

Precedence: ROUTINE

Date: 03/01/2005

To: Inspection

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Attn: Internal Investigations Section

[Redacted]

Attn: SAC [Redacted]
CDC [Redacted]

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

Approved By: Thomas Julie F

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

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

DATE: 11-06-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

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

INTELLIGENCE OVERSIGHT BOARD (IOB) 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 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.

(U) Details: ~~(S)~~ By electronic communication (EC) dated November 19, 2002 (cited below) 11, the [Redacted] Division [Redacted] reported a possible IOB error in conjunction with an on-going international terrorism investigation.

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(S) ~~(S)~~ As set forth in the referenced EC [Redacted]
[Redacted]

Case ID : 278-HQ-1406607
278-HQ-C1229736-VIO

Serial : 3
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[Redacted]

(S) [redacted] On the belief that the [redacted] inquiry had to be completed within ninety days, or by [redacted] the case agent requested a ninety day extension to FBI HQ [redacted] Later, [redacted] the case agent requested [redacted] to FBI HQ. [redacted] a FBI HQ official advised the case agent that [redacted] request had not been requested properly in accordance with the Attorney General (AG) Guidelines, 13' and that the results of one National Security Letter (NSL) that had been obtained outside of the initial ninety day period [redacted] could not be used. 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)~~ 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:

Preliminary inquiries shall be completed within 120 days of the date of initiation. The Office of origin SAC may personally authorize extensions of a preliminary inquiry for a period of not more than 90 days up to a total of one year when justified by facts or information obtained during the course of the

(U) inquiry. . . . FBI Headquarters may authorize additional extensions for periods of not more than 90 days on the same basis. All extensions shall be in writing and include the justification for the extension. ~~(S)~~

(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 [] of an individual without review by the proper authorities. By longstanding agreement between the FBI and IOB, [] 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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(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 [] case agent and the FBI HQ official advising on the case, for no [] overrun occurred in this instance at all. As cited above, Section III.B.6. of the FCIG AG Guidelines allowed for a period of 120 days to complete a [] yet the case agent was under the impression that he only had ninety days in which to conduct a []. The HQ official then advised the [] case agent that he had not properly requested an extension, when in fact the initial 120 allowed period had not yet expired. It is true that the extension was incorrectly made in that it was made to FBI HQ, when in fact the [] Special Agent in Charge (SAC) himself was authorized by Section III.B.6. of the FCIG to approve ninety day extensions, up to one year. Nonetheless, the initial 120 day period authorized by the FCIG had not yet run when the NSL results were obtained, so no extension was yet needed. As no violation of the AG Guidelines thus occurred, there is no violation that must be reported to the IOB.

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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.

LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Info)

[Redacted]

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AT [Redacted]

(U)

~~(S)~~ Read and clear.

CC: Ms. Thomas

SSA [Redacted]

[Redacted]

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(U) **FOOTNOTES**

i1: ~~(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]

[Redacted] SA [Redacted]

[Redacted] Division, IOB Matter," hereinafter cited as

[Redacted] EC."

(U)

i2: ~~(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 . . . ia 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 ior an alien lawfully admitted for permanent residence (as defined in section 1101(a)(20) of the Immigration and Naturalization Act)

(U)

i3: ~~(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

~~SECRET~~

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Page

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October 31, 2003.

~~SECRET~~

NSL VIO-36756

~~SECRET~~

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ALL INFORMATION CONTAINED
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March 11, 2005

BY COURIER

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

DATE: 11-06-2007
CLASSIFIED BY: 65179/DMH/KSR/RG
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

Dear Mr. Langdon:

Enclosed for your information is a self-explanatory memorandum, entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Field Office, IOB Matter 2004-[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 which govern FBI foreign counterintelligence and international terrorism investigations.
(U)

Enclosure

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- 1 - Ms. Thomas
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO
- 1 - OPR (IOB 2004-[redacted])

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

~~SECRET~~

Mr. James Langdon

Case ID : 278-HQ-C1229736-VIO

Serial : 732

~~SECRET~~

NSL VIO-36757

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 Gonzalez
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] FIELD OFFICE
IOB MATTER 2004-[redacted] (U)

(S)

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[redacted]

[redacted], a United States person. Subsequent

(S) extensions were granted by SAC, [redacted] as authorized by the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG). On or about 11/17/2003, authorization was obtained [redacted] from FBI Headquarters to extend [redacted] [redacted] in accordance with the NSIG. On 05/08/2004 [redacted] was improperly extended for an additional six months without FBI Headquarters authorization. (S)

(S) Investigative activity after [redacted] included [redacted] and National Security letters issued for telephonic or financial records. Section II.C.4 of the NSIG provides, "An extension of [redacted] investigation beyond the initial one-year period requires FBI Headquarters approval and may be granted in six month increments." Because Headquarters authorization to extend was not obtained, investigation into this matter after [redacted] constituted unauthorized investigation. (S)

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(S) Upon it's report of the matter, FBI Headquarters instructed [redacted] to cease any further investigation into the captioned matter, close this investigation and that while analysis of any documentation obtained prior to [redacted] is authorized, that any outstanding leads or requests for documentation set out after [redacted] must be discontinued. Any further investigation would have to be predicated upon a request by [redacted] approved by FBI Headquarters to reopen the investigation. [redacted] has not requested that the [redacted] be re-opened. (S)

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

~~Derive from: G-3
Declassify on: X25-1
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Page 4

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NSL VIO-36760

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January 31, 2005

DATE: 11-06-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

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

Dear Langdon:

This letter forwards for your information a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB), Matter 2004-" (U)

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

Enclosure

- 1 - Mr. Szady
 - 1 - SAC
 - 1 - Ms. Thomas
 - 1 -
 - 1 - OPR
 - 1 - 278-HQ-C1229736-VIO
- Mr. James Langdon

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~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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)

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~~SECRET~~

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Very truly yours,

Julie F. Thomas
Deputy General Counsel

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

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] DIVISION

IOB MATTER 2004-[REDACTED] (U)

(U) ~~(S)~~ The [REDACTED] Division of the Federal
Bureau of Investigation has reported the receipt of unsolicited

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NSL VIO-36775

(S) material in response to a National Security Letter ("NSL").

~~(S)~~ [redacted]

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(S) [redacted] issued a NSL, pursuant to the Electronic Communications Privacy Act ("ECPA"), 18 U.S.C. 2709, to [redacted]. The NSL included a request for "the name(s), address(es), length of service, and local and long distance toll billing records" associated with [redacted] telephone number related to [redacted].

(U) ~~(S)~~ On November 27, 2004, the case agent received a compact disc ("CD") from [redacted] in response to the NSL. The CD contained information both responsive and non-responsive to the NSL. The non-responsive information included content information [redacted]. This non-responsive information was voluntarily provided by [redacted] [redacted], but was beyond the scope of the information requested in the NSL, and that authorized by ECPA. The case agent immediately turned this CD over to the [redacted] Division Counsel ("ADC") upon recognizing the unresponsive material as such. No copies of the CD were made.

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(U) ~~(S)~~ As a consequence of this inadvertent error by [redacted] [redacted] the FBI obtained information that it was not authorized to receive under the ECPA. Although the information provided was not solicited, because the information was not authorized to be provided, this matter is being reported to the Intelligence Oversight Board.

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Page 4

~~SECRET~~

NSL VIO-36777

Precedence: ROUTINE

Date: 04/22/2005

To: General Counsel

Attn: National Security Law Branch,
Room 7975

From: [redacted]

Squad [redacted]

Contact: SA [redacted]

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Approved By: [redacted]

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Drafted By: [redacted] sr

DATE: 11-06-2007
CLASSIFIED BY: 65179/DNH/KSR/PW
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

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

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

~~(U)~~ Synopsis: ~~(S)~~ Possible IOB error for non-compliance with a
requirement of the National Foreign Intelligence Program Manual
(NFIPM).

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

~~(U)~~ Enclosures: ~~(S)~~ Telephone records requested by General Counsel.

Details:

(S) 1. [redacted]

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(S) 2. [redacted]

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

(S) [redacted]

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

~~(S)~~ On 03/02/2005, SA [redacted] drafted an NSL to [redacted] which
contained an incorrect telephone number. While drafting the NSL
document, SA [redacted] incorrectly combined the Subject's residence
telephone number with his cellular phone number to produce a ten digit
number. The ten digit telephone number did not belong to subject of
[redacted] [redacted] responded to the NSL and delivered the
records that corresponded to the incorrect number on the NSL. The
records obtained belonged to a different USPER.

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~~(U)~~ ~~(S)~~ Per instructions from [redacted] in her e-mail dated
04/21/2005 to [redacted] CDC [redacted] the acquired
telephone records are enclosed along with copies of the original NSL

Case ID : 278-HQ-C1229736-VIO

Serial : 820

(S)

and cover EC to be forwarded to OIPR. All the communications that contain the incorrect number were permanently charged out and removed from ACS in the [redacted] office. [redacted] contacted the [redacted] office and requested the removal of [redacted] from ACS.

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) General Counsel to take action requested above.

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Page 1

Precedence: ROUTINE

Date: 04/21/2005

To: [Redacted]

Attn: SAC
CDC

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Counterterrorism

Attn: ITOSI/COMUS(I

Inspection

Attn: Internal Investigation Section

From: General Counsel

National Security Law Branch/LX Crossing Room 55200

Contact: [Redacted]

Approved By: Thomas Julie F.

[Redacted]

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Drafted By:

[Redacted]

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(U)

Case ID #: (S) 278-HQ-C1229736-V10 (Pending)

(S) [Redacted] (Pending)

DATE: 11-06-2007

CLASSIFIED BY: 65179/DHM/KSP/RO

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REASON: 1.4 (c)

DECLASSIFY ON: 11-06-2032

(U)

Title: (S) Intelligence Oversight Board (IOB)

SSA [Redacted]

TFC [Redacted]

(U)

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

(U)

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

Case ID: 278-HQ-C1229736-V10

Serial: 624

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[Redacted]

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(U)

Reference: ~~(S)~~ 278-WQ-C1229736-V10 Serial 580

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

(S)

Details: ~~(S)~~ By electronic communication (EC) dated February 25, 2005 (cited below),¹¹ the [redacted] Division [redacted] reported a potential [redacted] error.

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U.S.C. Section 2709. The NSL specifically stated "not to include message content and/or subject fields, from account inception to present."¹³ The NSL was forwarded to [redacted] in order to serve the NSL. On 02/04/05 [redacted] returned to [redacted] a CD provided by [redacted] pursuant to the NSL.

