

Precedence: ROUTINE

Date: 04/20/2005

#1044

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

From: [Redacted]
[Redacted]
[Redacted]

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Approved By: [Redacted]

DATE: 06-22-2007
CLASSIFIED BY: 65179dmh/kst/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-22-2002

Drafted By: [Redacted] cws

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

Title: (U) SA [Redacted] b6
SSA [Redacted] b7C
REPORT OF POSSIBLE IOB VIOLATION

handle & cover lead in ACS. y
AM

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Synopsis: (S) EC to report a possible IOB violation committed by writer in investigation of [Redacted]

(U) ~~(S)~~ Derived From [Redacted] 3-5
Declassify On: X1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Enclosure(s): (S) Enclosed for NSLB are an EC dated 03/21/2005 with all of it's enclosures, [Redacted] containing toll records received [Redacted]

(S) Details: (S) A potential IOB violation occurred during [Redacted]

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[Redacted]

(S) [Redacted]

ygalab

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Case ID : 278-HO-C1229736-VIO

Serial : 823

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

NSL VIO-18043

263-0-U-299

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(S)

~~SECRET~~

---- Working Copy ----

Page

[Redacted]

(S) Writer began to review the response from [Redacted]

[Redacted] Upon reading the subscriber information, writer realized the name was not identifiable with [Redacted]

[Redacted]

(Note: There is only

one digit difference between [Redacted] which was the number [Redacted]

[Redacted]

subjects. Upon realization of this error, writer telephoned CDC [Redacted] and advised him of these details. CDC [Redacted] requested writer prepare a report of possible IOB violation.

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(S)

~~(S)~~ Writer was unable to determine if the incorrect telephone number was the result of the interviewee providing incorrect information or a mistaken note taking by the writer during the interview. The interviewee has since obtained legal counsel [Redacted] and is no longer available for re-interview.

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(U)

~~(S)~~ Writer has enclosed the results of the NSL for destruction as they are not needed for, or related to, the current investigation.

LEAD(s):

Set Lead 1: (Info)

ALL RECEIVING OFFICES

(U) For info only.

~~SECRET~~

NSL VIO-18044

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/01/2005

To: Inspection
Counterterrorism

Attn: IIS
Attn: AD
Attn: SAC, CDC

From: General Counsel
Counterterrorism Law Unit II

Contact: [Redacted]

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Approved By: Thomas Julie F

[Redacted]

DATE: 06-22-2007
CLASSIFIED BY: 65179mm/ksl/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2032

Drafted By: [Redacted]

(U)

Case ID #: (S) 278-HQ-C1229736-VIO - 869
(S) [Redacted]

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(U)

Title: (S) SA [Redacted]
SSA [Redacted]
POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER
IOB [Redacted]

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(U)

Synopsis: (S) It is the ~~opinion~~ of the Office of the General Counsel (OGC) that this ~~was not intended to be referred~~ to the Intelligence Oversight Board (IOB), but, rather, that a record of this decision should be maintained in the investigative control file for review by the Counsel to the IOB.

(U)

~~(S) Derived from: G-3
Declassify On: X-25-1~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(U) Reference: (S) 278-HQ-C1229736-VIO Serial 823

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in WordPerfect 8.0.

(S)

Details: (S) [Redacted]
[Redacted] As a result of witness

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UC
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OIG/DOJ Review: [Redacted] DATE: 9/1/05
FBI INVEST: [Redacted] OIG/DOJ INVEST.:
OPR UC INITIALS: [Redacted]

~~SECRET~~

100-
handle IOB
lead
in ACS. 4

NSL 10-18045

~~SECRET~~

To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/10/2005

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(U)

(S) interviews, SA [redacted] as the named subject's phone number. On or around 01/04/2004, a National Security Letter for subscriber information and toll records was served upon the provider, [redacted]

(S)

(S) After receiving the requested information from the provider, SA [redacted] realized that the subscriber information did not correspond with that of the target [redacted]. Subsequent research has revealed [redacted] correct cell phone number to be [redacted]. The error appears to have been the result of either the interviewee providing incorrect information or mistaken note taking by SA [redacted]. The interviewee has since obtained legal counsel [redacted] making him unavailable for re-interview.

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(S)

~~(S)~~ Immediately upon reviewing the subscriber information, SA [redacted] discontinued his review of the records. At no time did he or his supervisor, SSA [redacted] view the [redacted]. Rather, he has submitted the results of the NSL to OGC, for final disposition.

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(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, 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 concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

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~~SECRET~~

To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/10/2005

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(U) ~~(S)~~ In the instant matter, SA [redacted] erroneously issued an NSL for an incorrect phone number. However, he did so in good faith, while relying upon an investigative source for his information. Further, immediately upon reviewing the subscriber information, he discontinued his review of the records and properly sequestered the information.

(U) ~~(S)~~ Consequently, based on the above analysis, this matter will be treated by OGC as essentially administrative in nature. In accordance with the above guidance, OGC will maintain a record of this matter for possible future reference by the Oversight Board and forward the CD-ROM to OIPR to be sequestered. Inspection is also requested to maintain a copy of this opinion, documenting the nonreportable nature of this issue.

~~SECRET~~

~~SECRET~~

To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/10/2005

LEAD (s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

[Redacted]

At [Redacted]

(U) For action deemed appropriate.

