

~~SECRET~~

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

Page 1

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February 3, 2006

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

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

b7D  
b4  
b6  
b7C



Dear



Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 12, United States Code (U.S.C.), Section 3414(a)(5), (as amended, December 13, 2003), you are hereby directed to produce to the Federal Bureau of Investigation (FBI) all financial records pertaining to the customer(s) and/or accounts listed below:

(S) NAME(S)



(S) ACCOUNT NUMBER(S):



(S) SOCIAL SECURITY NUMBER(S)



(S) DATE(S) OF BIRTH:

FOR PERIOD



b1  
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If the time period noted above is to the "present," that term is intended to request information to the date of the processing of this request. If providing information to the date of processing is not feasible, please provide information to the date of receipt of this request.

Please see the attachment following this request for the types of information that your financial institution might consider to be a financial record.

In accordance with Title 12, U.S.C. Section 3414(a)(5)(A), I certify that the requested records are sought for foreign counterintelligence investigation purposes to protect against international terrorism or clandestine intelligence activities, and

Case ID:



(S) 278-HQ-CI229736-VIO

1154

~~SECRET~~ NSL VIO-35439

b1  
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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.

In accordance with Title 12, U.S.C., Section 3403(b); I certify that the FBI has complied with all applicable provisions of the Right to Financial Privacy Act.

Please be advised that Title 12, U.S.C., Section 3414(a)(5)(D), prohibits any financial institution, or officer, employee or agent of such institution, from disclosing to any person that the FBI has sought or obtained access to a customer's or entity's financial records under this statute.

You are requested to provide records responsive to this request personally to a representative of the [redacted] Division within 25 business days of receipt of this request.

b2  
b7E  
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Any questions you have regarding this request should be directed only to the [redacted] Division, SA [redacted]. Due to security considerations, you should neither send the records through routine mail service nor disclose the substance of this request in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely,

b2  
b7E

[redacted]  
Special Agent in Charge

ATTACHMENT

In preparing your response to this National Security Letter, you should determine whether your company maintains the following types of information which may be considered by you to be a financial record in accordance Title 12, United States Code, Section 3401(2):

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NSL VIO-35441

~~SECRET~~

~~SECRET~~

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~~SECRET~~

NSL VIO-35442

~~SECRET~~

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Page 1

Precedence: ROUTINE

Date: 02/16/2006

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]

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

Drafted By: [REDACTED]

Case ID #: (S) [REDACTED] Pending)  
(S) 278-HQ-CI229736-VIO (Pending)

(U) Title: (S) POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER, (IOB)  
SA [REDACTED] CASE AGENT;  
SSA [REDACTED]

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

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

(USPER)

Details: (S) [REDACTED]

(U) (S) During the week of 01/16/2006, case agent asked the Investigative Support Specialist (ISS) to create a National Security Letter (NSL) for telephone number information.

(S) The case was generated of a lead out of [REDACTED]

[REDACTED] and subject telephone number. The subject telephone number was incorrectly transcribed from the ECPA EC request to the ECPA NSL request. The ECPA EC had subject telephone number as [REDACTED] however, due to an administrative oversight the ECPA NSL directed at [REDACTED] had a telephone number of [REDACTED] Case agents [REDACTED] telephone extension is [REDACTED]

(U) (S) During the week of February 6, 2006, the case

Case ID [REDACTED]

278-HQ-CI229736-VIO

1201

(S)

~~SECRET~~

NSL VIO-35443

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b4  
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b7E  
b7A

~~SECRET~~

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Page

2

agent received the NSL response. On February 10, 2006, the case agent opened the results and immediately noticed the discrepancy in the telephone number. The case agent immediately notified his supervisor and put the original in a sealed envelope and submitted it to the Chief Division Counsel. Nothing from the original NSL was uploaded.

(U) ~~(S)~~ No personal or identifying information on the incorrect telephone number was uploaded into ACS from the NSL return. Additionally, no ACS checks, [redacted] or other restricted government data base checks were run on any information from the NSL return. Also, no [redacted] [redacted] checks were done on the information.

b2  
b7E

(U) ~~(S)~~ A copy of the original NSL as well as the resultant information is being maintained 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.

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and clear.

~~SECRET~~

NSL VIO-35444

DATE: 11-08-2007

CLASSIFIED BY: 65179 DMH/KSP/JW

REASON: 1.4 (C)

DECLASSIFY ON: 11-08-2032

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WHERE SHOWN OTHERWISE

1

Precedence: ROUTINE

Date: 02/06/2006

To: Inspection  
General Counsel

Attn: IIS  
Attn: NSLB  
Attn: SA [REDACTED]

From: [REDACTED]

Contact: TFO [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

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

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD (IOB)  
TFO [REDACTED]  
SSA [REDACTED]

(U) Synopsis: (S) Report possible Intelligence Oversight Board (IOB) violation.

(U) (S) Derived From: ~~FBI SCG G-3, Jan. 1997~~  
Declassify On: ~~02/06/2016~~

Details:

(U) The Case Agent is Joint Terrorism Task Force Officer  
(TFO) [REDACTED]

(S) [REDACTED]

(U) (S) The subject is a U.S. person.

(S) [REDACTED]

Case ID : 278 [REDACTED] A67604-VIO

Serial : 17

278-HQ-C1229736-VIO

1160

(S)

~~SECRET~~

NSL VIO-35445

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(S)

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Page

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(S)

(S)

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b2  
b7E

(S) ~~(S)~~ The possible violation occurred in connection with a NSL dated 07/29/2005 and its approving EC [REDACTED]. The NSL, which was prepared by [REDACTED] Division Joint Terrorism Task Force Officer [REDACTED] requested toll record information [REDACTED] telephone number, however, was inadvertently misidentified by TFO [REDACTED] and telephone record information unrelated to [REDACTED] was received from the telephone service provider via an EC from the [REDACTED] Division dated 09/14/2005 [REDACTED]

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(S) The mistaken toll records were sealed by the [REDACTED] Division Chief Division Counsel (CDC) [REDACTED] on 02/06/2006 and are being maintained in a secure manner in the CDC's office. The NSL dated 07/29/2005, its approving EC [REDACTED] and the [REDACTED] responsive EC [REDACTED] all which specifically referenced the incorrect telephone number, have been permanently charged out of ACS. Furthermore, neither the incorrect number nor any records received with respect to it have otherwise been uploaded into FBI databases, including [REDACTED]

