FBI) [REDACTED] (OGC) (FBI);



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Subject: DOJ IG Reports
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CDCs/ADCs:

Please note that the DOJ IG Reports RE "National Security Letters" and "Section 215 Orders for Business Records" are now available on the OGC Main Law Library website http://30.30.204.57/libraries/doj_ig_reports/

I believe DGC Elaine Lammert has already sent you an e-mail RE the IG report on NSLs.

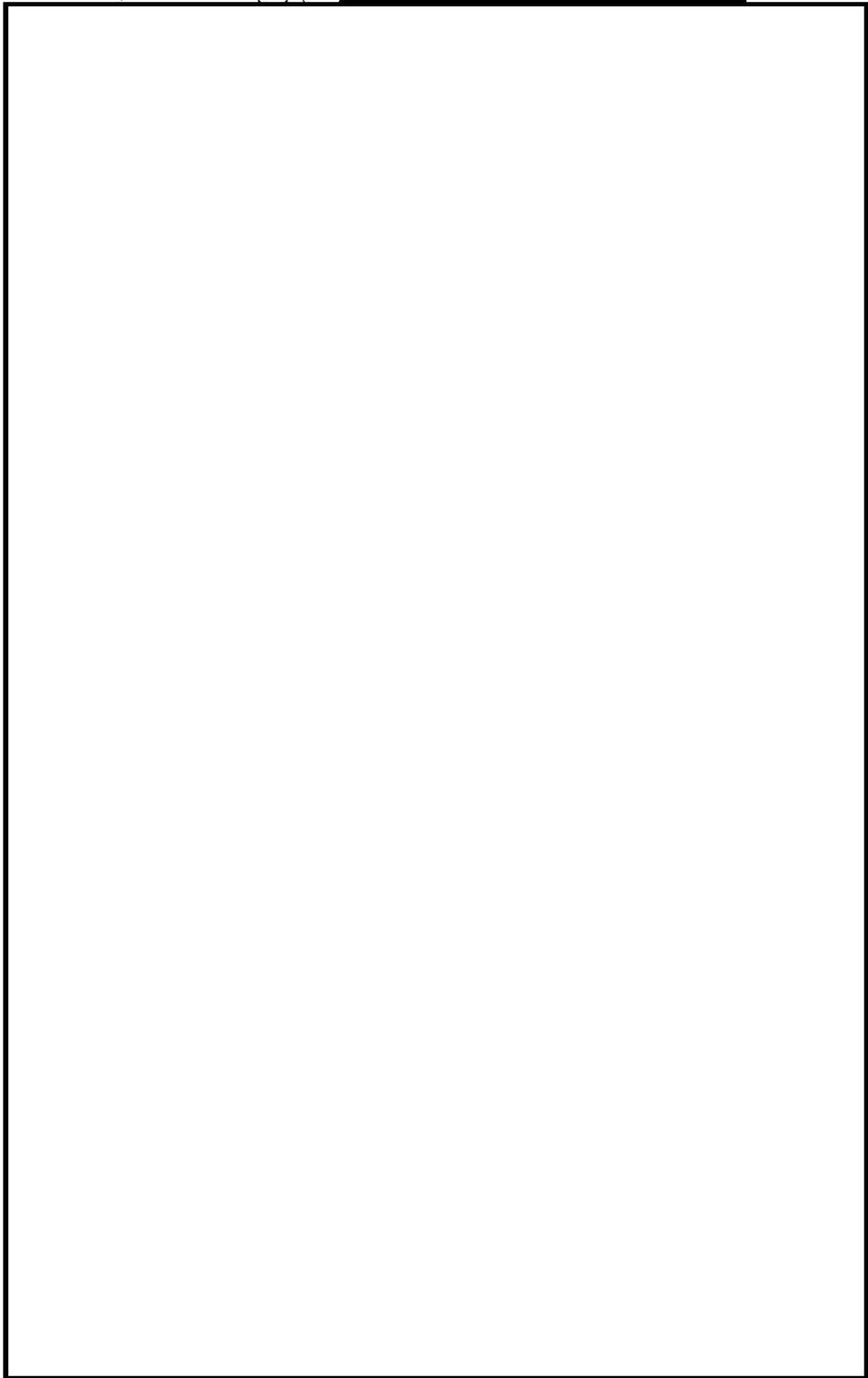
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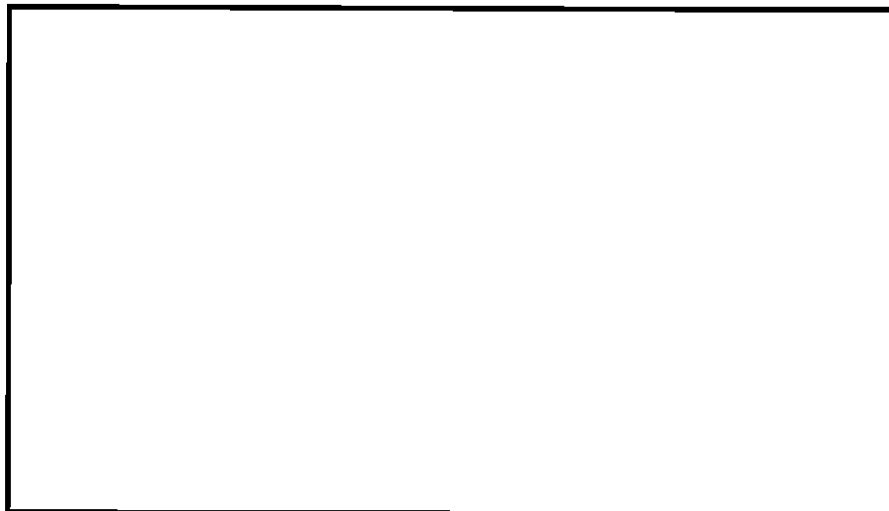
From:
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[REDACTED] (OGC) (FBI)
Tuesday, December 06, 2005 4:00 PM
CAPRONI, VALERIE E. (OGC) (FBI); STEELE, CHARLES M. (DO) (FBI);
WEISSMANN, ANDREW (DO) (OGA); WILLIAMS, JEFFERY A. (OGC) (FBI);
BOWMAN, MARION E. (OI) (FBI) [REDACTED]