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1 - [Redacted]

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/07/2005

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]

(U)

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

(U)

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1044
OGC/IOB# 2005-[redacted]

b2

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 823
278-HQ-C1229736-VIO Serial 869

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 4/20/2005, 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 65179dmh/ksr/maj
ON 06-22-2007

~~SECRET~~

NSL VIO-18049

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/12/2005

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]

DECLASSIFIED BY: 65179dah/kst/maj
ON 06-22-2007

(U) **Case ID #:** (S) 263-HQ-0-U - 299 (Pending)

(U) **Title:** (S) SSA [redacted]
SA [redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1044
OGC/IOB# 2005-[redacted]

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Synopsis: (U) To advise 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~~

Enclosure(s): (U) EC from [redacted] dated 04/20/2005

(U) **Reference:** (S) 278-HQ-C1229736-VIO Serial 823
278-HQ-C1229736-VIO Serial 869

Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, it is IIS's opinion 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 this matter was brought to our attention as required by the revisions

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~~SECRET~~

~~SECRET~~

To: From: Inspection
Re: 263-HQ-0-U - 299, 09/12/2005

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

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~~SECRET~~

~~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]

Contact: [redacted]

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Approved By: [redacted]

DATE: 06-22-2007
CLASSIFIED BY: 65179dmh/ksr/maj
REASON: 1.4 (c/d)
CLASSIFY ON: 06-22-2032

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Drafted By: [redacted]

fjd

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Case ID #: (S) [redacted]

Pending)

278-HQ-C1229736-VIO -796

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Title: (S) [redacted]

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

(U)

~~(S)~~ Synopsis: 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)

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

Details: (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

(S)

[redacted]

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~~SECRET~~/ORCON/NOFORN

4/18/05

OIG/DOJ Review:
FBI INVEST: [initials]
OPR INITIALS: _____

OIG/DOJ INVEST: _____

DATE: 4/18/05

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2005 [redacted]

263-0-U-283

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To: Counterintelligence From: [redacted]
Re: (S) [redacted] 03/02/2005

(S)

[redacted]

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~~(S)~~ The pertinent details of the authorization and subsequent investigation are set forth in the enclosed letter. [redacted] is also providing OIPR with the original [redacted]

(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 [redacted]

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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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To: Counterintelligence From: [redacted]
Re: (S) [redacted] 03/02/2005

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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.

◆◆



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

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(S)

RE:

[Redacted]

Dear Mr. Baker:

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Enclosed for notification to the United States Foreign
Intelligence Surveillance Court (FISC) and/or sequestration with
the FISC, if appropriate, are two (2) [Redacted]

[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

[Redacted]

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

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(S)