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

~~SECRET~~

NSL VIO-35446



~~SECRET~~

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Page 3

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

~~SECRET~~

NSL VIO-35447

~~SECRET~~  
~~NF/OR~~

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Page 1

Precedence: PRIORITY

Date: 01/25/2006

To: General Counsel

Attn: NSLB

Counterterrorism

Attn: ITOS IT

UC

SSA

SSA

From:

Contact: A/SSA

Approved By:

DATE: 11-08-2007

CLASSIFIED BY: 65179 DMH/KSP/JW

REASON: 1.4 (C)

DECLASSIFY ON: 11-08-2032

Drafted By:

Case ID #: (S)

278-HQ-C1229736-VIO (Pending)

278- C45386 (Pending)

ALL INFORMATION CONTAINED  
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WHERE SHOWN OTHERWISE

Title: (S)

(U) ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD

Synopsis: ~~(S)~~ To report potential IOB violation during course  
of FISA coverage of subject.

(U) ~~(S)~~ Derived From: ~~FBI SCG G-3, January 1997~~  
Declassify On: ~~January 25, 2031~~

(S) ~~(S)~~

Details: (S/OR/NF) The following is a detailed outline of the  
investigation of subject, USPER,  
related to the electronic surveillance coverage of cellular  
telephone line

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b6  
b7C  
b7A

Case ID:

278-HQ-C1229736-VIO

278- C45386

1145

105

b1  
b7A  
b2  
b7E

~~SECRET~~

NSL VIO-35448

(S)

~~SECRET~~  
NF/OR

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Page

2

[REDACTED]

(S)

[REDACTED]

[REDACTED]

Division to obtain NSL

results on the subject's [REDACTED] e-mail account [REDACTED]

a subsequent NSL

was served on [REDACTED]

[REDACTED]

(S)

[REDACTED]

[REDACTED]

(S/NF/OC)

[REDACTED]

b1  
b7A  
b6  
b7C  
b2  
b7E  
b4  
b7D

[REDACTED]

(S/NF/OC)

[REDACTED]

[REDACTED]

(S/NF/OC)

[REDACTED]

[REDACTED]

(S/NF/OC)

[REDACTED]

[REDACTED]

~~SECRET~~

NSL VIO-35449

~~SECRET~~  
NF/OR

---- Working Copy ----

Page

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(S)

(S/NF/OC)

(S//NF/OC)

(S//NF/OC)

(S)

(S/NF/OC)

(S//NF/OC)

(S/NF/OC)

On January 20, 2006, at approximately 4:45 p.m.,

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b2  
b7E  
b1

~~NSL VIO-35450~~

~~SECRET~~

NF/OR

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(S)

Page

4

[redacted]  
[redacted]  
the cellular line was disabled. At approximately 5:05 p.m., [redacted]  
[redacted] contacted [redacted] to inform them of [redacted] request to stop  
[redacted] After  
a short telephone conversation with [redacted]  
[redacted] faxed a notification [redacted] at approximately 5:25 p.m.,  
[redacted] to stop coverage of the above-listed cellular line as soon  
as possible. Thus, [redacted] took immediate steps to halt all  
coverage on the cellular line.

b1  
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b4  
b7D

(S/NF/OC) On January 20, 2006, at approximately 5:45 p.m., [redacted]  
[redacted] contacted ITOS II [redacted] to inform them that the subject was  
not the subscriber to cellular telephone number [redacted]  
[redacted] advised FBIHQ that [redacted]  
[redacted] notified [redacted] to disconnect  
the coverage as soon as possible. FBIHQ concurred with [redacted]  
conclusions and actions. Subsequent conversation with FBIHQ  
indicated they were in contact with National Security Law Branch  
to inform NSLB of the situation. FBIHQ further advised that NSLB  
requested the cellular data be sequestered and the circumstances  
were documented as soon as possible.

(S/NF/OC) On January 24, 2006, at approximately 4:30 p.m., [redacted]  
[redacted] removed [redacted]  
[redacted] containing the cellular telephone  
activity. A/SSA [redacted] took possession of [redacted] and kept the  
disk sequestered with notification to CDC [redacted]  
will be forwarded to NSLB for storage and review. At the time  
[redacted] was removed, [redacted]  
[redacted]

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ Forward notification through proper channels for  
review of potential IOB violation.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

~~SECRET~~

NSL VIO-35451

~~SECRET~~

NF/OR

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Page

5

025cc01.ec

~~SECRET~~

NSL VIO-35452

DATE: 05-30-2007  
CLASSIFIED BY: 65179 DMH/KSR/CAK  
REASON: 1.4 (C)  
(D) DECLASSIFY ON: 11-14-2032

~~SECRET~~  
ALL INFORMATION CONTAINED  
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WHERE SHOWN OTHERWISE  
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Precedence: ROUTINE

Date: 02/10/2006

To: Counterintelligence  
General Counsel  
Inspection

Attn: CD-2C, SSA [REDACTED]  
Attn: NSLB  
Attn: IIS

b2  
b7E  
b6  
b7C

From: [REDACTED]

Contact: SA [REDACTED]

Approved By: [REDACTED]

b1

b2 Drafted By: [REDACTED]

b7E

b6 Case ID #: (S) [REDACTED]  
b7C (U) ~~(S)~~ 278-HQ-C1229736-VIO (Pending)

Title: (S) [REDACTED]

(U)

Synopsis: ~~(S)~~ To advise FBIHQ of facts that could conceivably be reportable to the IOB. The [REDACTED] Division sent an NSL requesting billing and subscriber records for a cellular phone believed to be owned by the subject, however in addition, the company returned the records of the two (2) prior subscribers for that telephone number. [REDACTED] is forwarding the facts surrounding this incident to FBIHQ to determine whether there is a reportable IOB violation.

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(S)

(U)

~~(S)~~ Derived From: G-3  
Declassify On: 02/10/2031

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Enclosure(s): (S) A copy of the original National Security Letter cover EC; a copy of the National Security Letter; and a copy of the EC documenting the collection of records from [REDACTED] and submission of results to the file.