(U)

~~(S)~~ Case agent [redacted] determined that the CD contained encoded content information for e-mails. TFO [redacted] with assistance, was able [redacted] and read the contents of two e-mails.¹⁴ He then reported [redacted] information to his supervisor SSA [redacted] SSA [redacted] telephonically contacted CDC [redacted] regarding the content information. CDC [redacted] advised that the CD should be sealed in an envelope and sent to him. He then consulted with NSLPTU. On 02/16/05 Assistant General Counsel [redacted] advised

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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 errors described here are matters which must be reported to the IOB. They must.

(U) ~~(S)~~ 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. The USA Patriot Act revised existing law governing the installation and use of pen registers and trap and trace devices to clarify that pen/trap orders not only apply to hard-wired line telephones but also to wireless telephones, e-mail service, Internet communications, and any number of communications technologies. At the same time, the Act made several changes to emphasize that a pen/trap device may not be used for the purpose of collecting the content of wire or electronic communications. Consequently, any viewing of the content of electronically transmitted communications must be obtained pursuant to a court order.¹⁶

(S) ~~(S)~~ In the present case, it is clear that the service provider, [redacted] erroneously provided content information concerning [redacted] e-mail account and that the FBI unintentionally received that content information not contemplated by the NSL requesting the subscriber information. However, under these circumstances, it is OGC's opinion that the error, although inadvertent, must be reported to IOB.

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(U) ~~(S)~~ In accordance with the reporting requirements of E.O. 12863, OGC will prepare the correspondence required to report this matter to IOB.

LEAD(s):

Set Lead 1: (Adm)

[Redacted]

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AT [Redacted]

(U) Read and clear. Take action consistent with this memorandum.

Set Lead 2: (Action)

INSPECTION

INTERNAL INSPECTIONS SECTION, WASHINGTON, DC

(U) For action deemed appropriate

1 - Ms. Thomas

1 - [Redacted]

1 - [Redacted]

1 - IOB File

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FOOTNOTES

v1: (U) See EC from the [Redacted] Division, dated 02/25/05, Case ID# 278-HQ-C1229736-VIO, titled "TFO [Redacted] SSA [Redacted] Potential

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Intelligence Oversight Board (IOB) Matter," hereinafter cited as [redacted]
EC."

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[redacted] EC.

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(U)

Id.

i5':

(U)

Id.

i6': There are certain enumerated exceptions to this prohibition. See 50

U.S.C. Section

1802.

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NSL VIO-36786

Precedence: ROUTINE

Date: 05/03/2005

To: Director's Office
Counterintelligence

Attn: OPR
Attn: AD
Attn: SAC/CI
CDC

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From: General Counsel
Counterintelligence Law Unit/Room 7947
Contact: [redacted]

Approved By: Thomas Julie F

Drafted By: [redacted] rrs

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 11-08-2032

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

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
IOB 2004-[redacted]

(U) Synopsis: ~~(S)~~ The Office of the General Counsel (OGC) considers that this matter must be reported to the Intelligence Oversight Board (IOB) and to the Office of Professional Responsibility (OPR). A summary of the facts and an analysis of the situation follows.

Details: (S) [redacted]

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~~(S)~~ On

(S) [redacted] was segregated and forwarded to FBIHQ for sequestration. At no time was any further investigative action taken with respect to the information received pertaining to the [redacted]. No written summaries of communications were made.

Case ID : 278-HQ-C1229736-VIO Serial : 831

(S)

(U)

~~(S)~~ The foregoing information was obtained from ECs drafted by SA [redacted] on 7/06/04 (see 278-HQ-C1229736, serial 535). b6 b7C

(U) Pursuant to the Electronic Communications Privacy Act (ECPA), 18 U.S.C. 2709, the FBI can issue National Security Letters (NSLs) for: (1) telephone subscriber information (limited to name, address, and length of service); (2) telephone local and long distance toll billing records; and (3) electronic communication transactional records.

(S)

~~(S)~~ Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 the [redacted]

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(U) Section 2.4 of Executive Order 12863 (September 13, 1993, 58 F.R. 48441) requires Inspectors General and General Counsel of the Intelligence Community, including the FBI, to 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 has been interpreted to mandate the reporting of any violation of law or pertinent Attorney General guidelines that are specifically intended to ensure the protection of the individual rights of U.S. persons.

(S)

~~(S)~~ In this case, the inadvertent issuance of an NSL requesting billing information for a phone number utilized by [redacted] constitutes a reportable violation. Consequently, OGC will prepare a cover letter and memorandum to report this matter to the IOB. That correspondence will also inform the IOB that this matter will be referred to FBI's Office of Professional Responsibility.

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LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Please read and clear.

Set Lead 3: (Action)

[Redacted]

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AT [Redacted]

(U) For action deemed appropriate.

CC: Ms. Thomas

[Redacted]

IOB Library

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

May 3, 2005

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-08-2032

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

Dear Mr. Langdon:

This letter forwards for your information a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB), Matter 2004-" (U)

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

Enclosure

- 1 - Ms. Thomas
- 1 -
- 1 -
- 1 - 278-HQ-C1229736-VIO

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~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

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)

Very truly yours,

Julie F. Thomas
Deputy General Counsel

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

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2004-
 DIVISION
FEDERAL BUREAU OF INVESTIGATION HEADQUARTERS (FBIHQ) (U)



(S)

~~SECRET~~

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Page 3

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A copy of this submission to the IOB has been provided to the FBI's Executive Assistant Director for Counterterrorism/Counterintelligence and to the Office of Professional Responsibility for action as deemed appropriate. (U)

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

~~SECRET~~

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NSL VIO-36792

Precedence: ROUTINE

Date: 05/06/2005

To: Inspection

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Attn: Internal Investigation Section

[Redacted]

Attn: SA [Redacted]
CDC [Redacted]

From: General Counsel

National Security Law Branch/CTLU I/LX1 5S-200

Contact: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F

[Redacted]

(U) Drafted By: [Redacted]

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

(S) [Redacted]

DATE: 11-06-2007
CLASSIFIED BY: 65179/DMH/KSR/RM
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

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Title: (U) INTELLIGENCE OVERSIGHT BOARD

SA [Redacted]
IOB MATTER 2005-[Redacted]

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

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

(U) Reference: (S) 278-HQ-C1229736-VIO-820

(S) Details: ~~(S)~~ As reported by the [Redacted] Division [Redacted] in the April 22, 2005 electronic communication, on December 6, 2004 [Redacted]

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(S) ~~(S)~~ On March 2, 2005, Special Agent (SA) [Redacted] drafted a National Security letter (NSL) to [Redacted] USA, which contained an incorrect telephone number. While drafting the NSL document, SA [Redacted] incorrectly combined the Subject's residence telephone number with his cellular telephone number to produce a ten digit number [Redacted]

Case ID : 278-HQ-C1229736-VIO Serial : 881

278 [Redacted] 33854-VIO

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(S)

delivered the telephone records that corresponded to the incorrect number listed in the NSL. Upon review of the telephone records, it was discovered that they belonged to a different U.S. Person.

(U) ~~(S)~~ When the error was discovered, the telephone records were sealed along with the original NSL and forwarded to Headquarters together with a report of the incident. (See 278-HQ-C1229736-VIO Series 820). These records will be forwarded to the Office of Intelligence Policy and Review (OIPR) All communications that contained the incorrect telephone number were permanently charged out and removed from FBI Automated Case Support system (ACS).

(U) ~~(S)~~ Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM) requires OGC to determine whether the facts related above are required to be reported to the IOB. For the reasons discussed below this matter needs to be reported.

(U) ~~(S)~~ The Electronic Communications Privacy Act (ECPA), 18 U.S.C. 2709 authorizes the issuance of a National Security Letter for telephone subscriber information, telephone toll billing records and electronic communication transactional records for telephone numbers used by the subject of the investigation. The USA PATRIOT Act, P.L. 107-56, authorizes the issuance of an NSL for a subject upon a certification of relevance to an authorized investigation to protect against international terrorism or clandestine intelligence activities. Clearly, if the telephone number listed in the NSL is not the number used by the subject of the terrorism investigation, the Bureau would not be entitled to the telephone subscriber and toll billing records.

(U) Section 2.4 of the 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, Inspection Division, and the General Counsel, OGC, respectfully) report to the IOB all information "concerning the intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive."

(U) In the instant matter, while the error in combining the two telephone numbers appears to be inadvertent, it resulted in obtaining another U.S. Person's telephone records without authorization. Even though the production of the wrong telephone records resulted from a typographical error, the delivery of the telephone records was contrary to 18 USC 2709. Consequently, based on the above analysis, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB.

LEAD(s):

Set Lead 1: (Action)

[Redacted]

AT [Redacted]

(U) Read and clear

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Set Lead 2: (Action)

INSPECTION (IIS)

AT WASHINGTON, DC

(U) For action deemed appropriate

- 1 - Ms. Thomas
- 1 - SSA [Redacted]
- 1 - [Redacted]
- 1 - IOB File

~~SECRET~~

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~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

May 6, 2005

BY COURIER

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

DATE: 11-06-2007
CLASSIFIED BY: 65179/RMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

Dear Chairman Langdon:

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

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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)

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

- 1 - Ms. Thomas
- 1 - SSA

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- 1 -
- 1 - 278-HQ-C1229736-VIO

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

~~SECRET~~

-2-

~~SECRET~~

Chairman 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. (U)

Sincerely,

Julie F. Thomas
Deputy General Counsel

Enclosure

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

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~SECRET
SECRET~~

(U) ~~(S)~~ The [redacted] Division [redacted] of the Federal Bureau of Investigation (FBI) has reported that a National Security Letter (NSL) to [redacted] on the subject of a preliminary counter terrorism investigation contained an incorrect telephone number.

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~~SECRET~~

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Page 3

(S) number. The ten digit telephone number did not belong to subject of the [redacted] [redacted] responded to the NSL and delivered the telephone records that corresponded to the incorrect number listed in the NSL. Upon review of the telephone records, it was discovered that they belonged to a different U.S. Person.

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(U) ~~(S)~~ When the error was discovered, the telephone records were sealed along with the original NSL and forwarded to FBI Headquarters together with a report of the incident. All communications that contained the incorrect telephone number were permanently charged out and removed from FBI Automated Case Support system (ACS). In addition, the matter has been referred to the FBI's Internal Inspection Section for any action that is deemed appropriate.