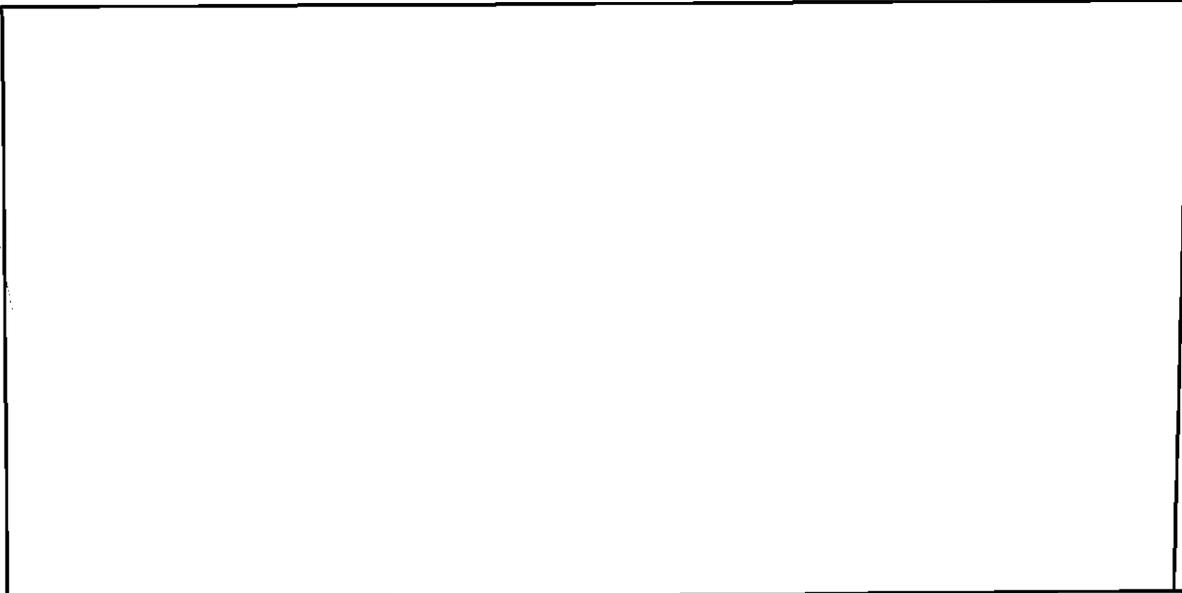
~~SECRET~~//ORCON//NOFORN

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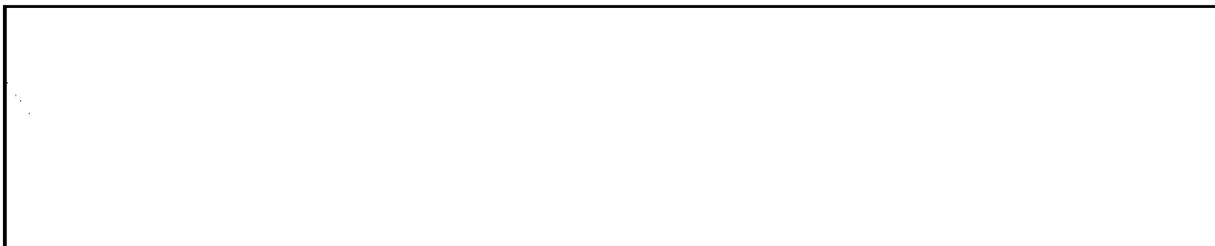
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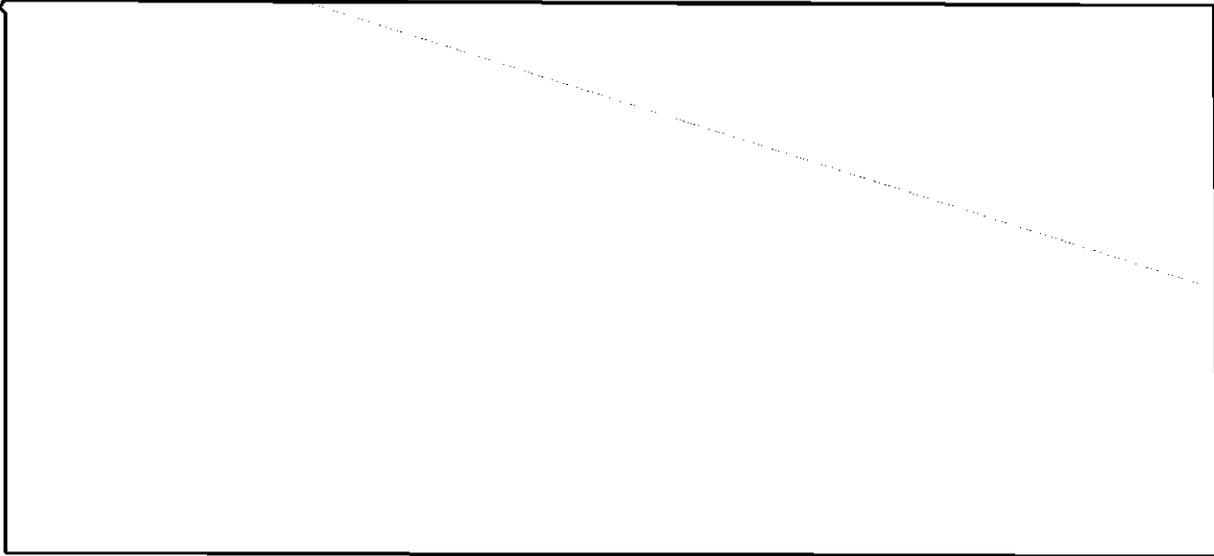


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(S)

~~SECRET~~//ORCON//NOFORN



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

Sincerely yours,

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~~SECRET~~//ORCON//NOFORN

~~SECRET~~

FD-962 (Rev. 05-02-2003)

~~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]

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Approved By: [Redacted]

Drafted By: [Redacted] jjg

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

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT

Synopsis: ~~(S)~~ Possible IOB error for
of information.

~~(S)~~ Derived From:
Declassify On:

Enclosure(s): LHM with enclosures

same as 2005- [Redacted]
but this is by [Redacted]
CD

Details: (S) [Redacted]

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~~(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 of [Redacted]

[Redacted]

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(S) The pertinent details of the authorization and subsequent investigation are set forth in the enclosed letter. [Redacted] is also providing OIPR with the [Redacted]

[Redacted]

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~~SECRET~~

DATE: 06-23-2007
CLASSIFIED BY 65179cmh/ksf/maj
REASON: 1.4 (c) NSL VIO-18068
DECLASSIFY ON: 06-23-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

2005 [Redacted]

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~~SECRET~~

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

(S)



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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 [redacted] system.

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NSL VIO-18069

~~SECRET~~

(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.

♦♦

~~SECRET~~

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NSL VIO-18070

~~SECRET~~

#1014

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/02/2005

To: Inspection Division
General Counsel
Counterintelligence

Attn: Internal Investigations
Section (IIS)
Attn: National Security Law
Branch (NSLB)
Attn: CD-3A
SSA [redacted]

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From: [redacted]
[redacted]
Contact: SA [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted] brh

DATE: 05-23-2007
CLASSIFIED BY: 65179dmh/kse/maj
REASON: 1.4 (c/d)
DECLASSIFY ON: 06-23-2032

Case ID #: (S) [redacted] (Pending) 1375
(U) 278-HQ-C1229736-VIO (Pending) '111

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Title: (S) [redacted]
OO: [redacted]

Synopsis: (U) Report of potential Intelligence Oversight Board (IOB) matter.

(U) ~~Derived From: FBI SCG G-3, January, 1997
Declassify On: 03/02/2030~~

Details: (U) In order to facilitate a review, investigation, and disposition of intelligence activity conducted by the FBI which may have been unlawful or contrary to Executive Orders, this communication is being submitted to report a potential IOB matter. Per electronic communication from Inspection Division, Internal Investigations Section on 02/10/2005 concerning revised procedures for the submission of reports of potential intelligence oversight board matters, the following information is being provided:

(1) Names of the case agent and case supervisor of captioned investigation:

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~~SECRET~~

OIG/DOJ Review: [redacted]
FBI INVEST: [redacted] DATE: 4/18/05
OPR UC INITIALS: [redacted] OIG/DOJ INVEST: [redacted]

40 9/16/05
3-16-05
8

NSL VIO-18079

2005

[redacted]

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263-0-U-282

To: Inspection Division From: [redacted]
Re: (S) [redacted] 03/02/2005

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Case Agent: SA [redacted]
Case Supervisor: SSA [redacted]

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(2) Identification of the substantive investigation in which the questionable activity occurred:

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(S) [redacted]

(3) Identification of the target by name:

(S) [redacted]

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(4) Identification of the subject's status as a United States person or non-U.S. person:

(S) [redacted]

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(S)

[redacted]

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(6) An explanation of the error believed committed and when it occurred, including an explanation for the delayed submission of reporting:

(U) The following is Case Agent's account of all circumstances and events surrounding the inadvertent capture [redacted] not involving the above-mentioned [redacted]
[redacted]

(S) ~~(S)~~ The order authorizing electronic surveillance that included the above-mentioned [redacted] was filed and signed on November 4, 2004, [redacted]

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SECRET

To: Inspection Division From: [redacted]
Re: (S) [redacted] 03/02/2005 [redacted]

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[redacted] A search warrant [redacted]

[redacted] signed on November 4, 2004.