Details: (S) On 11/14/2005 SA [REDACTED] requested a National Security Letter (NSL) to be drafted for the "subscriber name, address, length of service, and local and long distance toll billing records for cell telephone number [REDACTED]"

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Case ID [REDACTED]

(S) 278-HQ-C1229736-VIO

1261

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~~SECRET~~

NSL VIO-35453

(S)

~~SECRET~~

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Page

2 b1

[REDACTED]

(S) ~~(S)~~ On 12/07/2005, an NSL was sent to [REDACTED] Division to deliver to [REDACTED]. The NSL advised "Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended, October 26, 2001), you are hereby directed to provide the Federal Bureau of Investigation (FBI) the name, address, length of service, and all local and long distance toll records for the following telephone number: [REDACTED]"

b1  
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(S) ~~(S)~~ On December 21, 2005, [REDACTED] forwarded the results to FBI [REDACTED] which were placed into [REDACTED]. Upon the records' arrival to [REDACTED] Division, SA [REDACTED] reviewed the cover EC and the documents and discovered that the records included not only the billing records for the subject, who was the current subscriber for the number, but also the billing records for the two (2) prior subscribers.

b1  
b6  
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(U) ~~(S)~~ SA [REDACTED] consulted with CDC [REDACTED] who advised that the records of the previous two subscribers should be sealed in an envelope until determination was made as to whether this needed to be referred to FBIHQ. On January 20, 2006, SA [REDACTED] sealed the documents in an envelope. Subsequently, SSA [REDACTED] advised SA [REDACTED] that CDC [REDACTED] had recommended that this matter should be referred to FBIHQ to determine if this is an IOB violation and that the documents in question should be sealed.

b6  
b7C

(U) ~~(S)~~ This sealed envelope will be placed into the file pending further instructions.

LEAD(s):

Set Lead 1: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

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

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ NSLB is requested to advise [REDACTED] on the appropriate handling procedures of the records received that

b2  
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NSL VIO-35454



~~SECRET~~

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Page

3

were outside the scope of the NSL.

Set Lead 3: (Info)

IIS

AT INSD

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

~~SECRET~~

NSL VIO-35455

DATE: 11-14-2007

CLASSIFIED BY 65179 DMH/KSR/JW

REASON: 1.4 (C)

DECLASSIFY ON: 11-14-2032

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1

Precedence: ROUTINE

Date: 03/07/2006

To:

Director's Office  
General Counsel

Attn:

Attn: OPR

Attn: AGC

From:

Legal Unit

Contact: CDC

Approved By:

Drafted By:

(U)

b1 ID #: (S)

b2 (S)

b7E (S)

b2 (S)

278-HQ-C1229736-VIO (Pending)

POSSIBLE INTELLIGENCE OVERSIGHT  
BOARD MATTER  
2006-

(U)

Synopsis: (S) To return material provided pursuant to an NSL  
to the financial institution.

(U)

Derived From : G-3

Declassify On: X1

(U) Reference: (S) 278-HQ-C1229736-VIO Serial 1177

Enclosure(s): (S) Enclosed for is a 1A  
envelope containing material provided by

pursuant to a National Security Letter (NSL) issued by SAC

Details: (S) issued an NSL

to for financial records

relating to the subject. By EC dated 08/02/2005  
forwarded documents responsive to this NSL to in  
December 2005 while reviewing the documents the  
case agent noted

that several documents were not related to  
the subject. The records were not further reviewed and were  
secured by the CDC pending notification of a possible  
Intelligence Oversight Board (IOB) Matter. General Counsel,  
in the referenced EC, directed to return this

(S) Case ID

278-HQ-C1229736-VIO

1209

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NSL VIO-35456

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Page 2

material to [redacted] for return to the financial institution.

LEAD(s):

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Set Lead 1: (Action)

[redacted]

AT [redacted]

~~(S)~~

~~(S)~~ Return the enclosed documents to [redacted]

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Set Lead 2: (Info)

DIRECTOR'S OFFICE

AT OPR

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

Set Lead 3: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

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

~~SECRET~~

NSL VIO-35457

~~SECRET~~

DATE: 11-14-2007

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CLASSIFIED BY 65179 DMH/KSR/JW/ge

REASON: 1.4 (C)

DECLASSIFY ON: 11-14-2032

1

Precedence: ROUTINE

Date: 02/07/2006

To: Inspection  
General Counsel

Attn: Internal Investigations

Attn: NSLB

AGC

Attn: SSA

SA

Attn: SA

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b7C From: Counterterrorism

ITOS 1/CONUS 4/Team 15

Contact: IA

Approved By:

b1

b2 After By:

b7E

b7A = ID #: (S)

b6 (U) (S) 278-HQ-C1229736-VIO (Pending)

b7C

Title: (S)

(U)

Synopsis: (S) Report possible Intelligence Oversight Board  
(IOB) violation.

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(U) (S)

Derived From: G-3

Declassify On: X1

ails: (U)

(U) The Case Agent was SA

(S) The name of the subject is

(U) (S) The subject is a non-U.S. person.

(S)

(S) A National Security Letter (NSL) was submitted in  
captioned investigation (S) for email account

On or about 10/04/2005, received  
the results of this NSL from (S) However, in addition to  
providing header and subscriber information, accidentally

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Case ID:

(S)

278-HQ-C1229736-VIO

1152

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NSL VIO-35458

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(S)

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Page 2

provided [redacted] full content of emails in this account. This was discovered by SA [redacted] only after examining the CD-ROM received from [redacted]. SA [redacted] reviewed the text of approximately 2-3 emails [redacted] realized that [redacted] had mistakenly provided the full content of the emails, and then immediately ceased reviewing any further emails.

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(S) It should be noted that, because all of the emails that SA [redacted] reviewed were [redacted] mistake did not cause the FBI to gain any additional intelligence information.

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Set Lead 3: (Info)

[redacted]

AT [redacted]

b2  
b7E (U) ~~(S)~~ For information.

Set Lead 4: (Info)

[redacted]

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

~~SECRET~~

NSL VIO-35459

Precedence: ROUTINE

Date: 01/04/2006

To: Inspection

Attn: Internal Investigations  
Sect.

General Counsel

Attn: Natl. Sec. Law Branch  
Asst. Genl. Counsel

From: [REDACTED]

Legal Unit

Contact: CDC [REDACTED]

b2 Approved By: [REDACTED]

b7E

b6 Drafted By: [REDACTED]

b7C

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

Title: (U) CDC [REDACTED]

[REDACTED] DIVISION

POTENTIAL INTELLIGENCE OVERSIGHT  
BOARD (IOB) MATTER

Synopsis: (U) To report potential IOB matter to the  
Inspection Division and to the General Counsel.