~~SECRET~~

~~Declassify on: X-1~~

~~Derived from: G-3~~

~~SECRET~~

NSL VIO-36810

Precedence: ROUTINE

Date: 03/31/2005

To: Counterterrorism

Attn: Assistant Director

Inspection

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Attn: Internal Investigation
Section

[Redacted]

Attn: SAC
ASAC
CDC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: General Counsel
National Security Law Branch
Contact: SSA [Redacted]

Approved By: Thomas Julie F
[Redacted]

Drafted By: [Redacted] djf

DATE: 11-06-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending)
(S) 278-[Redacted]-C71404 (Pending)

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(U) Title: (S) SA [Redacted]
SSA [Redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER
IOB 2004-[Redacted]

(U) Synopsis: (S) It is the opinion of the Office of the General
Counsel (OGC) that the above referenced 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: X25-1~~

(U) Reference: (S) 278-[Redacted]-C71404 Serial 60

(U) Details: (S) The referenced electronic communication (EC) from
the [Redacted] Division advised OGC that an individual with a name
similar to the case subject had been monitored by FBI [Redacted]
physical surveillance personnel, and that a National
Security Letter (NSL)
for telephone records had also been requested for
this individual.

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(U) (S) On 10/01/2003, SA [Redacted] drafted an EC to

Case ID : 278-HQ-C1229736-VIO
278-[Redacted]-C71404

Serial : 919
67

(S)

[Redacted]

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[Redacted]

(S)

(S)

~~(S)~~ While SA [Redacted] served a sixty day temporary duty assignment during early 2004, SA [Redacted] drafted an NSL request for subscriber and toll billing records for several telephone numbers associated with [Redacted]. SA [Redacted] was not aware that [Redacted] was not the correct subject, and the NSL was subsequently served and toll and subscriber records obtained. FBI [Redacted] noticed the error before any of these records were uploaded into any FBI database or system.

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(U)

~~(S)~~ FBI [Redacted] reported the possible IOB violation(s) to OGC via the referenced serial.

ANALYSIS

(U)

~~(S)~~ Section 2-56 of the NFIPM requires OGC to determine whether the facts related above are required to be reported to the IOB. Reportable matters include investigations not authorized pursuant to the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG).

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(U)

~~(S)~~ [Redacted] ceased investigative activity upon discovery that the person they had under surveillance was not the correct subject. This initial investigative activity [Redacted] which was necessary in order to verify that FBI [Redacted] had correctly identified the person described by the source, does not constitute an IOB violation.

(S)

[Redacted]

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Consequently, in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an LHM to report this matter to the IOB.

FOOTNOTES

i11: This is predication required to initiate a [redacted] b2
 [redacted], which is the b7E
 minimum authorized investigation level needed in order
 to use the National
 Security Letter
 investigative technique. See Attorney General's Guidelines for FBI National
 Security
 Investigations and Foreign Intelligence Collection, II(C).

LEAD(s):

Set Lead 1: (Info)

COUNTERTERRORISM

AT FBIHQ

(U) For information only.

Set Lead 2: (Action)

INSPECTION

AT FBIHQ

(U) For action deemed appropriate.

Set Lead 3: (Info)

[redacted]

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AT [redacted]

(U) For information only.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSP/RM
REASON: 1.4 (c)
DECLASSIFY ON: 11-08-2032

BY COURIER

Mr. James Langdon
Chairman
Intelligence Oversight Board
Room 50209
New Executive Office Building
725 17th Street, Northwest
Washington, D.C.

Dear Mr. Langdon:

Enclosed for your information is a self-explanatory memorandum entitled Intelligence Oversight Board (IOB) Matter, Atlanta Division, IOB 2004 [redacted] (U) b2 b7E

This memorandum 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 which govern FBI foreign counterintelligence and international terrorism investigations. (U)

Enclosure

- 1 - Mr. Hulon b2
- 1 - Inspection (IOB 2004 [redacted]) b6
- 1 - Ms. Thomas [redacted] b7C
- 1 - [redacted] b7E
- 1 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~SECRET~~

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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 Gonzales
Attorney General
U.S. Department of Justice
Room 5111

- 1 - Mr. James Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
ATLANTA DIVISION

IOB 2004- (U)

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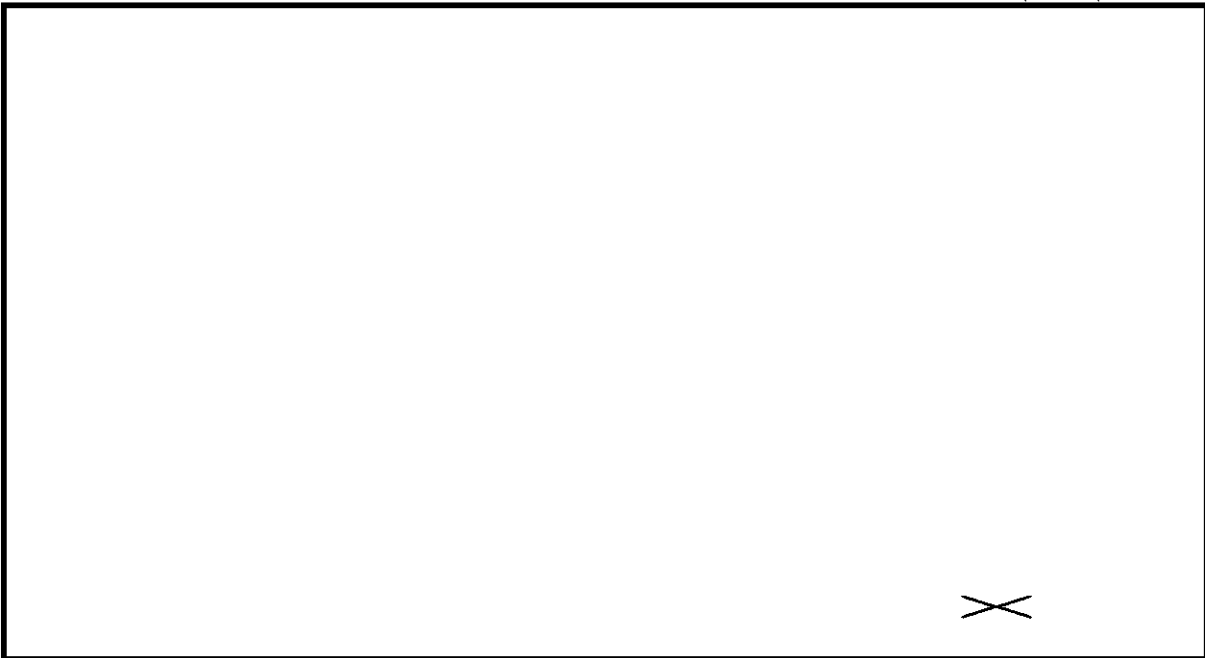
(S) The Federal Bureau of Investigation ("FBI") has determined that in issuing a National Security Letter for telephone subscriber and toll billing records associated with a U.S. Person, the FBI failed to comply with the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection. Specifically, two individuals with similar names were confused, resulting in the issuance of a National Security Letter (NSL) for

~~SECRET~~

NSL VIO-36815

(U) records relating to an individual for whom the FBI lacked sufficient predication to investigate. Details follow. ~~(S)~~

(S)



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

Precedence: ROUTINE
To: General Counsel

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Date: 08/10/2005

Attn: NSLB Room 7925
Assistant General Counsel

From: [Redacted]
Chief Division Counsel
Contact: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

(U) Case ID #: ~~(S)~~ 278-HQ-C12297367-VIO (Pending)
~~(S)~~ 278- [Redacted] 33854-VIO (Pending)
~~(S)~~ [Redacted] (Pending)-

DATE: 11-06-2007
CLASSIFIED BY: 65179/DMH/KSP/RW
REASON: 1.4(c)
DECLASSIFY ON: 11-06-2032

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

(U) Synopsis: ~~(S)~~ To return toll records to the Office of General Counsel.

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

(U) Reference: ~~(S)~~ 278-HQ-C12297367-VIO Serial 820

Administrative: (U) 08/10/2005 E-mail communications between CDC
[Redacted] and AGC [Redacted] and AGC [Redacted]

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Enclosure(s): (S) [Redacted]

(S) Details: ~~(S)~~ On 03/22/2005, [Redacted] Division notified OGC by EC of a potential IOB violation. See 278-HQ-C1229736-VIO Serial 820. Accompanying this EC were toll records provided to the [Redacted]

[Redacted] On 05/06/2005, OGC forwarded a form letter explaining the facts of the incident to [Redacted] Chairman, Intelligence Oversight Board.

Case ID : 278-HQ-C1229736-VIO Serial : 959
278- [Redacted] 33854-VIO 23

(S) [Redacted] ~~SECRET~~
NSL VIO-36817

(U) ~~(S)~~ As evidenced by a date stamp, on 07/19/2005, the enclosed toll records were received by OIPR. On or about 08/08/2005, the enclosed toll records were returned to the [REDACTED] Division by OGC without explanation. It is unclear who at OGC returned these documents to the [REDACTED] Division.

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(U) ~~(S)~~ Pursuant to Assistant General Counsel [REDACTED] 08/10/2005 request via e-mail, [REDACTED] Division now re-submits these records to FBIHQ for appropriate action.

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and Clear.

Precedence: ROUTINE

Date: 09/12/2005

To: General Counsel

Attn: National Security Law Branch
Room 7975

Counterintelligence

Attn: CD-2C Unit
SSA [redacted]

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From: [redacted]

Squad [redacted]

Contact: SA [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted] kpr

DATE: 11-06-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

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

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

(U) Synopsis: ~~(S)~~ Possible IOB error for non-compliance with a
requirement of the Attorney General.

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

Details:

(S) 1.

[redacted]

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(S) 2.