(S) [redacted] FBIHQ and appropriate personnel took the necessary actions to execute these two authorizations.

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(U) ~~(S)~~ On November 5, 2004, Case Agent was informed by [redacted] Office of General Counsel, that the primary and secondary orders had been directed to the appropriate field offices and FBI personnel. Between November 5, 2004 and December 21, 2004, Case Agent coordinated with SA [redacted] a tech agent in the [redacted] division, and personnel involved with serving secondary orders to ensure initiation of the court-authorized search and surveillance. SA [redacted] informed Case Agent that he coordinated with SSA [redacted] to arrange for surveillance [redacted]

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[redacted]

(S) [redacted]

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(U) Between December 22, 2004 and February 11, 2005 Case Agent reviewed the email messages provided by [redacted] to [redacted] for captioned investigation, on a regular basis: [redacted]

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[redacted]

~~SECRET~~

~~SECRET~~

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To: Inspection Division From: [redacted]
Re: (S) [redacted] 03/02/2005

[redacted]

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(U) On the morning of February 11, 2005, Case Agent received a telephone call from [redacted] OIPR. [redacted] inquired about [redacted] electronic surveillance [redacted] for captioned investigation, provided by the [redacted]. Case Agent informed [redacted] that amongst the numerous [redacted] provided by [redacted] involving the [redacted] specified in the FISA court order, [redacted] had also provided a number of [redacted] that did not visibly involve any of the [redacted]. Case Agent informed [redacted] that these extraneous messages were minimized [redacted].

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(U) On the afternoon of February 11, 2005, [redacted] sent an email to Case Agent stating that [redacted] had exceeded the authority granted by the Court, [redacted]. [redacted] requested Case Agent shut down the email surveillance until [redacted] could ascertain that [redacted] had configured its system in a manner consistent with the authority granted by the Court. Case Agent was out of the office on the afternoon of February 11, 2005; Case Agent did not receive this email from [redacted] until the morning of February 14, 2005. Case Agent discontinued surveillance of the electronic data provided by [redacted] for captioned investigation, upon reading [redacted] email and a corresponding email message from Unit Chief [redacted] CD-3A, instructing Case Agent to terminate the surveillance immediately, coordinate with [redacted] to fix the problem, and provide SSA [redacted] with the inappropriately captured materials for sequestration.

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(U) Case Agent's discontinuance [redacted] surveillance started on the afternoon of February 11, 2005 due to his inability to conduct [redacted] surveillance while being away from the office. On the morning of February 14, 2005, Case Agent coordinated with SA [redacted] the SA responsible for [redacted].

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To: Inspection Division From: [redacted]
Re: (S) [redacted] 03/02/2005

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the technical aspects of captioned investigation's FISA [redacted] surveillance. SA [redacted] informed Case Agent that he would communicate with SSA [redacted] to discuss the situation. Shortly thereafter, SA [redacted] contacted Case Agent and relayed SSA [redacted] explanation of the matter. SA [redacted] explained that [redacted] may structure [redacted] [redacted] are different entities; it may be possible to have multiple [redacted] According to SA [redacted] executed the court order with the language of [redacted]

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(S)

[redacted] in this manner. SA [redacted] expressed to Case Agent that he did not completely understand SSA [redacted] explanation and could not clearly brief Case Agent on the situation.

(U) On the afternoon of February 14, 2005, Case Agent communicated with SSA [redacted] to clarify the requirements for sequestering [redacted] Case Agent spent the next two days developing a list of all [redacted] received between December 21, 2004 and the morning of February 11, 2005 that were inadvertently captured. While compiling this list, it occurred to Case Agent that perhaps Unit Chief [redacted] instructions on February 11, 2005 to "terminate surveillance" extended beyond Case Agent's personal discontinuance of viewing newly captured [redacted] On the afternoon of February 16, 2005, Case Agent requested SA [redacted] coordinate with [redacted] and [redacted] to turn off [redacted] Case Agent then contacted FBI employee [redacted] of [redacted] Unit, on February 17, 2005 to determine if [redacted] could cease [redacted] for captioned investigation; Case Agent contacted [redacted] upon realizing that [redacted] technicians might be able to halt [redacted] Around noon of February 17, 2005, [redacted] informed Case Agent that she turned off [redacted] for captioned investigation. [redacted] recommended Case Agent contact [redacted] Operations Government Lead, for the sequestering [redacted]

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[redacted] will show that Case Agent did not review any [redacted] received during this time frame.

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To: Inspection Division From: [redacted]
Re: (S) [redacted] 03/02/2005

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(U) On February 18, 2005, Case Agent coordinated with [redacted] and SSA [redacted] to begin purging the ELSUR system of all inadvertently [redacted] [redacted] informed SSA [redacted] that he could sequester the specified data and move it to an optical disc for turning over to the Court. Case Agent reviewed [redacted] of captioned investigation, a repository for pertinent [redacted] captured through surveillance, to ensure that no inappropriate [redacted] were stored in FBI [redacted] files. On February 18, 2005, Case Agent provided to [redacted] a list of all inadvertently captured email messages for sequestration. On February 25, 2005, [redacted] provided to SSA [redacted] and Case Agent a list of [redacted] for removal [redacted] this list [redacted]

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[redacted] On March 1, 2005, [redacted] provided to Case Agent an updated list [redacted] for sequestration. Later that day, Case Agent reviewed the updated information and informed [redacted] of modifications to the list. Case Agent requested [redacted] sequester the final compilation of inadvertent [redacted] and coordinate with SSA [redacted]

~~(U)~~ All messages that were unrelated to email

(S) [redacted]

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~~SECRET~~

To: Inspection Division From: [redacted]
Re: (S) [redacted] 03/02/2005 [redacted]

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LEAD(s):

Set Lead 1: (Action)

INSPECTION DIVISION

AT WASHINGTON, DC

(U) Request the Inspection Division take appropriate action, as necessary, in response to this potential IOB matter reported by [redacted] division.