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

b1

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Details: (S) This matter has arisen as the result of an  
investigation titled [REDACTED]

~~(S)~~ As part of this investigation a NSL was signed  
by [REDACTED] SAC [REDACTED] on 10/21/2005. The NSL  
was directed to [REDACTED]

[REDACTED] The NSL sought  
subscriber and toll records for telephone number [REDACTED]  
[REDACTED] served the NSL and, via an EC dated 12/30/2005,  
returned to [REDACTED] a package of material provided by the  
telecommunications company. The [REDACTED] EC includes the name  
and address of the subscriber to this telephone number.

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b4  
b7D

(S) ~~(S)~~ Upon receiving the material the case agent, SA  
[REDACTED] noted that the telephone number subscriber  
was unknown to him. He then checked the telephone number and  
noted that the NSL should have requested subscriber/toll  
information for telephone number [REDACTED] In [REDACTED]  
the CDC prepares NSLs upon the request from case agents.

b6

b7C

b2

b7E

b1

Case ID : 278-HQ-C1229736-VIO

Serial : 1113

~~SECRET~~

NSL VIO-35460

~~SECRET~~

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

Page 2

Apparently CDC [redacted] improperly typed the telephone number when preparing it. The number was correctly stated on the transmittal EC.

(U) ~~(S)~~ The package of material from [redacted] received from [redacted] has not been opened and will be stored in a secure location in the [redacted] office pursuant to an email of AGC [redacted] to all CDCs dated 11/22/2005.

b6  
b7C  
b2  
b7E  
b4  
b7D  
b6  
b7C

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Review this EC and take action as appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Review this EC and advise the Inspection Division, IIS on the referral of this matter as a potential IOB violation.

~~SECRET~~

NSL VIO-35461

~~SECRET~~

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DATE: 11-14-2007

CLASSIFIED BY 65179 DMH/KSR/JW

REASON: 1.4 (C)

DECLASSIFY ON: 11-14-2032

Page

1

Precedence: ROUTINE

Date: 01/04/2006

To: Inspection

Attn: Internal Investigations  
Sect.

General Counsel

Attn: Natl. Sec. Law Branch  
Asst. Genl. Counsel

b2 From: [REDACTED] Legal Unit

b7E Contact: CDC [REDACTED]

b6

b7C Approved By: [REDACTED]

Drafted By: [REDACTED]

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

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

Synopsis: (U) To report potential IOB matter to the  
Inspection Division and to the General Counsel.

(U) ~~(S)~~

~~Derived From~~ : G-3

~~Declassify On~~ : X1

b1  
b7A  
b6  
b7C  
b2  
b7E

Details: (S) This matter has arisen as the result of a NSL  
issued in an investigation titled: [REDACTED]

~~(S)~~ As part of this investigation [REDACTED] SAC  
[REDACTED] issued an NSL dated 06/23/2005 to [REDACTED]

b2  
b7E  
b7D  
b4

[REDACTED] for  
financial records of the subject [REDACTED]  
[REDACTED] This NSL was transmitted by EC to [REDACTED] for  
service. By EC dated 08/02/2005, [REDACTED] transmitted  
the results of the NSL received from [REDACTED] to  
[REDACTED]

~~(S)~~ [REDACTED] SA [REDACTED] the case agent in  
this matter began reviewing the documents and in December  
noted that [REDACTED] had provided two documents which  
were unrelated to the subject of the NSL. One is a [REDACTED]  
Letter of Authorization for a wire transfer and the other is a  
letter from an individual who appears to be [REDACTED] customer

b2  
b7E  
b6  
b7C  
b4  
b7D

Case ID : 278-HQ-C1229736-VIO

Serial : 1114

~~SECRET~~

NSL VIO-35462



~~(S)~~

~~SECRET~~

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

Page 2

requesting [redacted] noted in the first document. SA [redacted] made no use of these documents and notified [redacted] CDC [redacted] who requested that he forward the documents to the CDC. [redacted] assumes the documents relate to a customer of [redacted] who is a U.S. Person. [redacted] has secured these documents pursuant to an email from AGC [redacted] to all CDCs dated 11/22/2005. Nothing from these documents has been uploaded into any database or stored in any file.

b2  
b7E  
b6  
b7C  
b7D  
b4

~~(S)~~ ~~(S)~~ [redacted] notes that there is nothing in the NSL which should have led [redacted] to produce the two documents detailed above.

b2  
b7E  
b7D  
b4

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Review this EC and take action as appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Review this EC and advise the Inspection Division, IIS on the referral of this matter as a potential IOB violation.

~~SECRET~~

NSL VIO-35463

~~SECRET~~  
Working Copy

DATE: 11-14-2007  
CLASSIFIED BY 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032 Page 1

Precedence: ROUTINE

Date: 01/03/2006

To: Counterintelligence

Att.: SSA [REDACTED]  
LX 1 Room 4W-100

From [REDACTED]  
Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

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

Title: (S) POTENTIAL IOB MATTERS

Synopsis: (S) Provide additional background to Counterintelligence as to genesis of error in instant matter; enclose copy of letter sent by [REDACTED] Legal Unit to OIPR.

Enclosures: (S) Unexecuted copy of letter from [REDACTED] CDC to OIPR enclosing four [REDACTED] pertinent to instant matter and describing error which occurred regarding cellular telephone number [REDACTED]

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

(U) Details: (S) OIPR, in their draft of a letter to the United States Foreign Intelligence Surveillance Court, which was provided to the FBI for review and clarification of certain matters, requested additional information as to why the error in this matter occurred. While the above-referenced letter from the [REDACTED] Legal Unit to OIPR succinctly sets forth the circumstances surrounding the error, this communication provides additional information as requested by OIPR as to the source of the error.

(S) The following is the sequence of events which led to the

(S) [REDACTED]

(U) [REDACTED]

Case ID : 278-HQ-C1229736-VIO

Serial : 1119

~~SECRET~~

NSL VIO-35464

b2  
b7E  
b6  
b7C

b2  
b7E

b1  
b7A  
b6  
b7C  
b2  
b7E

b2  
b7E

b1  
b7A  
b6  
b7C  
b2  
b7E  
b7D

(U)

~~SECRET~~

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Page

2

(S) National Security Letters requesting subscriber and billing records for each of the cellular numbers were prepared and leads set for their service to the offices with jurisdiction for the particular carrier.