[redacted]

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

~~(S)~~ The Attorney General's Guidelines Provision:
Unauthorized Investigation

(S)

[redacted]

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

(S)

[redacted]

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Case ID : 278-HQ-C1229736-VIO

Serial : 972

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(S)

[redacted] 03/29/2005, Special Agent (SA) [redacted] captioned case agent, drafted [redacted] request and forwarded it to FBIHQ. The EC stated, "Electronic Communication uploaded into ACS only. No hard copy to follow." Due to a pending TDY assignment to FBIHQ, on 05/18/2005, SA [redacted] requested captioned investigation be reassigned. On 05/26/2005, captioned matter was reassigned to writer. In July 2005, writer received results of a National Security Letter (NSL). NSL was drafted 12/30/2004 and forwarded to [redacted]. [redacted] did not provide NSL results to FBI until 05/05/2005. The NSL results contained no toll records, only billing information. [redacted] informed writer that captioned subject maintained a basic service plan and as such, carrier was not responsible for maintaining toll records for telephone line. Other than the receipt of the billing information from [redacted], [redacted] took no other action in this matter after the [redacted] as noted above. On

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(S)

[redacted]

[redacted] On 08/31/2005, FBIHQ informed writer of potential Intelligence Oversight Board (IOB) violation due to an "investigation action conducted while the case was not open."

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(S)

While [redacted] is reporting this as a possible IOB, [redacted] questions whether the receipt of such records after the [redacted] based on a lawful [redacted]

(S)

[redacted] Moreover, [redacted] again calls attention to its earlier attempt to secure a more [redacted]

(S)

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information only.

~~SECRET~~

Precedence: ROUTINE

Date: 09/12/2005

To: General Counsel

Attn: National Security Law Branch
Room 7975

Counterintelligence

Attn: CD-2C Unit
SSA [redacted]

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From: [redacted]

Squad [redacted]
Contact: SA [redacted]

Approved By: [redacted]

DATE: 11-06-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-06-2032

Drafted By: [redacted] kpr

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

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

(U) Synopsis: ~~(S)~~ Possible IOB error for non-compliance with a
requirement of the Attorney General.

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

Details:

(S) 1. [redacted]

(S) 2. [redacted]

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

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(U) ~~(S)~~ The Attorney General's Guidelines Provision:
Unauthorized Investigation.

(S) [redacted]

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

Case ID: 278-HQ-C1229736-VIO

Serial: 973

(S)

[redacted] 278-0 [redacted]

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(S) [redacted] 03/29/2005, Special Agent (SA) [redacted] captioned case agent, drafted a [redacted] request and forwarded it to FBIHQ. The EC stated, "Electronic Communication uploaded into ACS only. No hard copy to follow." Due to a pending TDY assignment to FBIHQ, on 05/18/2005, SA [redacted] requested captioned investigation be reassigned. On 05/26/2005, captioned matter was reassigned to writer. In July 2005, writer received results of a National Security Letter (NSL). NSL was drafted 12/30/2004 and forwarded to [redacted]. [redacted] did not provide NSL results to FBI until 05/05/2005. The NSL results contained no toll records, only billing information. [redacted] informed writer that captioned subject maintained a basic service plan and as such, carrier was not responsible for maintaining toll records for telephone line. Other than the receipt of the billing information from [redacted], [redacted] took no other action in this matter after the [redacted] as noted above. [redacted]

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(S) [redacted]

[redacted] On 08/31/2005, FBIHQ informed writer of potential Intelligence Oversight Board (IOB) violation due to an "investigation action conducted while the case was not open."

(S) While [redacted] is reporting this as a possible IOB, [redacted] questions whether the receipt of such records after the [redacted] based on a lawful [redacted]. Moreover, [redacted] again calls attention to its earlier attempt to secure a more [redacted]

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

LEAD(S):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information only.

Precedence: ROUTINE

Date: 09/18/2005

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To: INSD

Attn: IIS

General Counsel

Attn: [redacted]

NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: [redacted]

Squad [redacted] RA

Contact: SA [redacted]

Approved By: [redacted]

DATE: 11-06-2007
CLASSIFIED BY: 65179/DMH/KSP/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 11-06-2032

Drafted By: [redacted]

bwr

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

Title: (S) [redacted]

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(U) Synopsis: ~~(S)~~ To advise FBIHQ of facts that could conceivably be reportable to the IOB. The [redacted] Division sent a NSL
(S) requesting telephone toll records for two telephone numbers that had an association with the [redacted] specifically, that one number was obtained from a [redacted] search of subject and that the other number was listed as the subject's residence in a criminal history of the subject. Because the case agent only wanted to request subscriber information for the two numbers, but the person actually preparing the NSL drafted it to request both subscriber information and toll records for the two numbers, FBIHQ has requested [redacted] to provide the facts surrounding this incident to FBIHQ to determine whether there is a reportable IOB violation.

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

[redacted]

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Case ID : 278-HQ-C1229736-VIO

Serial : 1014

[redacted]

(S)

NSL VIO-36823

12/13/2005.

Administrative: (S /OC)

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[Redacted]

[Redacted]

Enclosure(s): (S)

[Redacted]

[Redacted]

Details: (S /OC)

[Redacted]

[Redacted]

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[Redacted]

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[Redacted]

(S)

[Redacted]

(S) Database checks on 05/24/2004, by the [Redacted] Division at the [Redacted] Resident Agency (RA), found that

(S)

[Redacted]

(U)

(S) In the [Redacted] Division, Special Agents are given the option to request that an NSL needed for their investigation be drafted by a [Redacted] Headquarters City employee who has a high degree of expertise in drafting them. On 07/20/2004, a Special Agent in the [Redacted] RA, submitted a National Security Letter (NSL) request to [Redacted] Headquarters City (HQ), which included the following:

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[Redacted]

(U)

(S) The NSL was drafted by the employee at [Redacted] Headquarters City. On 11/05/2004, the NSL to [Redacted] was issued out of [Redacted] HQ with the following verbiage: "provide to the Federal Bureau of Investigation the names, addresses, lengths of service, and local and long distance toll billing records for the

(S) telephone numbers listed: [redacted]

[redacted]

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(S) The NSL was presented to [redacted] by [redacted] on 01/18/2005, and results were obtained on 02/23/2005. Due to the verbiage of the NSL as it was drafted by [redacted] Headquarters City, subscriber and toll records for the telephone numbers [redacted]

[redacted] were returned to the FBI, even though these records were not specifically requested by the case agent.

(S) The subscriber to these records was not [redacted]

(U) The original records received from [redacted] were originally placed into the case file as 1A-1, and one copy was made of the records and sent to the [redacted] Field Intelligence Group. These originals and copies are now enclosed with this communication.

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[redacted]

(S) Attached and made a part hereto are copies of the original NSL request, the NSL, and the EC documenting the collection of records from [redacted]. In addition, the original and all copies of toll records provided by [redacted] for telephone numbers [redacted] have been segregated from the file and forwarded to FBIHQ as an enclosure to this communication.

(S) CDC [redacted] is of the opinion that there was no conduct that was unlawful or contrary to Departmental guidelines in this matter. Pursuant to 18 USC 2709, toll record information can be requested in an NSL if it is relevant to an authorized international terrorism investigation. There was an authorized [redacted] at the time of the NSL request, continuously through the time of the division's receipt of the toll record information.

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(U) The relevance standard is very low and has been articulated as logically connected to and tending to prove or disprove a matter at issue. The requested information, toll records for a phone number listed as the subject's residence phone number in his criminal history, and a telephone number listed as the subject's phone number in a [redacted] search, are clearly logically connected to determining whether the subject is communicating with other numbers associated with terrorists or terrorist organizations. While the case agent may

b4
b7D

have been prudent in only requesting subscriber information for the listed numbers, and the subscriber to the numbers in question was not actually the subject, that does not change the fact that based on the facts known to the Division at the time of the request, the toll records for those numbers were relevant to the [redacted]. Therefore it was not unlawful for the division to send an NSL requesting toll records for [redacted] and this matter is not one that is required to be referred to the IOB.

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(S)

Additionally, there could be a negative practical effect if NSL requests such as those made in this case were generally prohibited. Often it takes months to obtain records from a service provider pursuant to a NSL request. In this matter the case agent made a decision to verify the subscriber information before requesting toll records, however, in any given situation in a terrorism investigation there could be a need for immediate action. The field office should have the discretion to request toll records as well as subscriber information under circumstances such as this, where the numbers are listed in a criminal history of the subject and a [redacted] search of the subject, to avoid an extra delay of as much as six months or more to await the results of a second NSL request.

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Finally, in this matter the field office took a prudent approach in that as soon as it appeared the subscriber to the numbers at issue was not the subject of the [redacted] the records were segregated and not reviewed any further. It is possible that there could be information in the toll records that relate to the [redacted] if they were closely examined. It is not inconceivable that [redacted] may have somehow listed the numbers at issue as contact numbers even though he did not subscribe to them.

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(S)

LEAD(s) :

Set Lead 1: (Info)

~~SECRET~~

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

b2
b7E

Page 6

INSD

IIS

(U) Read and clear.

Set Lead 2: (Info)

GENERAL COUNSEL

AT NSLB

(U) Read and clear.

~~SECRET~~

NSL VIO-36828

Precedence: ROUTINE

Date: 10/06/2005

To: Inspection Attn: IIS
Office of General Counsel Attn: NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: [redacted]
[redacted] Resident Agency
Contact: SA [redacted]

b2
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b7E

Approved By: [redacted]

DATE: 11-07-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 11-07-2032

(U) Drafted By: [redacted] djd

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

(U) Title: ~~(S)~~ CASE AGENT - SA [redacted]
SUPERVISOR - SSR [redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER

(U) Synopsis: ~~(S)~~ To report inadvertent acquisition and receipt of
telephone toll billing records through NSL.

(U) ~~(S)~~ Derived From : G-3
Declassify On: 10/06/2030

Reference: (S) [redacted]

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b7E

(U) Administrative: ~~(S)~~ EC dated 10/05/2005 requesting second
extension in [redacted] investigation [redacted] is pending FBIHQ
approval. No further investigation will be conducted until HQ
(S) authorizes further investigation.

Details: (U) Pursuant to guidelines set forth in FBIHQ
Electronic Communication (EC) dated 02/10/2005 entitled "REVISED
PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTERS", the [redacted]
Division makes the following report:

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[redacted]

(S) [redacted]

(S)

~~SECRET~~

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

[Redacted]

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b7C
b7E

[Redacted]

(S)

(S) The telephone number referenced in the NSL, [Redacted] contained the incorrect area code, citing the [Redacted] area code, instead of the [Redacted] area code, both of which are valid in the state of [Redacted]. As a result, toll records were inadvertently obtained (Serial 26) for an individual other than the captioned subject. The error was discovered upon receipt by the case agent and the records were set aside temporarily. The toll records were not reviewed, nor used for any investigative purpose.