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Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Request the Office of General Counsel take appropriate action, as necessary, in response to this potential IOB matter reported by [redacted] division.

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Set Lead 3: (Discretionary)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Request CD-3A review the provided communication and take all necessary actions.

◆◆

~~SECRET~~

7

NSL VIO-18085

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

1010

Precedence: IMMEDIATE

Date: 11/19/2002

To: Inspection

Attn: IMU, Room 7837

General Counsel

NSLU

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From: [redacted]

RA

Contact: SAC [redacted]

DATE: 06-23-2007

CLASSIFIED BY 65179dmh/ksr/maj

REASON: 1.4 (e)

DECLASSIFY ON: 06-23-2032

Approved By: [redacted]

Drafted By: [redacted]

fc

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) ⁻⁴⁰

(U) 278 [redacted] 59479

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Title: (U) SSA [redacted]

SA [redacted]

[redacted] Division

IOB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

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

(S)

~~(S)~~

~~Classified by: 1134, ITOS/CTD~~

~~Reason : 1.5(e)~~

~~Declassify On: X1~~

Reference: (S) [redacted]

(S)

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Details: (S) On 11/18/2002, the [redacted] Division was contacted by CTD, ITOS 2, MEU reference violation of the most recent AGG as it

[Large redacted block]

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~~SECRET~~

NSL VIO-18086

Handwritten signature/initials

203-04-278

2005

[Small redacted box]

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

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(S) [redacted]

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(S) Effective this date, [redacted] will cease using the one NSL that it has received. [redacted] requests a waiver of Section III.B.4 of the AGG as it relates to NSL matters [redacted] will store records pertaining to the other [redacted] NSLs, as they are received, until such time that a waiver is approved. [redacted]

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(S)

[redacted]

(S) SA [redacted], assigned to the [redacted] Division, [redacted] RA, [redacted]

(S)

[redacted]

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(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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~~SECRET~~

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~~

~~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]

DATE: 06-23-2007
CLASSIFIED BY 65179dmh/k
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2030

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Approved By: Thomas Julie F

[Redacted]

Drafted By:

[Redacted]

Case ID #: (S) 278-HQ-1406607-2 Ser 3
(U) (S) 278-HQ-C1229736-VIO-40
(S) 278- [Redacted] -59479-175

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

[Redacted] DIVISION

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER [Redacted]

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(U) Synopsis: (S) It is the [Redacted] of the Office of the General Counsel ("OGC") that this [Redacted] 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.

~~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.

OIG/DOJ Review: [Redacted] DATE: 8/12/05
FBI INVEST: [Redacted] OIG/DOJ INVEST: [Redacted]
OPR UC INITIALS: [Redacted]

~~SECRET~~

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IPU #
NSL VIO-18089

UC [Redacted] 6/14/05
SSA [Redacted] [Redacted]
[Redacted] [Redacted] 6/17/05
[Redacted] [Redacted] 6/17/05
Lead downloaded 6/17/05
asb
Enclosure covered in ACS 74

~~SECRET~~

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

(U) ~~(S)~~ 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.

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(S) [redacted]

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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.

(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."

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(U) ~~(S)~~ ² 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)~~ ³ 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~~

~~SECRET~~

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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~~SECRET~~

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 [redacted] of an individual without review by the proper authorities. By longstanding agreement between the FBI and IOB, [redacted] 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.

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(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 [redacted] overrun occurred in this instance at all. As cited above, Section III.B.6. of the FCIG AG Guidelines

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[redacted]

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~~

~~SECRET~~

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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~~SECRET~~

~~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]

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Approved By: Fogle Toni Mari

Drafted By: [redacted]

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

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

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

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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 65179dmh/rse/maj
ON 06-23-2007

~~SECRET~~

NSL VIO-18094

~~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)

Title: ~~(S)~~

SSA [redacted]

SA [redacted]

DECLASSIFIED BY 65179dmh/kse/ma
ON 06-23-2007

(U)

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

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

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(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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~~SECRET~~

To: [redacted] 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~~

#1009

Precedence: ROUTINE

Date: 11/01/2002

To: Director's Office
General Counsel

Attn: [Redacted]
OPR, Rm. 7129
Kenneth L. Wainstein,
National Security Law Unit,
Rm. 7975

From: Inspection
Inspection Management Unit/Room 7837
Contact: [Redacted] ext. [Redacted]

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

(U)

Case ID #: (S) 278-HQ-1402225 (Pending)

(U)

Title: (S) SA [Redacted] ^{ret}
SA [Redacted]
SA [Redacted]
[Redacted] DIVISION
IOB
2002-[Redacted]

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DATE: 06-23-2007
CLASSIFIED BY: 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2032

(U) Synopsis: (S) Request of the Office of the General Counsel (OGC) to review the facts of a possible Intelligence Oversight Board (IOB) violation.

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(U) Reference: (S) 278-[Redacted]-71097 Serial 1

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Details: (S) OGC is requested to review the facts of a possible IOB violation: Failure to submit to an FBIHQ substantive unit a

(S)

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Case ID : 278-HQ-1402225

Serial : 2

~~SECRET~~
NSL VIO-18097

2005-[Redacted]

b2 263-0-u-277

Handwritten initials and date: 1/05

~~(S)~~ The previous case agent, SA [redacted] submitted to the Counterterrorism Division point-of-contact (POC) the requisite 90-day Electronic Communication (EC) and accompanying LHM. The communications (dated 01/09/2001) were uploaded into the FBI's Automated Case Support (ACS) system. [redacted]

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~~(U)~~ ~~(S)~~ On 08/20/2002, the investigation was reinitiated and assigned to SA [redacted]. On 10/08/2002, upon review of the file, the newly assigned supervisor, SSA [redacted] determined a year-2002 annual LHM was not submitted. No active investigation was conducted prior to reassignment of case to SA [redacted]

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~~(S)~~ Referenced communication noted "all involved personnel are now aware that placing a case in "Pending Inactive" status does not obviate the need to submit [redacted] SAC, [redacted] recommended no administrative action be taken in this matter.