(S)

At that time [redacted] had not yet responded to the lead for service of the NSL for the above number, as well as for cellular telephone numbers [redacted] for which [redacted] was also the carrier. [redacted]

[redacted] then, the case agent asked another agent, who had been assigned the task of determining the subscribers for the cellular telephone numbers, to contact [redacted] and stress the need for an immediate response to the lead.

b1  
b7A  
b4  
b7D  
b6  
b7C  
b2  
b7E

(S) Several days later, this second agent advised that he had received a reply from [redacted]. The case agent does not recall the exact substance of what the second agent advised; however, the case agent then submitted [redacted]

[redacted] This leads the case agent to conclude that he had been advised that [redacted] was the subscriber for the two telephone numbers for which coverage was requested, but [redacted] had discontinued service for the third number.

(S)

[redacted] The case agent then emailed [redacted] and asked that coverage of this number be terminated.

(S) The case agent then reviewed ACS and saw that there was an EC uploaded on 03/30/2004 relative to service of the NSL for the above numbers, and the results thereto. As indicated above,

[redacted] had been subscribed to [redacted] but service was disconnected [redacted] was also subscribed to [redacted]

[redacted] was also subscribed to [redacted] but service had been disconnected [redacted]

b1  
b7A  
b6  
b7C

(U) (S) The case agent then advised the Legal Unit, in person, that a potential IOB violation had occurred as above-described.

(S) (S) Questions pertaining to the above may be directed to the case agent for the instant matter, SA [redacted]

b6  
b7C  
b2  
b7E

~~SECRET~~

NSL VIO-35465

~~SECRET~~

Precedence: ROUTINE

Date: 1/20/2006

To: [REDACTED]

Attn: CDC [REDACTED]

b2  
b7E Counterterrorism  
b6 Inspection  
b7C

Attn: ITOS I, Conus 2, Team 4  
Attn: IIS SC Toni Fogle

From: General Counsel  
National Security Law Branch/CTLN 1/LX-1 58-216  
Contact: SSA [REDACTED]

Approved By: Thomas Julie F [REDACTED]

Drafted By: [REDACTED]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1092

Tb2 : (U) Intelligence Oversight Board  
(IOB) Matter 2006- [REDACTED]

(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General  
Counsel that the above referenced matter need not be reported to  
the Intelligence Oversight Board (IOB). Our analysis follows.

b1  
b2 (U) ~~(S)~~ Derived From : G-3  
b7E Declassify On: X1-25

Reference: (S) [REDACTED]

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

b2  
b7E Details: ~~(S)~~ By electronic communication (EC) dated December 9,  
2005 (278-HQ-C1229736-VIO Serial 1092), the [REDACTED] Field  
Office [REDACTED], reported to the Office of the General  
Counsel (OGC) this potential IOB matter.

[REDACTED] b1  
[REDACTED] b2  
[REDACTED] b7E  
[REDACTED] b6  
National Security Letter (NSL) was issued seeking b7C  
toll records for the subject's home and office telephones; a mail b7D  
cover request was submitted and approved; and an NSL was served b4  
on [REDACTED] requesting financial records  
pertaining to [REDACTED] At the time [REDACTED]  
the case agent was Joint Terrorism Task Force Officer (TFO) [REDACTED]

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

Serial : 1135

~~SECRET~~

NSL VIO-35466

~~SECRET~~

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

b6  
b7C

Page 2

[redacted] supervised by SSA [redacted]

~~(S)~~ On [redacted] 2005, TFO [redacted] departed [redacted]  
[redacted] for a temporary duty assignment [redacted]

Although SSA [redacted] had intended to request [redacted]

(S) [redacted] caused him to be on  
leave during most of the last two weeks in [redacted] 2005, so he  
did not seek [redacted] TFO [redacted] returned from [redacted]  
on [redacted] 2005. On November 1, 2005, he drafted an  
Electronic Communication (EC) requesting [redacted]

b6  
b7C  
b1  
b2  
b7E  
b7D  
b4

(S) On November 7, 2005, [redacted]

[redacted] received financial documents from [redacted]

[redacted] In addition [redacted]

[redacted] requested [redacted]

[redacted] FBI Headquarters granted [redacted]

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863  
(Sept. 13, 1993) and Section 2-56 of the National Foreign  
Intelligence Program Manual (NFIPM), OGC was tasked to determine  
whether the errors described herein are matters that should be  
reported to the IOB. We believe that the reported activity does  
not require IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads  
of Intelligence Community components report all information to  
the IOB that it deems necessary to carry out its  
responsibilities. That section requires Inspectors General and  
General Counsel of the Intelligence Community to report  
"intelligence activities that they have reason to believe may be  
unlawful or contrary to Executive order or Presidential  
directive." This language has been interpreted to mandate the  
reporting of any violation of guidelines or regulations approved  
by the Attorney General, in accordance with E.O. 12333, if such  
provision was designed in full or in part to protect  
the individual rights  
of a United States person. This includes  
violations of agency procedures issued under E.O. 12333, unless  
they involve purely administrative matters.<sup>11</sup> The Office of the  
General Counsel (OGC) submits reports to the IOB.<sup>12</sup>

(S) ~~(S)~~ The Attorney General's Guidelines for FBI Foreign  
Intelligence Collection and Foreign Counterintelligence  
Investigations (NSIG) provide that [redacted]

[redacted] NSIG  
(Introduction) at 4. Section 2-56.G.3 of the NFIPM identifies as  
reportable to the IOB [redacted]

b1  
b2  
b7E

~~SECRET~~

NSL VIO-35467

~~SECRET~~

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Page 3

b1  
b2  
b7E

Investigations is primarily administrative in nature, it was designed in part to protect the rights of United States persons

[REDACTED] Pursuant to an agreement between the FBI and IOB, [REDACTED] are not reported to the IOB if they are both inadvertent and de minimus in time. To determine whether a possible violation of the NSIG is inadvertent and de minimus in time, OGC considers all the facts relevant to the incident.