(U) ~~(S)~~ Due to other investigative responsibilities and preparation of reports related to the [Redacted] Division's scheduled November, 2005 Inspection, [Redacted] Case Agent did not revisit the error until the week of October 3, 2005 whereupon he notified captioned SSRA and appropriate notifications were immediately made to [Redacted] Management.

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(S) The toll billing records for [Redacted] have been forwarded (Serial 28) to ITOS II/PRGU, Attn: SSA [Redacted] with a lead set to ITOS II, PRGU for review and referral to OIPR for action deemed appropriate.

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) ~~(S)~~ For action deemed appropriate.

Set Lead 2: (Info)

OFFICE OF GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ For action deemed appropriate.

~~SECRET~~

~~SECRET~~

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

Page 3

~~SECRET~~

NSL VIO-36831

Precedence: ROUTINE

b2
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Date: 10/7/05

To: [Redacted]

Attn: SAC, CDC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

Approved By: Thomas Julie F.

[Redacted]

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-08-2032

Drafted By:

[Redacted]

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

(U) Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER b2
2005- [Redacted] b7E

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

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

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO-578

Details: ~~(S)~~ As noted in the electronic communication (EC).

[Redacted]

(S) Although SA [Redacted] the case agent at the b1
time, [Redacted] which was forwarded to FBIHQ b2
(S) and uploaded, the [Redacted] SA [Redacted] who b4
(S) inherited the case from SA [Redacted] determined on August 8, 2005, b6
(S) that the [Redacted] and contacted FBIHQ to request b7C
[Redacted] b7D
(S) However, [Redacted] took no action in this matter b7E
(S) except for the receipt of the billing information from [Redacted]
(S) pursuant to the NSL which had been issued during [Redacted]

Case ID : 278-HQ-C1229736-VIO Serial : 1024

[Redacted]

(U) ~~(S)~~ Therefore, all of the investigation in this matter was legitimately conducted during the [REDACTED] b2 b7E

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

(U) ~~(S)~~ The NSIG provide that "iA'll lawful investigative techniques may be used in [REDACTED] including the techniques listed in Part V of these Guidelines..." Section II.C.3. These techniques include the issuance of National Security Letters. NSIG, Section V.12.

(U) ~~(S)~~ Since this NSL was issued during a legitimate [REDACTED] which was then pending, we do not believe that the belated receipt of the billing records from [REDACTED] due only to its lateness in responding to the NSL, constitutes a violation of the NSIG or any other guidelines or regulations approved by the Attorney General in accord with E.O. 12333. b2 b4 b7D b7E

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that there was no error committed and thus nothing should be reported to the IOB in this matter. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

Set Lead 1: (Info)

[Redacted]

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- 1 - [Redacted]
- 1 - IOB Library

****FOOTNOTES****

i1: The NSL results contained no toll records, only billing records, since the subject of the NSL only maintained a basic service plan and [Redacted] was not responsible for maintaining toll records for the telephone line.

Precedence: ROUTINE

Date: 10/27/2005

To: General Counsel

Attn: NSLB

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From: [redacted]

Squad [redacted]

Contact: SSA [redacted]

Approved By: [redacted]

DATE: 11-07-2007
CLASSIFIED BY: 65179/DMH/KSB/RM
REASON: 1.4 (c)
DECLASSIFY ON: 11-07-2032

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)
(U) 278-[redacted]-C85270 (Pending)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Title: (U) POTENTIAL IOB MATTERS

Synopsis: (U) To report a potential IOB matter to the Office of General Counsel, NSLB.

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

(U) Details: ~~(S)~~ The following information is provided for the Office of General Counsel, NSLB, on a potential IOB matter in the [redacted] Resident Agency:

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(S) 1. File Number: [redacted]

(S) 2. Subject Name: [redacted]

(U) 3. US Person Status: Illegal Alien

(U) 4. Date Case Converted from 272: 02/24/2004

(U) 6. Statement of error:

(U) On 10/21/2005, [redacted] became aware of a potential IOB matter. Captioned matter was opened as 272L (Money Laundering-Drug) investigation on 08/21/2003. On 10/7/2004, the case agent submitted an electronic communication requesting conversion to a 315M based on information derived from the 272 investigation. This conversion electronic communication was not uploaded or sent to the file. The case agent, believing he had proper authority, submitted a National Security Letter on 10/21/2003 for toll and billing records of the subject. The National Security Letter was served and results transmitted to [redacted] by the delivering division on 01/06/2004. The case agent re-submitted the conversion electronic communication on

b2
b7E

Case ID : 278-HQ-C1229736-VIO
278-[redacted]-C85270

Serial : 1035
158

~~SECRET~~

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Page 2

02/02/2004. However, the conversion was not properly authorized because it was not signed by the Special Agent in Charge (SAC).

(S) No FBIHQ notification was made upon the conversion to a 315 matter and no annual Letterhead Memorandum (LHM) was submitted. Those oversights are generally non-reportable administrative matters. Although facts existed which would have supported a [redacted] [redacted] no SAC authorization for a [redacted] [redacted] was obtained prior to the issuance of a National Security Letter. Based on the foregoing, [redacted] reports this matter as a potential IOB violation.

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) The [redacted] Division advises NSLB of a potential IOB matter.

~~SECRET~~

NSL VIO-36836

Precedence: ROUTINE

Date: 10/11/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

b2
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From: [redacted]
Squad [redacted]
Contact: SA [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b1

DATE: 11-07-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 11-07-2032

Drafted By: [redacted]; SWS

b2

b6

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

(Pending) b7A

(S) [redacted]

(Pending) b7C

Title: (S) [redacted]

b7E

OO: [redacted]

(C) Synopsis: ~~(S)~~ Information received via National Security
Letter not related to this matter.

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

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

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(U) Administrative: ~~(S)~~ (S//NF) This report contains information
that is Foreign Intelligence Surveillance Act (FISA) derived.
Per 50 U.S.C. section 1806(B) of the Foreign Intelligence
Surveillance Act, recipients are reminded that this
information, or any information derived from it, may only be
used in a criminal proceeding with the advance authorization
of the Attorney General. This information may not be
disseminated to a foreign government without the authorization
of the Attorney General.

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(U) Enclosure(s): ~~(S)~~ Original toll records provided by [redacted]

Details: (S// [redacted]) [redacted]

Case ID : 278-HQ-C1229736-VIO Serial : 1037

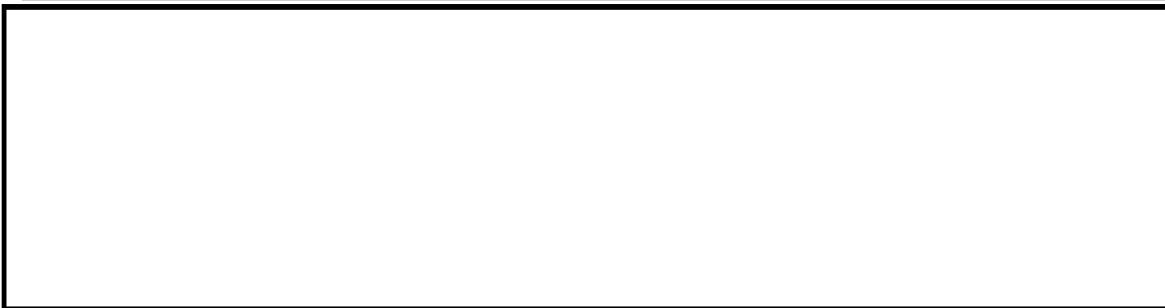
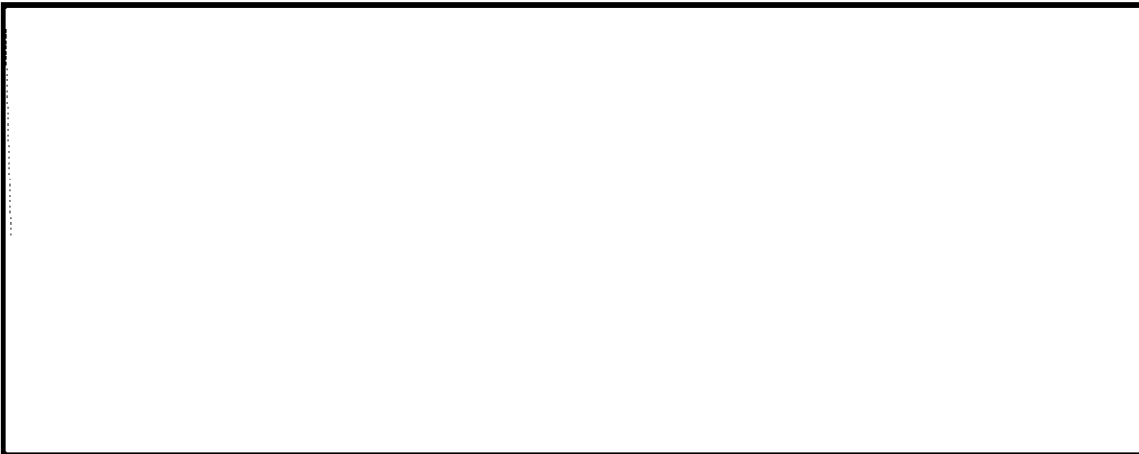
(S)

~~SECRET~~

NSL VIO-36837

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(S)

[Redacted]

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b7E

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(U) ~~(S)~~ The above information is being provided to FBIHQ, NSLB and IIS, in order to document toll records that were requested and received that are not pertinent to an investigation.

[Redacted]

LEAD(s) :

~~SECRET~~
NF

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Page 4

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) IIS read and clear.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLB read and clear.

~~SECRET~~

NSL VIO-36840

~~SECRET~~

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Page 3

AT WASHINGTON, DC

(U) Review above information and determine if IOB notification is required.

~~SECRET~~

NSL VIO-36843

Precedence: ROUTINE b2
 b6 Date: 11/09/2005
 b7C

To: [redacted] b7E Attn: SA [redacted]
 CDC
 Attn: SSA [redacted]
 Attn: IIS [redacted]

Counterintelligence
Inspection

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

Approved By: Thomas Julie F
[redacted]

Drafted By: [redacted] :sam

DATE: 11-07-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-07-2032

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

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD 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
Intelligence Oversight Board (IOB). A copy of this opinion
should be retained in the control file for review by Counsel to
the IOB.