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(S)

LEAD(s):

Set Lead 1: (Adm)

GENERAL COUNSEL

AT WASHINGTON, D.C.

~~(S)~~ ~~(C)~~ On review of the attached EC, determine whether the information is a reportable IOB violation. If it is determined, a reportable IOB violation exists, prepare an appropriate letter and LHM from Assistant Director Lynn A. Hunt, INSD and Chief Counsel Kenneth L. Wainstein, OGC, forwarding matter to the IOB.

~~SECRET~~

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

Page 3

Set Lead 2: (Adm)

DIRECTOR'S OFFICE

AT WASHINGTON, D.C.

(U) ~~(S)~~ Attached EC is provided to OPR pursuant to the IP Manual, Part 1, Section 6-7.5. OPR is requested to review information to determine whether disciplinary action is warranted.

~~SECRET~~

NSL VIO-18099

#962

~~SECRET~~

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

Precedence: ROUTINE

Date: 12/22/2004

To: Counterterrorism
General Counsel

Attn: ITOS I/CONUS II, Team 7,
SSA [redacted]
Attn: National Security Law Unit

From: [redacted]

Contact: SSA [redacted]

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Approved By: [redacted]

Drafted By: [redacted] rjh

Case ID #: (S) [redacted] (Pending)

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Title: (S) [redacted]

DATE: 06-23-2007
CLASSIFIED BY: 65179dmh/ksr/maj
REASON: 1.4 (c/d)
DECLASSIFY ON: 06-23-2032

(U) Synopsis: ~~(S)~~ To report a possible Intelligence Oversight Board (IOB) violation regarding the use of FISA-derived information to obtain a Federal Grand Jury Subpoena.

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

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

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Reference: (S) [redacted]
(S) [redacted]

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INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Details: In accordance with the National Foreign Intelligence Program Manual, Section 2-56 (Intelligence Oversight Board Matters), [redacted] is reporting a potential IOB Violation. The following is a summary of the substantive investigation:

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

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[redacted]

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(S) Case ID: [redacted]

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Serial: 136
~~SECRET~~ NSL VIO-18100

263-HQ-O-U-1067

11/09/05

in international terrorism activities, or activities in support thereof.

Case Agent: SA [redacted]

Supervisor: SSA [redacted]

Date of Violation: December 02, 2004

Date Violation was Discovered: December 16, 2004

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[Large redacted area]

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Referenced communications were clearly marked instructing that the information provided could not be incorporated into any criminal affidavit, criminal court proceedings, subpoenas, or for other legal or judicial purposes.

Corrective Action: To prevent future IOB violations, Federal Grand Jury and National Security Letter requests will be closely monitored by the supervisor through Lead assignments and File Reviews, and the case agent will be instructed to review the web-based training regarding the handling of classified information. Additionally, the case agent has been instructed to remove all information provided pursuant to the Federal Grand Jury Subpoena from the case file, seal it in an envelope, and secure it in the squad supervisor's safe until notification of proper disposal has been obtained.

LEAD(s):

Set Lead 1: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

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

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Precedence: ROUTINE

Date: 04/20/2005

To: Counterterrorism
Inspection
General Counsel

Attn: ITOS 1/CONUS 2/TEAM 7
SA [redacted]
Attn: IIS
SC Toni Fogle
Attn: NSLB
[redacted]

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b7C
b7E

From: [redacted]

CT-1

Contact: SA [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: [redacted]

Drafted By: [redacted] tts

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Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending)
~~(S)~~ [redacted] (Pending)

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
IOB MATTER 2005-[redacted] b2

~~(S)~~ [redacted] b1
OO:CG b6
b7A
b7C

*handle
of CONUS lead
in Pres.
[Signature]*

Synopsis: ~~(S)~~ To forward information obtained from Federal Grand Jury subpoenas that were based on information obtained using FISA-derived information to ITOS 1, CONUS 2, TEAM 7 as directed by General Counsel, NSLB.

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

DATE: 06-23-2007
CLASSIFIED BY: 65179dmh/kxr/maj
REASON: 1.4 (c/d)
DECLASSIFY ON: 06-23-2032

Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 781

Enclosure(s): ~~(S)~~ Sealed envelope bearing proper classification markings containing information obtained from Federal Grand Jury subpoenas that were based on information obtained using FISA-derived information to ITOS 1, CONUS 2, TEAM 7 as directed by General Counsel, NSLB.

Details: ~~(S)~~ In reference communication, the Office of the General Counsel has informed CG that the referenced matter must be reported to the Intelligence Oversight Board (IOB) and referred to the Inspection Division, FBIHQ. As directed by

Case ID : 278-HQ-C1229736-VIO

Serial : 815
185

~~(S)~~

[redacted]

~~SECRET~~

NSL VIO-18102

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General Counsel, NSLB, [redacted] is forwarding a sealed envelope bearing proper classification markings containing information obtained from Federal Grand Jury subpoenas that were based on information obtained using FISA-derived information to ITOS 1, CONUS 2, TEAM 7. ITOS 1, CONUS 2, TEAM 7 is requested to submit the documents to the Office of Intelligence Police and Review (OIPR), Department of Justice (DOJ), for delivery to the FISC and eventual destruction.