(S) ~~(S)~~ In this instance, OGC is not required to report the potential IOB error in accordance with E.O. 12863 and Section 2-56 of the NFIPM. Although investigative results were obtained outside the authorized investigation period, the facts surrounding [REDACTED] failure to [REDACTED] indicate that the possible violation of the NSIG was both inadvertent and de minimus in time. No active investigative steps [REDACTED] were conducted after [REDACTED]

b1  
b2  
b7E  
b6  
b7C

[REDACTED] The facts surrounding [REDACTED] indicate that the failure [REDACTED] were inadvertent. Although it is unclear why [REDACTED] was not sought with SSA [REDACTED] return to the office [REDACTED] sought [REDACTED] soon after TEO [REDACTED]

(U) ~~(S)~~ It is noted that [REDACTED] indicates that it will take steps to assure [REDACTED]

b2  
b7E

(C) ~~(S)~~ NSLB believes that this potential IOB error need not be reported in accordance with E.O. 12863 and Section 2-56 of the NFIPM. Pursuant to the Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Reports of potential IOB matters determined by OGC not to require notification to the IOB will be retained by INSD for three years for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. See 66F-HQ-A1247863 Serial 172 at 6 (2/10/2005).

(S) ~~(S)~~ [REDACTED] requested that NSLB advise concerning the appropriate disposition of the documents obtained [REDACTED]

(S) [REDACTED] As these were obtained pursuant to a valid [REDACTED] request, NSLB believes that documents obtained during the authorized investigation period may be used in the investigation. [REDACTED] should direct [REDACTED] to destroy documents obtained outside the authorized investigation period (i.e. [REDACTED])

b1  
b2  
b7E

(U) ~~(S)~~ OGC will request that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.13

\*\*FOOTNOTES\*\*

~~SECRET~~

NSL VIO-35468

~~SECRET~~

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4

(U)

i1: ~~(S)~~ See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The FBI's INSD is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) i2: ~~(S)~~ See Id. at 4.

(U) i3: ~~(S)~~ See Id. at 6.

LEAD(s):

Set Lead 1: (Action)

[REDACTED]

AT

[REDACTED]

b2  
b7E

(U) For review and action deemed appropriate as discussed herein.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

(U) As provided in the Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, retain a record of the report of a potential IOB matter for three years for possible review by the Counsel to the IOB, together with a copy of the OGC opinion concerning the basis for the determination that IOB notification is not required.

~~SECRET~~

NSL VIO-35469

DATE: 11-14-2007  
CLASSIFIED BY: 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032

~~SECRET~~  
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ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

Page

1

Precedence: ROUTINE

Date: 1/05/2006

To: [REDACTED]

Attn: [REDACTED]

Inspection  
Counterterrorism

SA [REDACTED]  
IIS  
ITOSII/GOI  
SSA [REDACTED]  
SSA [REDACTED]

From: Office of the General Counsel  
National Security Law Branch/CILJ/Room 7947  
Contact: AGC [REDACTED]

Approved By: Thomas Julie F

Drb1 ed By: [REDACTED]

(U) Ca b2 n #: (S) 278-HQ-C1229736-VIO (Pending)  
b7E (S) [REDACTED] (Pending)  
b6  
b7C

(U) Tib2 (S) SSA [REDACTED]  
SA [REDACTED]  
INTELLIGENCE OVERSIGHT BOARD MATTER  
2006- [REDACTED]

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

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

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

(U) Details: (S) The FBI Office of the General Counsel (OGC) reviewed  
the facts of the captioned matter to determine whether it  
warrants reporting to the IOB. In our opinion, it does. Our  
analysis follows.

(U) (S) The referenced electronic communication (EC) from  
the [REDACTED] Field Office [REDACTED] dated 11/02/2005, and an e-mail  
communication from [REDACTED] dated 12/28/05, reported a possible IOB  
error in conjunction with [REDACTED]

[REDACTED] reported that on July 7, 2005, the

Case ID : 278-HQ-C1229736-VIO

Serial : 1136

(S)

NSL VIO-35470

b1  
b2  
b7E



(S)

~~SECRET~~

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Page 2

United States Foreign Intelligence Surveillance Court (FISC)

b1  
b6  
b7C  
b2  
b7E

(S) ~~(S)~~ Around the time of the discovery that there might be two IP addresses that [redacted] was providing, [redacted] and another belonging to another individual, an FBI contract employee from [redacted] contacted [redacted] in turn responded that it [redacted] was only providing material associated with [redacted]

b1  
b6  
b7C  
b4  
b7D

(S) (S) On 8/31/05, [redacted] prepared a National Security Letter (NSL) for [redacted] requesting that [redacted] provide the names, addresses and lengths of service for the additional internet account address on which [redacted] had been providing information to the FBI when providing information [redacted] internet account. The NSL covered the period from [redacted] the date that [redacted] response to the NSL was received by the FBI. The results of the NSL revealed that the internet account belonged to another USPER, [redacted] who also resided in [redacted]

(S) ~~(S)~~ In October 2005, the [redacted] case agents subsequently [redacted] and upon review of the [redacted] information it was discovered [redacted] the internet account belonging to the other USPER [redacted] The [redacted] employee contacted [redacted] again with this new information, and [redacted] advised that the IP address for the USPERs internet account [redacted] was originally the IP address for [redacted] account. On approximately [redacted]/05, a new IP address was issued for [redacted] account and the old IP address was dropped from [redacted] account and reassigned to the other USPERs account. [redacted] did not notice their error the first time they were notified by the FBI [redacted] employee, but discovered their error when they were recontacted [redacted] 2005; [redacted] ceased receiving information on the other USPERs account in [redacted] 2005, after [redacted] realized the error.

b1  
b2  
b7E  
b6  
b7C  
b4  
b7D

(U) ~~(S)~~ Upon learning of the error from [redacted] purged

~~SECRET~~

b4  
b7D

NSL VIO-35471

(S)

~~SECRET~~

---- Working Copy ----

Page 1

3

the unrelated [redacted] of the other USPER from the [redacted]. The physical (paper) copies that were logged [redacted] were also obtained and forwarded to FBI HQ along with the EC from 11/02/05.

b6  
b7C  
b2  
b7E

(S) [redacted] advised [redacted]

[redacted] advised the FISC of the error [redacted]

b1  
b6  
b7C  
b2  
b7E

(U) (S) [redacted] self-reported what they believed could be a potential IOB violation, and brought this matter to the attention of the FBI OGC, National Security Law Branch (OGC/NSLB). OGC received the matter for review and handling.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsels 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 (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General Guidelines for 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. 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.