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

Reference: (U) 278-HQ-C1229736-VIO Serial 973

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

(U) Details: ~~(S)~~ The referenced electronic communication (EC) from
the [redacted] Division [redacted], dated 09/12/2005, requested
that OGC review the facts of the captioned matter and determine
whether it warrants reporting to the IOB. In our opinion, it
does not. Our analysis follows:

[redacted]

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[redacted] Pursuant to Section II.C.4 of
the Attorney General's Guidelines for FBI National Security
Investigations and Foreign Intelligence Collection (NSIG),
[redacted] needed approval from FBI Headquarters (FBIHQ) [redacted]

(S)

~~SECRET~~



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****FOOTNOTES****

ii: A "United States person" is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. 1801, et seq., as "a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act). . . ." See also Section I.C fo the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) (2003).

LEAD(s):

Set Lead 1: (Info)



AT 

(U) Read and clear.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

b2
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b7C
b7E

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

CC: Ms. Thomas



~~SECRET~~

~~SECRET~~

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



IOB Library

b6
b7C

~~SECRET~~

Precedence: ROUTINE

Date: 10/05/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: [Redacted]
Chief Division Counsel
Contact: [Redacted]

Approved By: [Redacted] b2
b6
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b7E
Drafted By: [Redacted] :kag

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-08-2032

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

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

(U) Synopsis: ~~(S)~~ NSL directed at incorrect telephone number.

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

(S) [Redacted]

Details: (S) [Redacted]

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(S) [Redacted]

(U) ~~(S)~~ The case agent provided the IIS with two telephone numbers. One telephone number was correct and there were no issues regarding that telephone number. The second telephone number was

~~SECRET~~
(S) incorrect. The case agent provided the IIS with telephone number [Redacted] when the correct number was [Redacted]

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b7A
b7E

Case ID : 278-HO-C1229736-VIO Serial : 1050

(S)

[Redacted]

~~SECRET~~
NSL VIO-36848

(U) ~~(S)~~ In September 2005, the case agent received the NSL response. The case agent made an immediate working copy of the information and put the original in a 1a envelope and submitted it to the file. Nothing from the original NSL was uploaded.

(U) ~~(S)~~ On 10/03/2005, the case agent started working on the working copy and discovered that the name for the subscriber was not the name of the subject of the above referenced matter. The case agent checked in ACS to see what telephone number was listed on the NSL and noticed it was the incorrect number. At that point, the case agent contacted his supervisor and he and the supervisor then contacted the Chief Division Counsel.

(U) ~~(S)~~ No personal or identifying information on the incorrect number was uploaded into ACS from the NSL return. Additionally, no subscriber information was added to the telephone applications. No ACS checks, [REDACTED] [REDACTED] [REDACTED] [REDACTED] data base checks were run on the information. Also, no open source or internet checks were done on the information. b2 b7E

(U) ~~(S)~~ The original NSL as well as the resultant information was turned over to the Chief Division Counsel and is currently secured in the Chief Division Counsel's safe.

(U) ~~(S)~~ As nothing from the NSL has been reviewed, SAC [REDACTED] recommends no administrative action be taken in this matter.

Precedence: ROUTINE

Date: 11/14/2005

To: Inspection
Counterterrorism

Attn: Internal Inspection Service
Attn: ITOS1/CONUS1/Team 3

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[Redacted]

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

From: General Counsel
National Security Law Branch/CTLU1/LX-1
Contact: SSA [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F

b1
b2

Drafted By: [Redacted]:mdh

DATE: 11-07-2007
CLASSIFIED BY: 65179/DMH/KSF
REASON: 1.4 (c)
DECLASSIFY ON: 11-07-2032

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

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

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b7E

Synopsis: (U) It is the opinion of the Office of General Counsel (OGC) that the above referenced matter is not a violation and need not be reported to the Intelligence Oversight Board (IOB).

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

(U) Reference: ~~(S)~~ 278-HO-C1229736-VIO Serial 1037

(S) [Redacted]

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[Large Redacted Block]

Case ID : 278-HO-C1229736-VIO Serial : 1060

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(S)

(S) [redacted] During the course of its investigation of [redacted] [redacted] issued National Security Letters (NSL) for toll records on two telephone numbers relevant to the instant matter. These two telephone numbers were originally provided to [redacted] and based on telephonic analysis conducted by FBIHQ. Once the NSL results were received from the service provider, [redacted] determined that the two telephone numbers were no longer subscribed to by the [redacted] [redacted], consequently, segregated the toll records from these two numbers.

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(U) Section 2.4 of Executive Order (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 concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. By longstanding agreement between the FBI and the IOB, this language has been interpreted to mandate the reporting of any violation of a provision of the FCIG, or other guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of 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)~~ In the present case, there is no violation. A valid [redacted] was authorized pursuant to Attorney General's Guidelines. See NSIG Part II.C. Telephonic analysis conducted by FBIHQ revealed two telephone numbers associated with the target. Based on this information, [redacted] issued two NSLs for toll records. The NSL is an authorized technique to be used in a [redacted] Id. at Part II.C.3. The legal standard in issuing an NSL is that the information sought need only be "relevant to an authorized investigation to protect against international terrorism. . ." 18 U.S.C. 2709(b)(1). The NSLs in this case were properly issued. Simply because the toll record results revealed that the telephone numbers did not belong to the target does not make the request a violation. Rather, it marks the elimination of an investigatory lead. It is our opinion that this matter need not be reported to the IOB. 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.

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LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERTERRORISM

AT ITOS1/CONUS1/TEAM 3

(U) ~~(S)~~ Ensure all toll records, originals and copies, are properly disposed.

Set Lead 3: (Info)

[Redacted]

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AT

[Redacted]

(U) Read and clear.

Precedence: ROUTINE

Date: 12/2/2005

To: [redacted]

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Attn: CDC [redacted]

Counterintelligence
Inspection

Attn: CD-4B
Attn: Inspection

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: General Counsel

National Security Law Branch/CILU/ HQ room 7975

Contact: UC [redacted]

Approved By: Thomas Julie F [redacted]

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DATE: 11-07-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-07-2032

(U) Drafted By: [redacted] : kaa

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

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

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

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

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in Corel WordPerfect 8.

(U) Details: (S) By electronic communication (EC) dated October 5, 2005 (cited below), il' the [redacted] Division [redacted] reported a potential IOB involving a National Security Letter (NSL) requested by [redacted] which, through a transcription error, sought information about a e-mail address belonging to a person who was not the subject of an FBI national security investigation.

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(S) (S) The US person who is the subject of the [redacted]

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Case ID : 278-HQ-C1229736-VIO Serial : 1081

(S) [redacted]

(S) case agent sent his Investigative Support Specialist (IIA) the above mentioned correct e-mail address with which to draft an NSL. The IIA then drafted the NSL with the incorrect address of [redacted] b4 b7D

(U) ~~(S)~~ During the week of September 2, 2005, the case agent received the NSL response from the communications provider and noticed the error associated with the e-mail address. The case agent immediately notified his supervisor and put the original in the 1A envelope. The case agent then contacted the Associate Division Counsel who took possession of the unauthorized information and is presently holding the information in his safe.

(U) ~~(S)~~ The case agent reports that nothing from the response to this NSL has been reviewed. The agent also reports that no personal or identifying information from the NSL return has been uploaded into ACS. Also, no ACS, [redacted] [redacted] [redacted] data bases, open source or other internet checks were done on the information. b2 b7E

(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 errors described here are matters which must be reported to the IOB. They must.

(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. This has been interpreted to include violations of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection ("Attorney General's Guidelines"), the implementation of which is mandated by Executive Order 12333.

(S) ~~(S)~~ As set forth in [redacted] of the Attorney General's Guidelines, use of NSLs in conformity with 18 U.S.C. 2709 is authorized when records of electronic communications are sought [redacted] 18 U.S.C. 2709 authorizes the FBI to seek relevant records from a wire or electronic communication service provider when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." Here, issuance of an NSL which requested records for e-mail address [redacted] was neither authorized by law, nor was it authorized by the Attorney General's Guidelines, since e-mail address [redacted] is not relevant to a counterintelligence investigation. b1 b2 b4 b7D b7E

(S) (U) 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.

LEAD(s):

Set Lead 1: (Info)

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b7E



(U) Read and clear.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.



Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

FOOTNOTES

il: (U) See EC from the  Division to the Inspection Division and General Counsel, dated May 5, 2005, Case ID# 278-HQ-C1229736-VIO Serial 2514, titled "POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER (IOB)" hereinafter cited as  EC."

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ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

December 2, 2005

BY COURIER

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

DATE: 11-07-2007
CLASSIFIED BY 65179/DMH/KSR/RU
REASON: 1.4 (c)
DECLASSIFY ON: 11-07-2032

Dear Mr. Langdon:

This letter forwards for your information a self-explanatory enclosure, entitled Possible Intelligence Oversight Board Matter."

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

- 1 - Ms: Thomas
- 1 - SSA [redacted]
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO

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~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~Derived From: G-3
Declassify On: X1~~

~~SECRET~~

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

Page 2

~~SECRET~~

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 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~~

~~SECRET~~

NSL VIO-36865

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[redacted] DIVISION
IOB MATTER 2006 [redacted] (U)

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(U) ~~(S)~~ By electronic communication (EC) dated October 5, 2005 the [redacted] Division [redacted] reported a potential IOB involving a National Security Letter (NSL) requested by [redacted] which, through a transcription error, sought information about a e-mail address belonging to a person who was not the subject of an FBI national security investigation.

(S) ~~(S)~~ The US person who is the subject of the [redacted] [redacted] had an e-mail address of [redacted]. The case agent sent his Investigative Support Specialist (IIA) the correct e-mail address with which to draft an NSL. The IIA then drafted the NSL with the incorrect address of [redacted].

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(U) ~~(S)~~ During the week of September 2, 2005, the case agent received the NSL response from the communications provider and noticed the error associated with the e-mail address. The case agent immediately notified his supervisor and put the original in the 1A envelope. The case agent then contacted the Associate Division Counsel who took possession of the unauthorized information and is presently holding the information in his safe.

(U) ~~(S)~~ The case agent reports that nothing from the response to this NSL has been reviewed. The agent also reports that no personal or identifying information from the NSL return has been uploaded into ACS. Also, no ACS, [redacted] data bases, open source or other internet checks were done on the information.

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(U) The error is a reportable matter under Section 2.4 of Executive Order 12863.