(U) ~~(S)~~ Also as directed by General Counsel, NSLB, CT-1 SSA has directed all agents assigned to CT-1 to complete web-training on the handling of FISA-derived information.

LEAD(s):

Set Lead 1: (Action)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) ~~(S)~~ For ITOS 1/CONUS 2/TEAM 7. Request ITOS 1/CONUS 2/TEAM 7 forward sealed envelope bearing proper classification markings containing information obtained from Federal Grand Jury subpoenas that were based on information obtained using FISA-derived information to the Office of Intelligence Police and Review (OIPR), Department of Justice (DOJ), for delivery to the FISC and eventual destruction as directed by General Counsel, NSLB.

Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 3: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Precedence: ROUTINE

Date: <<Date>>

To: [Redacted]

Attn: SSA [Redacted]

Counterterrorism

Attn: ITOS I, Conus II, Team 7

Inspection

Attn: IIS SC Toni Fogle

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From: General Counsel
National Security Law Branch/Room 7975
Contact: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F
[Redacted]

Drafted By: [Redacted]

[Redacted]

*Handled & covered
in ACS.*
[Signature]
5/12

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

Title: (U) Intelligence Oversight Board
(IOB) Matter 2005- [Redacted]

b2

(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General
Counsel that the above referenced matter must be reported to the
Intelligence Oversight Board (IOB) and referred to the Inspection
Division, FBIHQ. OGC will prepare and deliver the required
correspondence to the IOB. Our analysis follows.

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

(C) OJ Review *Vesey* DATE: 8/2/05
VEST: *(u)* OIG/DOJ INVEST:
RUC INITIALS:
DATE: 06-23-2007
CLASSIFIED BY: 65179dmh/ksj/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2032

b1
b2 Reference: (S)
b7A (S)
b7E (S)

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

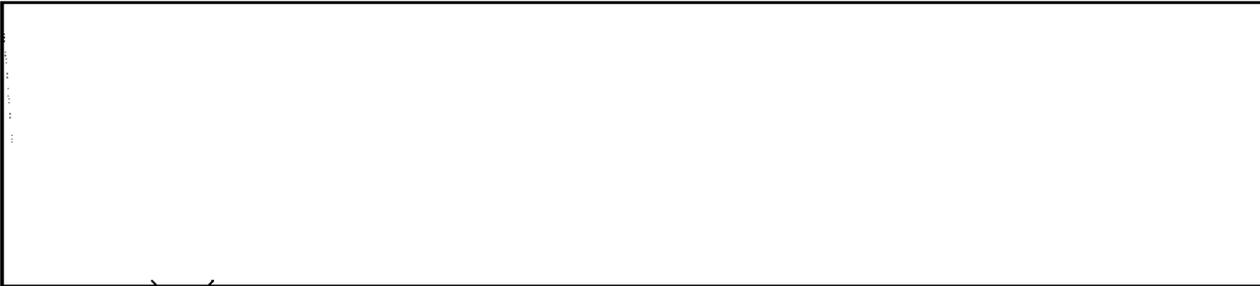
(U) Details: ~~(S)~~ By electronic communication (EC) dated December 22,
2004, the [Redacted] Division [Redacted] reported this potential IOB
matter.il

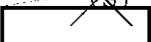
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(S//OC,NF) [Redacted]

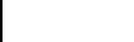
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(S)

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(U) ~~(S)~~ Disregarding the caveats contained in the ECs from CAU, the  Division sought and obtained Federal Grand Jury Subpoenas (seeking subscriber information for telephone numbers in the  area) based on FISA-derived information.

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(U) ~~(S)~~ To prevent future IOB violations,  stated that the squad supervisor would closely monitor Federal Grand Jury and National Security Letter requests through lead assignments and file reviews, and the case agent will be instructed to review the web-based training regarding the handling of classified information. Additionally, the case agent has been instructed to remove all information provided pursuant to the Federal Grand Jury Subpoena from the case file, seal it in an envelope, and secure it in the squad supervisor's safe until notification of proper disposal has been obtained.i3'

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(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the surveillance errors described here are matters that should be reported to the IOB. We believe that the reported activity requires IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.i4'

For the FBI, the Office of the General Counsel (OGC) submits reports to the IOB.i5'

(U) ~~(S)~~ Dissemination of information acquired under the FISA is subject to minimization procedures approved by the Foreign Intelligence Surveillance Court (FISC) and other provisions specified in that act. 50 U.S.C. 1806(b); The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign

Counterintelligence Investigations (NSIG) Section VII.C.1. The FISA provides that in no information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in criminal proceedings with the advance authorization of the Attorney General. i6

(U) ~~(S)~~ It is noted that [redacted] instructed the case agent to remove all information provided pursuant to the Federal Grand Jury Subpoena from the case file, seal it in an envelope, and secure it in the squad supervisor's safe until notification of proper disposal has been obtained.

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(U) ~~(S)~~ OGC is required to report the possible IOB error in accordance with E.O. 12863 and Section 2-56 of the NFIPM. OGC will prepare and deliver the required correspondence.

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FOOTNOTES

(S) i1: ~~(S)~~ See EC, Case ID # [redacted]

i2: ~~(S)~~ The ECs from CAU contained the following paragraph:

(U) Details: ~~(S)~~ This document is classified "SECRET//NOFORN". Portions of this document carrying the "S//NF" classification may not be incorporated into any criminal affidavit, criminal court proceeding, or unclassified investigative file. Information carrying this classification may be utilized in a criminal proceeding when obtained independent of this document. The information in this communication is intended to be used for lead or background information purposes only. Hard copies of this document must be maintained in a classified file or in a classified sub-file of any criminal investigation.