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Subject: DOJ's response to Congress re Washington Post article on NSLs
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Attached is the letter from William Moschella, AAG at DOJ, to the House and Senate Judiciary Committees, re the *Washington Post* article from last month re NSLs (which I previously sent all of you).



NSL_rebuttal_letter
.pdf (529 K...

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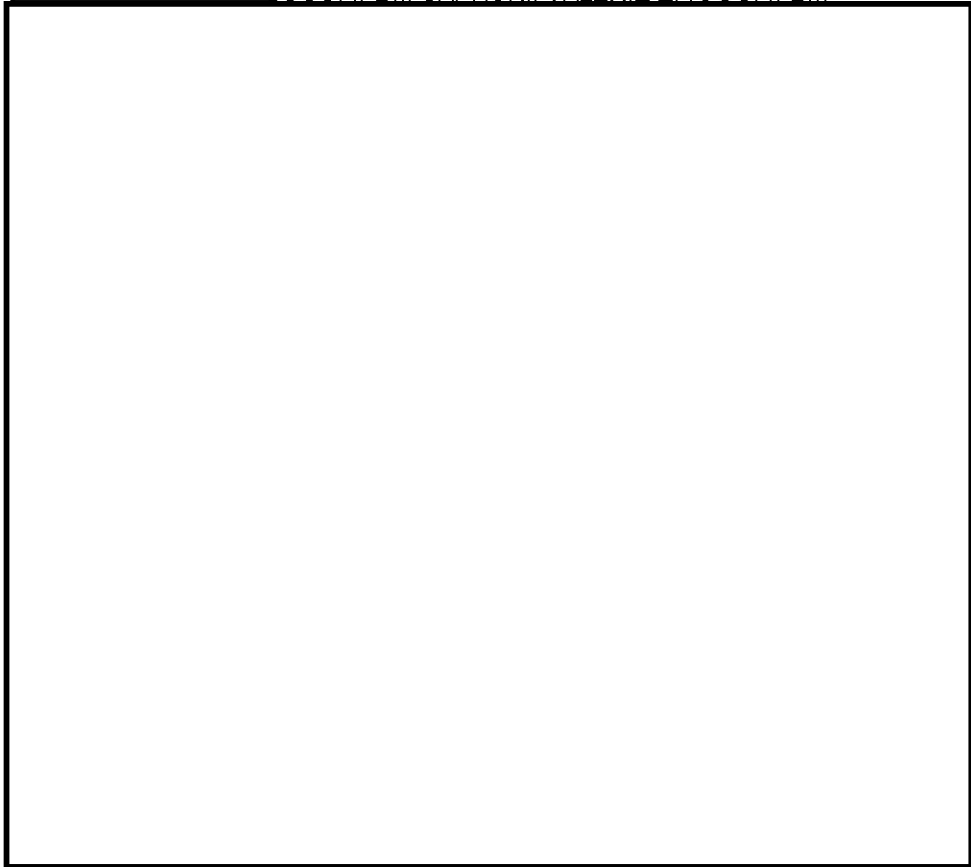
[Redacted]

(OGC) (FBI)

Tuesday, March 13, 2007 4:02 PM

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(OGC) (FBI); CAPRONI, VALERIE E. (OGC) (FBI);



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Subject:

IG report

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The OIG Report RE NSLs is now on the Main Law Library website under the DOJ IG REPORTS Category http://30.30.204.57/libraries/doj_documents/ig_national_security_letters.pdf
*****Note that because this is such a large document, it may take a minute or two for some folks to open*****



will post the IG Report RE section 215 of the PATRIOT Act tomorrow.

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