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

~~SECRET~~

Precedence: ROUTINE

Date: 11/17/05

To: [redacted]
Counterterrorism
Inspection

Attn: SAC, CDC
Attn: AD
Attn: IIS

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ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

From: General Counsel

Counterterrorism Law Unit 11/LX-1 5S200

Contact: [redacted]

Approved By: Thomas, Julie F

[redacted]

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Drafted By: [redacted] pik

DATE: 11-08-2007
CLASSIFIED BY: 65179/DNH/VSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-08-2032

Case ID #: ~~(S)~~ 278-HQ-C1229736-V10

Title: ~~(S)~~ SA [redacted]
SSRA [redacted]

INTELLIGENCE OVERSIGHT BOARD MATTER,

IOB 2006- [redacted]

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 a cover letter and a letterhead memorandum for the General Counsel and the Assistant Director, Inspection Division (INSD), for submission to the IOB. Submission of this matter to the OPR is a matter within the cognizance of the IIS.

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

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

Administrative: (U) This communication contains one or more

footnotes. To read the footnotes, download and print the document in WordPerfect 6.1.

Details: (U) Referenced communication from the [redacted] Resident Agency [redacted] RA) to OGC, dated 10/06/2005, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it docs. Our analysis follows.

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(S) ~~(S)~~ As discussed in the electronic communication (EC) from the [redacted] RA cited below,¹¹

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[redacted]

~~(S)~~ During the course of the investigation the [redacted] RA issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. 2709. That statute permits the FBI to request telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." The NSL, dated March 31, 2005, was

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[redacted]

However, the incorrect area code was put into the number, so that the NSL was issued for the wrong telephone number.¹³ Records for that telephone number were provided by the telephone company. Upon receipt of the records, the error was discovered by the case agent and the records were set aside and not reviewed or used for any other investigative purpose. The records were forwarded to headquarters via an EC dated 10/06/2005.¹⁴

(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 a provision of the NSIG, or other 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.

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. 2709. Title 18, U.S.C. 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation.

Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

~~SECRET~~

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Page 4

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about a United States Person or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

LEAD(s):

Set Lead 1: (ACTION)

~~SECRET~~

NSL VIO-36870

~~SECRET~~

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[Redacted]

AT [Redacted] RESIDENT AGENCY

(U) Seal and provide NSL return information and any documents based upon such information to headquarters for purposes of sequestering with Deputy General Counsel Thomas.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Provide sealed NSL return information and documents based upon such information to Deputy General Counsel Thomas for sequestration.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

[Redacted]

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****FOOTNOTES****

(U) 11: (S) EC from [Redacted] Resident Agency to Inspection and OGC dated 10/06/2005 and titled "Case Agent - SA [Redacted] Supervisor - SSRM [Redacted] Intelligence Oversight Board Matter."

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12: (U) A United States person (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. 1801 et seq.) as a citizen of the United States (or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act) See also Section II.W of The Attorney

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Page 6

General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

(3): (U) In order to avoid any dissemination of this incorrect telephone number, the number is not being listed in this document.

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(4): (S) See [redacted] addressed to ITOS 11/PRQU SSA

[redacted] enclosing the toll billing records.

~~SECRET~~

NSL VIO-36872

~~SECRET~~

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Page 1

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (C)
DECLASSIFY ON: 11-08-2032

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

BY COURIER

Mr. James Langdon
Chairman
Intelligence Oversight Board
Room 50209
New Executive Office Building
725 17th Street, Northwest
Washington, D.C.

Dear Mr. Langdon:

Enclosed for your information is a self-explanatory memorandum entitled Intelligence Oversight Board (IOB) Matter, [redacted] Division, at [redacted] Resident Agency, IOB Matter 2006-[redacted]." (U)

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This memorandum 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 which govern FBI foreign counterintelligence and international terrorism investigations. (U)

Enclosure

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- 1 - Mr. Hulon
- 1 - Inspection (IOB 2006-[redacted])
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN
DETACHED FROM~~

Case ID : 278-HQ-C1229736-VIO

Serial : 1087

~~SECRET~~

NSL VIO-36873

~~SECRET~~

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Page 2

CLASSIFIED ENCLOSURE

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

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[REDACTED] DIVISION, AT [REDACTED] RESIDENT AGENCY
IOB MATTER 2006-[REDACTED] (U)

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(S) The Federal Bureau of Investigation ("FBI") has determined that in conducting [REDACTED]

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NSL VIO-36874

(S) National Security Letter (NSL) to obtain telephone toll billing records on a telephone number which was not related to the investigation. The overcollection was due to a mistake in the NSL in identifying the telephone number of [redacted] whose number was intended to be the subject of the request. The overcollection was a violation of Section V.11. of The Attorney General's Guidelines for FBI National Security Investigations and

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(S) [redacted]

Instead, the area code was incorrectly identified; thus, the information returned from the carrier was the telephone toll billing records of a wholly unrelated telephone number. The error was discovered upon receipt of the information, and the records were not reviewed nor used for any investigative purpose.

Despite the inadvertent nature of the mistake, the fact remains that information was improperly collected on a telephone number unrelated to an investigation. Thus, the matter is being reported to the IOB. (S)

~~Derived from: G-3
Declassify on: X-1~~

FOOTNOTES

(U) (S) Section V.11. authorizes use of National Security Letters in conformity with 18 U.S.C. 2709 (relating to subscriber information, toll billing records, and electronic communication transactional records). The statute requires that information sought is relevant to an authorized national security investigation.

Precedence: ROUTINE

Date: 12/09/2005

To: General Counsel

Attn: National Security Law Branch
Room 7975

From: [redacted] Chief Division Counsel (CDC)
Contact: CDC [redacted] b2
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Approved By: [redacted] ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted] :jbk DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-08-2030 b6
b7C

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

Title: (U) SUPERVISORY SPECIAL AGENT (SSA) [redacted]
[redacted] STATE POLICE TROOPER [redacted]
POSSIBLE INTELLIGENCE OVERSIGHT BOARD
(IOB) MATTER - INTERNATIONAL TERRORISM RELATED

Synopsis: (U) This communication reports a possible IOB violation.

(U) ~~(S)~~ Derived From: FBI SCG G-3 1/97
Declassify On: 12/09/2030

Details:

(U) 1. Personnel and case background

(U) SSA [redacted] supervises Squad [redacted] of the
[redacted] Division, and the [redacted] Joint Terrorism Task
Force. [redacted] State Police Trooper [redacted] is assigned
to this task force. [redacted]
[redacted] Support Services Technician [redacted] is
assigned to squad [redacted]. She performs administrative duties for
that squad and the [redacted] Joint Terrorism Task Force.

[redacted]

(U) ~~(S)~~ On 9/13/2005, Trooper [redacted] departed [redacted]
[redacted] for a temporary duty assignment in [redacted] b1
[redacted] He was to assist in [redacted] b2
[redacted] After he left for this b6
assignment, Support Services Technician [redacted] told SSA [redacted] b7C
b7E

Case ID : 278-HQ-C1229736-VIO

Serial : 1092

(S)

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that the [redacted] before Trooper [redacted] return. SSA [redacted] told her that he would request an [redacted]. But because [redacted] SSA [redacted] was on leave during the majority of the last two weeks [redacted] and forgot to [redacted]

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(S) Trooper [redacted] returned from [redacted] on 10/17/2005. After his return, SSA [redacted] realized that the [redacted]. He instructed Trooper [redacted] to prepare an electronic communication (EC) requesting an [redacted]. On 11/01/2005, Trooper [redacted] drafted the EC.

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[redacted]

(U) 2. Possible violation

(U) (S) However, on 11/07/2005, [redacted] received financial documents in response to a national security letter (or NSL) that was served on [redacted] on 08/22/2005.

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(U) (S) Also, there was a mail cover on the subject. The United States Postal Inspection Service has in its possession in a sealed container a number of documents obtained through this mail cover. They have yet to be delivered to the [redacted] Joint Terrorism Task Force. On 11/07/2005, SSA [redacted] requested the United States Postal Inspection Service to discontinue the mail cover on the subject.

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(U) 3. Possible violation and SAC recommendation

(U) (S) The "Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection," II.C.4., provides:

An extension of a [redacted] beyond the initial one-year period requires FBI Headquarters approval.

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(U) (S) No one timely requested an extension of the [redacted] as required under "Attorney General Guidelines."

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(U) If there is a violation, this instance appears to be a minor administrative oversight. It would certainly be mitigated by the unusual circumstances of the death in SSA [redacted] family. All persons involved are aware of this issue, and will take steps to assure that [redacted] are kept up to date. The SAC [redacted] recommends no administrative action.

LEAD(s):

~~SECRET~~

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U)

~~(S)~~ NSLB is requested to determine if this matter should be reported as to the IOB. NSLB is also requested to advise of the appropriate disposition of the documents obtained through the mail cover, and that remain in the possession of the United States Postal Inspection Service.

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Precedence: ROUTINE

Date: 12/14/2005

To: General Counsel

Attn: National Security Law Branch
Room 7975

From: [redacted]

Chief Division Counsel (CDC)
Contact: CDC [redacted]

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

b2 Approved By: [redacted]

b6 Drafted By: [redacted]

b7C Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

b7E

DATE: 11-08-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-08-2032

Title: (U) SPECIAL AGENT (SA) [redacted]
POSSIBLE INTELLIGENCE OVERSIGHT BOARD
(IOB) MATTER - INTERNATIONAL TERRORISM RELATED

Synopsis: (U) This communication reports a possible IOB violation.

(U) ~~(S)~~ Derived From: FBI SOG G-3 1/97
~~Declassify On: 12/14/2030~~

Details:

(U) 1. Personnel and case background

(U) SA [redacted] is assigned to Squad [redacted] of the [redacted] Division, and the [redacted] Joint Terrorism Task Force.

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(S) ~~(S)~~ SA [redacted] was assigned the case entitled [redacted]

[redacted]

(U) ~~(S)~~ By electronic communication (EC) dated 06/23/2005, the [redacted] Division sent materials responsive to the NSL to SA [redacted]

(U) 2. Discovery and immediate corrective action

(S) ~~(S)~~ Upon receipt of the records, SA [redacted] discovered that he mistakenly provided the wrong phone number in his NSL request. The number should have been [redacted] rather than [redacted]

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(S)

[Redacted]

[Redacted]

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(U) ~~(S)~~ By EC dated 07/01/2005, this matter was reported to the National Security Law Branch and the [Redacted] Division. But it was not officially reported as a possible IOB violation.