(U)

[redacted]

b1

(U) THIS INFORMATION IS PROVIDED ONLY FOR INTELLIGENCE PURPOSES IN AN EFFORT TO DEVELOP POTENTIAL INVESTIGATIVE LEADS. IT CANNOT BE USED IN AFFIDAVITS, COURT PROCEEDINGS, SUBPOENAS, OR FOR OTHER LEGAL OR JUDICIAL PURPOSES.

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(S) i3: ~~(S)~~ See EC, Case ID # [redacted]

i4: (U) The FBI is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required.

(U)

i5: ~~(S)~~ See EC from Inspection Division to All Divisions;

Title:

Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863
Serial 172 at 4 (2/10/2005).

i6: (U) 50 U.S.C. 1806(b). See Memorandum from the Attorney General to Director, FBI, Assistant Attorney General, Criminal Division, Counsel for Intelligence Policy, United States Attorneys;

Subject: Intelligence Sharing Procedures for Foreign Intelligence and Foreign Counterintelligence Investigations Conducted by the FBI (March 6, 2002) at 5.

LEAD(s):

Set Lead 1: (Action)

[Redacted]

AT [Redacted]

(U) In addition to the corrective measures described in the referenced serial 136, [Redacted] is requested to provide training to all Special Agents who handle FISA-derived information with training on proper handling of that information. [Redacted] also is requested to sequester all information obtained from Federal Grand Jury subpoena that were based on information obtained using FISA-derived information, and seal and forward the information via appropriate Secret correspondence to ITOS I, Conus II, Team 7, for submission to the Office of Intelligence Policy and Review (OIPR), Department of Justice (DOJ), for delivery to the FISC and eventual destruction.

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Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Obtain the sequestered material and deliver it to OIPR.

Set Lead 3: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

~~SECRET~~

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

DECLASSIFIED BY: 65179dmh/kst/maj
ON: 06-23-2007

<<Date>>
BY COURIER

Mr. James Langdon
Chairman
Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Mr. Langdon:

Enclosed for your information is a self-explanatory letterhead memorandum (LHM) entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Field Office, IOB Matter 2005-[redacted]" (U)

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

Enclosure

- 1 - Ms. Thomas b6
- 1 - [redacted] b2C
- 1 - 278-HQ-C1229736-VIO
- 1 - Inspection (IOB 2005-[redacted])

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

~~Derived from: C-3
Declassify on: X25-1~~

~~SECRET~~ NSL VIO-18108

~~SECRET~~

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

Page 2

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Room 5111
- 1 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER [REDACTED] b2
[REDACTED] FIELD OFFICE
IOB MATTER 2005-[REDACTED] (U)

Review of this IOB matter has determined that on August 4, 2004, [REDACTED] opened a [REDACTED] investigation on U.S. persons, predicated on information that a group of Yemeni mini-market owners in the [REDACTED] area were engaging in or

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~~SECRET~~ NSL VIO-18109

(U) supporting international terrorism activities. On August 5, 2004 and November 26, 2004 [redacted]

[redacted] provided [redacted] and other CTD sections information derived from surveillance that had been authorized pursuant to the Foreign Intelligence Surveillance Act (FISA). CAUs Electronic Communications (ECs) to CTD clearly instructed that the FISA-derived information provided could not be incorporated into any criminal affidavit, criminal court proceedings, subpoenas, or for other legal or judicial purposes. Despite the caveats to this effect contained in the ECs, the [redacted] Division sought and obtained Federal Grand Jury Subpoenas (seeking subscriber information for telephone numbers in the [redacted] area) based on FISA-derived information. (S)

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(U) To prevent future IOB violations, [redacted] stated that the squad supervisor would closely monitor Federal Grand Jury and National Security Letter requests, and instruct the case agent to review the web-based training regarding the handling of classified information. Additionally, [redacted] instructed the case agent to remove all information provided pursuant to the Federal Grand Jury Subpoena from the case file, seal it in an envelope, and secure it in the squad supervisor's safe. FBIHQ has requested further that [redacted] provide training to all Special Agents who handle FISA-derived information with training on proper handling of that information, and sequester all information obtained from Federal Grand Jury subpoena that were based on or obtained using FISA-derived information, and seal and forward the information via appropriate Secret correspondence to FBIHQ for submission to the Office of Intelligence Policy and Review (OIPR), Department of Justice (DOJ), for delivery to the Foreign Intelligence Surveillance Court (FISC) and eventual destruction. (S)

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This matter has been referred to the FBI's Inspection Division for action deemed appropriate. (U)

~~(S)~~

~~Derived From : G-3
Declassify On: X25-1~~

(U)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/17/2005

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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b7C

Drafted By: [redacted] *ms*

(U)

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

(U)

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 962
OGC/IOB# 2005 [redacted]

b2

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~~

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Reference: (S) [redacted]
278-HQ-C1229736-VIO Serial 781

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 12/22/2004, 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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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-23-2007
CLASSIFIED BY: 65179dah/kar/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2032

~~SECRET~~

NSL VIO-18111

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/02/2005

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

DATE: 06-23-2007
CLASSIFIED BY: 65179dam/kak/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2032

Drafted By: [Redacted]:kas

(U) Case ID #: ~~(S)~~ 263-HQ-0-U - 267 (Pending)

(U) Title: ~~(S)~~ SSA [Redacted]
SA [Redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING #962
OGC/IOB# 2005 [Redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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 12/22/2004.

Reference: (S) [Redacted]

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, it is IIS's opinion 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 the fact this matter was

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~~SECRET~~

NSL VIO-18112

~~SECRET~~

To: [redacted] From: Inspection
Re: 278-HQ-C1229736-VIO, 09/02/2005

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brought to our attention as required in accordance with the
revisions mandated by National Security Law Branch/OGC EC, dated
03/18/2005 (319X-HQ-A1487720 serial 6).

♦♦

~~SECRET~~ VIO-18113