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(U) 3. Possible violation and SAC recommendation

(U) ~~(S)~~ The "Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection," contemplates use of NSLs only for predicated subjects. Obviously, the mistaken target of the 03/18/2005 NSL was not a subject.

(U) This matter appears to be a minor administrative oversight. It is certainly mitigated by SA [Redacted] immediate discovery of the error, and his immediate corrective action. Accordingly, the SAC, [Redacted] recommends no administrative action.

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) The National Security Law Branch is requested to determine if this matter should be reported as to the IOB.

(U) The National Security Law Branch is also requested to provide guidance concerning the proper disposition of mistakenly gathered information in cases such as these.

Precedence: ROUTINE

Date: 12/15/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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From: [redacted]
Squad [redacted]
Contact: [redacted]

Approved By: [redacted]

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSP/RW
REASON: 1.4 (C)
DECLASSIFY ON: 11-08-2032

Drafted By: [redacted] ak1

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

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

SA [redacted]
A/SSA [redacted]

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(U) Synopsis: ~~(S)~~ To advise FBIHQ of a potential IOB matter.

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

Details: ~~(S)~~ On December 8, 2005, FBI [redacted]/JTTF SA [redacted]
[redacted] discovered a potential IOB violation regarding the
(S) issuance of two (2) National Security Letters (NSLs) during an

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(U) ~~(S)~~ On December 8 and 9, 2005, SA [redacted] extensively
researched available hard cover case files and computer
databases to ensure the validity of the potential violation.
On December 12, 2005, FBI [redacted]/JTTF A/SSA [redacted]
and SA [redacted] brought the matter to the attention of CDC

[redacted]

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Case ID : 278-HQ-C1229736-VIO
278- [redacted] A18296

Serial : 1099
104

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[Redacted]

(S) Subsequently, the [Redacted] was reassigned to SA [Redacted] on November 3, 2005. During this same time-frame, the former JTTF SSA was [Redacted] Co-case agent, TFO [Redacted], and IA [Redacted] issued two (2) NSLs on November 15, 2005, and November 16, 2005, not knowing that, in fact [Redacted]

(S) [Redacted]

(S) Once the mistake was discovered, A/SSA [Redacted] and SA [Redacted] immediately drafted an EC to FBIHQ, CTD/ JTOS II to [Redacted]

(S) [Redacted] in addition, no other investigative steps have been taken pending the approval of the [Redacted] extension from FBIHQ. After consultation with FBI [Redacted] management, a tickler system will be developed by the JTTF to ensure that [Redacted] deadlines are strictly followed to avoid any similar mistakes in the future.

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LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) ~~(S)~~ For action as deemed appropriate.

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ For action as deemed appropriate.

Precedence: ROUTINE

Date: 12/19/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

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Approved By: [redacted]

DATE: 11-08-2007
CLASSIFIED BY: 65179/DMH/KSP/RM
REASON: 1.4(c)
DECLASSIFY ON: 11-08-2032

Drafted By: [redacted]

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

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Title: (U) [redacted]
REPORT OF POSSIBLE IOB VIOLATION

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

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

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Details: ~~(S)~~ A potential IOB violation occurred during

(S) [redacted]

[redacted]

[redacted]. The NSL was served to [redacted]
[redacted] on 9/28/2005 by
[redacted] Unit.

(U) ~~(S)~~ Results in compliance with the aforementioned NSL
were received on 10/11/2005 by [redacted] Unit and documented in
an EC dated 10/12/2005.

(S) ~~(S)~~ On 12/15/2005, it was discovered that on the
original NSL dated 9/9/2005, the number was inadvertently
transposed. Subscriber information was requested for telephone
number [redacted]. However, the NSL should have been requested
(S) for telephone number [redacted]

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(S) Case ID : 278-HQ-C1229736-VIO Serial : 1115

b1

(U) ~~(S)~~ On 12/15/2005, [redacted] CDC [redacted] was contacted and advised of the error. CDC [redacted] requested writer to prepare a report of possible IOB violation.

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(U) ~~(S)~~ The results of the NSL and any serials with reference to the results of the NSL can be destroyed or permanently charged out of the original file as they are not needed for, or related to, the current investigation.

(U) ~~(S)~~ [redacted] will await guidance from Inspection Division regarding removal of subscriber information from [redacted] ACS.

LEAD(s):

Set Lead 1: (Info)

ALL RECEIVING OFFICES

(U) For information only.

Precedence: ROUTINE b2
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 b7C Date: 11/17/2005
 b7E
 To: Inspection Attn: Internal Investigations
 Section
 General Counsel Attn: NSLB
 Counterterrorism Attn: SSA [redacted] CAU

From: [redacted]
 [redacted] Squad [redacted]
 Contact: SSA [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

Drafted By: [redacted] abg

DATE: 11-08-2007
 CLASSIFIED BY: 65179/DMH/KSR/RW
 REASON: 1.4 (c)
 DECLASSIFY ON: 11-08-2032

Case ID #: 278-HQ-C1229736-VIO (Pending)
 [redacted] 66F-1516

Title: UNSUB(S);
 POTENTIAL IOB MATTER

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Synopsis: To report potential IOB matter as defined and directed by below referenced communication.

Reference:
 66F-HQ-A1247836 Serial 172
 [redacted]

Administrative: Re forwarded e-mail dated 11/17/2005 from CDC [redacted] to SSA [redacted] regarding OGC's response to [redacted] question of issuing a National Security Letter from [redacted]
 [redacted]

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Enclosure(s): Enclosed for the recipients is a five page e-mail string beginning 08/22/2005 and concluding 11/14/2005; a one page e-mail from SSA [redacted] to IA [redacted] dated 11/29/2005; a one page e-mail string between CDC [redacted] and OGC; and a one page e-mail from OGC [redacted] to SSA [redacted] dated 11/22/2005.

Details: In referenced communication, the Inspection Division, Internal Investigations Section delineates the procedures for reporting potential IOB matters in order to facilitate the timely review, investigation and disposition of reports of intelligence activities conducted by the FBI which may have been unlawful or contrary to Executive Orders, Presidential Directives or Departmental guidelines within 14

 Case ID : 278-HQ-C1229736-VIO
 [redacted] 66-1516

Serial : 1117 b2
 128 b7E
 NSL VIO-36885

days of the discovery of the possible violation.

As directed in referenced communication the [redacted] Division is formally notifying OGC, NSLB and INSD, IIS of a potential IOB matter discovered on 11/17/2005. The [redacted] Division [redacted] has addressed each of the six notification elements below.

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1. The matter is not part of a substantive [redacted] case and occurred with the anticipated utilization of the [redacted]. Therefore, there is no case agent or case supervisor to be captioned in the title section of this communication.

2. As noted in item number 1, there is no substantive investigation in which the questionable activity occurred. The file number referenced in the initial e-mail which the potential violation occurred is the [redacted].

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3. There was no identifiable target as the lead from the [redacted] Division only provided the [redacted] Division with the telephone numbers captured on the complainants caller identification. There were no requests completed by the [redacted] or [redacted] Division for subscriber information on the telephone numbers.

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4. As noted in item number 3, there was no identifiable target to determine the person's or persons' status as a U.S. person or non-U.S. person.

5. The controlling legal authority pertaining to the potential IOB matter is the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection. The relevant parts are Part II.A.1.7, which provides investigative techniques available for usage [redacted] and Part II.D.3 [redacted] and reference Part V, specifically Part V.12, which includes NSLs.

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6. Referenced [redacted] file communication advised the [redacted] Division of suspicious telephone calls originating in [redacted] resident, subscribing to telephone number [redacted]. The [redacted] communication states that 2-3 weeks prior to the date (08/05/2005) of the EC, the complainant, who did not save the initial call information, received "suspicious telephone messages" (no quantity provided) possibly in [redacted].

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On 08/03/2005 the complainant noted a missed call from [redacted] telephone number [redacted]. No message was left.

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On 08/04/2005 the complainant received a message from [redacted] telephone number [redacted]. The message was in English with what the complainant believes was an

(S)

[Redacted]

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[Redacted]

[Large redacted area containing multiple small rectangular boxes]

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Upon receipt of the actual [redacted] communication, the Squad [redacted] PRS observed the communication was written from a 315-0 file and did not merit the immediate crafting of a NSL. The Squad [redacted] PRS immediately communicated this to the Squad [redacted] SA assigned to review the matter and the FIG IA.

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The Squad [redacted] SA assigned to this matter treated the "discretionary action" lead as a Threat Assessment and conducted a thorough review of the facts to determine if cause existed to initiate a [redacted]. He found no such cause. The Squad [redacted] SA's review included attempting to validate the [redacted]

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[redacted]

When the IA again requested the Squad [redacted] SA produce a NSL, the IA was advised there was not sufficient predication to justify the initiation of a [redacted]

[redacted] The IA was also advised by the Squad [redacted] SSA, via e-mail dated 08/29/2005, of the lack of predication necessary to initiate a [redacted] and [redacted]. The IA contended a [redacted] was justified because the toll records, produced by CTD, CAU and received by the [redacted] FIG IA, included a possible pay phone number (as noted above in the summary of e-mail communications) which was associated with numerous FBI investigations. The lead agent determined this to be false as proven by a pretext call. The telephone number believed by the IA to be that of a pay phone was in fact an [redacted] calling card access number. This information was also conveyed to the IA. It should be noted the information received by the [redacted] IA from CTD CAU was forwarded to the Squad [redacted] SA who did not utilize it in furtherance of his assessment and destroyed the information.

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Upon receipt of a follow-up e-mail dated 11/10/2005, from CTD SSA [redacted] providing verbiage for and requesting a NSL for the telephone number information provided to the [redacted] IA in August 2005, it was again determined predication did not exist to warrant the initiation of a [redacted]. In consideration of CTD's commitment to the telephone companies to provide legal means for obtaining the information, the [redacted] Division considered issuing a NSL from the division [redacted]

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[redacted] which was the file number provided to CTD on the IA's initial request.

On 11/17/2005, [redacted] CDC received official guidance from OGC stating a NSL could not be issued [redacted] unless prior approval was received. Inasmuch as [redacted] did not request nor receive prior approval to issue a NSL from [redacted] and did not initiate a [redacted] [redacted] has no means of issuing an NSL for the information received from CTD, CAU.

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LEAD(s) :

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

For whatever action is deemed necessary.

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

For whatever action is deemed necessary.

Set Lead 3: (Info)

COUNTERTERRORISM

AT COMMUNICATIONS ANALYSIS UNIT

For informational purposes only.