(S)

(S) In this instance [redacted]

[redacted] the internet service provider,

(S) [redacted] changed [redacted] IP address [redacted] without notifying the FBI. In addition,

b1  
b6  
b7C  
b2  
b7E  
b4  
b7E

[redacted] the FBI detected what it believed was erroneous [redacted] on an account other than [redacted] and notified [redacted] of this error. [redacted]

(S) [redacted] mistakenly advised that the questionable internet account was [redacted]. The FBI used due diligence and sent an NSL to [redacted] to determine if in fact the questionable internet account was [redacted].

(S) [redacted] The FBI subsequently discovered it was not, but rather belonged to another USPER. The FBI confronted [redacted] with these facts, and only then did [redacted] realize and admit its error in providing content from another USPER's internet

~~SECRET~~

NSL VIO-35472

~~SECRET~~

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Page 4

account. The FBI then took corrective action to remedy the situation.

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

LEAD(s):

Set Lead 1: (Info)

[REDACTED]

AT

[REDACTED]

b2  
b7E

(U) Read and clear.

Set Lead 2: (Info)

CTD-ITOS II

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

CC: Ms. Thomas

[REDACTED]

IOB Library

b6  
b7C

~~SECRET~~

NSL VIO-35473

~~SECRET~~

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Page 1

DECLASSIFIED BY 65179 DMH/KSR/JW  
ON 11-14-2007

BY COURIER

Mr. Stephen Friedman, Chairman  
Intelligence Oversight Board  
New Executive Office Building - Room 5020  
725 17th Street, NW  
Washington, D.C. 20503

Dear Mr. Friedman:

This letter forwards for your information a self-explanatory enclosure, entitled Intelligence Oversight Board (IOB) Matter, [redacted] Division, 2006 [redacted]" (U)

b2  
b7E

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

Enclosure

b6  
b7C  
1 - Ms. Thomas  
1 - [redacted]  
1 - [redacted]  
1 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

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

Case ID : 278-HQ-C1229736-VIO

Serial : 1137

~~SECRET~~

NSL VIO-35474

~~SECRET~~

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Page

2

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

~~SECRET~~

NSL VIO-35475

~~SECRET~~

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Page 1

DATE: 12-03-2007

CLASSIFIED BY 65179 DMH/KSR/JW

REASON: 1.4 (C)

DECLASSIFY ON: 12-03-2032

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] DIVISION

IOB MATTER 2006-[REDACTED] (U)

b2  
b7E

(S)

~~(S)~~ The [REDACTED] Division [REDACTED] of the Federal Bureau of Investigation (FBI) has reported that, owing to an error on the part of a communications carrier, [REDACTED] conducted electronic surveillance of internet communications beyond those authorized [REDACTED] reported that on [REDACTED]

b1  
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~~(S)~~ Around the time of the discovery that there might be two IP addresses that [REDACTED] was providing, one for [REDACTED] and another belonging to another individual, an FBI contract employee [REDACTED] contacted [REDACTED] and [REDACTED] in turn responded that it [REDACTED] was only providing material associated with [REDACTED]

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~~(S)~~ [REDACTED] 2005, [REDACTED] prepared a National Security Letter (NSL) for [REDACTED] requesting that [REDACTED] provide the names, addresses and lengths of service for the additional internet account address on which [REDACTED] had been providing information to the FBI when providing information on [REDACTED] internet account. The NSL covered the period from [REDACTED] the date that [REDACTED] response to the NSL was received by the FBI. The results of the NSL revealed that the internet account belonged to another USPER, not [REDACTED] who also resided in [REDACTED]

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~~(S)~~ In [REDACTED] 2005, the [REDACTED] case agents subsequently met with [REDACTED] to review the [REDACTED] information, and upon review of the [REDACTED] information it was discovered that [REDACTED]

[REDACTED] The aforementioned FBI [REDACTED] employee contacted [REDACTED] again

~~SECRET~~

NSL VIO-35476

~~SECRET~~

---- Working Copy ----

Page b2 2

(S)

with this new information, and [redacted] advised that the IP address for the USPERS internet account [redacted] was originally the IP address for [redacted] account. On approximately [redacted] a new IP address was issued for [redacted] and the old IP address was dropped from [redacted] and reassigned to the other USPERS account. [redacted] did not notice their error the first time they were notified by the FBI [redacted] employee, but discovered their error when they were recontacted in [redacted] 2005; [redacted] ceased receiving information on the other USPERS account in [redacted] 2005, after [redacted] realized the error.

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(S) Upon learning of the error from [redacted] purged the [redacted] of the other USPER from the [redacted] casefile. The physical (paper) copies that were logged [redacted] were also obtained and forwarded to FBI HQ along with the EC from November 2, 2005.

b4  
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(S) [redacted] advised that some information [redacted]

[redacted] advised the FISC of the error [redacted]

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b7E

(U) Although this error is not directly attributable to conduct on the part of FBI personnel, the unauthorized surveillance is nevertheless a reportable matter under Section 2.4 of Executive Order 12863.

Derived from: G-3  
Declassify on: X1

~~SECRET~~

~~SECRET~~

NSL VIO-35477

~~SECRET~~

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

Page 1

DECLASSIFIED BY 65179 DMH/KSR/JW  
ON 11-14-2007

January 18, 2006

BY COURIER

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

Dear Mr. Friedman:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2006 [redacted] (U)

b2

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

Enclosure

1 - Mr. Thomas [redacted]  
1 - [redacted] (Action UC)  
1 - [redacted]  
1 - 278-HQ-C1229736-VIO

b6  
b7C

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

~~Derived from: Multiple Sources~~

Case ID : 278-HQ-C1229736-VIO

Serial : 1142

~~SECRET~~

NSL VIO-35481



~~SECRET~~

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

Page

2

~~Declassify on: January 18, 2031~~

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

~~SECRET~~

NSL VIO-35482

~~SECRET~~  
---- Working Copy

DATE: 06-08-2007  
CLASSIFIED BY 65179 DMH/KSR/GCL  
REASON: 1.4 (C)  
DECLASSIFY ON: 06-08-2032 Page 1

Precedence: ROUTINE

Date: 02/14/2006

To: General Counsel

Attn: National Security Law Branch

Inspection Division

Attn: Inspection Management Unit

Attn: CDC

b2  
b7E From:

b6  
b7C

Contact:

Approved By:

Drafted By:

(U) b2 ID #: (S) 278-HQ-C1229736-VIO  
b7E (S) 278- C63856-VIO  
b6  
b7C le: (S) SSA  
SA

Division  
Potential IOB Matter

Synopsis: (S) Notification to the Office of General Counsel and  
the Inspection Division of possible Intelligence Oversight Board  
violation regarding an investigation at

b2  
b7E

b1 (U) (S) Derived From: G-3  
b2 Declassify On: 01/25/2031  
b7E

Reference: (S)

Administrative: is cognizant of the fact that potential  
IOB violations are to be reported to FBIHQ within 14 days. This  
matter was discovered on January 9, and the Office of general  
Counsel notified via electronic mail on January 26, however, the  
HQ office interrupted the immediate  
dissemination of this communication.

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b7E

Details: (S) On January 9, 2006, received records  
pursuant to an NSL submitted to

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for records pertaining to

(USPER)

was provided with the  
full legal name of the subject, his date of birth, social  
security number and address. Upon reviewing the documents

Case ID : 278-HQ-C1229736-VIO  
278- C63856-VIO

Serial : 1159  
10

~~SECRET~~

NSL VIO-35492

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~~(S)~~

~~SECRET~~

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

Page

2

provided by [ ] however, [ ] learned that the material received was that of an individual bearing the same name as captioned subject, but a different person altogether.

(S) ~~(S)~~ No data regarding the financial records received in error was uploaded into FBI indices nor any other investigative database. The above mentioned [ ] records will be sealed and maintained by the [ ] Division Chief Division Counsel. [ ] Division will advise [ ] of the error.

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ The information in this communication is provided to the Office of the General Counsel, National Security Law Branch to fulfill notification requirements to the Office of Intelligence Policy Review, which this incident might necessitate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

~~(S)~~ Provide guidance to [ ] with regards to contacting [ ] to advise of the administrative error which led to this potential IOB.

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b4

Set Lead 3: (Info)

INSPECTION DIVISION

AT WASHINGTON, DC

(U) ~~(S)~~ Information provided for information only.

~~SECRET~~

NSL VIO-35493

~~SECRET~~

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

Page 1

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 11-14-2007  
CLASSIFIED BY 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032

~~SECRET//OC/NF~~

Mr. James A. Baker  
Counsel, Office of Intelligence  
Policy and Review

02/06/2006

From : Mr. Willie T. Hulon,  
Assistant Director  
Counterterrorism Division

(S)

Subject [REDACTED]  
[REDACTED]

b1  
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b7C  
b7A

ACTION MEMORANDUM

(U) ~~(S)~~ Enclosed for sequestration with the Department  
of Justice, Office of Intelligence, Policy and Review (OIPR)  
and eventual destruction is information obtained by a National  
Security Letter (NSL).

(U) This memorandum 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.

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(S)

1- Mr. Willie T. Hulon  
1- Mr. Joseph Billy  
1- Mr. Michael J. Heimbach  
1- Ms. [REDACTED]  
1- [REDACTED]  
1- [REDACTED]

1- [REDACTED]  
1- [REDACTED]  
1- [REDACTED]  
1- [REDACTED]

(S//OC/NF) This matter has risen as the result of an  
NSL issued by [REDACTED] in the investigation [REDACTED]  
[REDACTED]

b6  
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b7E  
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b1 Case ID : 278-HQ-C1229736-VIO Serial : 1161  
b2 [REDACTED]

b7E

b7A

(S)

~~SECRET~~

NSL VIO-35494

~~SECRET~~

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Page

2

(S) As part of this investigation a NSL requested [redacted] provide "all subscriber information" [redacted]

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b6  
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b7A

[redacted] for the email account [redacted] served the NSL and, via an EC dated 02/04/2005, returned to [redacted] a CD provided by [redacted] pursuant to the NSL.

(U) (S) Upon receiving the CD the case agent examined the CD-ROM and determined it contained content information for e-mails.

(U) (S) All information received pursuant to the NSL has been removed from the case file, sealed, and transmitted to FBI HQ. That information is enclosed with this communication for sequestration with OIPR and eventual destruction.

(U) (S) FBI [redacted] reported this matter to the FBI's Office of the General Counsel (OGC) and Inspection Division. OGC reported this matter to the Intelligence Oversight Board and referred the matter to the FBI's Inspection Division for appropriate action. In addition, FBI [redacted] notified the CDC, conducted no further review of the material, and no other copies of [redacted] material have been maintained by [redacted]. The [redacted] Division has instituted corrective measures, to include training to all Special Agents who handle information received pursuant to the Attorney General's Guidelines for National Security Investigations.

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(U) (S) The FBI HQ points of contact for this matter are Supervisory Special Agent [redacted] and Unit Chief [redacted]

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b2

~~SECRET~~

NSL VIO-35495

~~SECRET~~

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Page 1

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 11-14-2007  
CLASSIFIED BY 65179 DMH/KSR/JN  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032

BY COURIER

Mr. Stephen Friedman  
Chairman  
Intelligence Oversight Board  
New Executive Office Building  
Washington, D.C.

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory  
memorandum, entitled "Intelligence Oversight Board (IOB) Matter,  
[redacted] Field Office, IOB Matter 2006 [redacted] (U)

b2  
b7E

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

1 - Ms. Thomas

1 - [redacted]

1 - 278-HQ-C1229736-V10

1 - Inspection Division (IOB 2006 [redacted])

b6  
b7C  
b2

Case ID : 278-HQ-C1229736-V10

Serial : 1176

~~SECRET~~

NSL VIO-35496

~~SECRET~~

.... Working Copy ....

Page 2

1 - Mr. Fulton

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

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

~~SECRET~~

NSL VIO-35497

~~SECRET~~

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Page 3

~~SECRET~~

2

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] FIELD OFFICE

IOB MATTER 2006 [REDACTED] (U)

b2

b7E

(S)

Investigation of this IOB matter has determined that [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] 2003, case agent SA [REDACTED]

[REDACTED] of the [REDACTED] Resident Agency (RA) submitted  
(S) an EC to his principal relief supervisor, SA [REDACTED] requesting  
the conversion of the 272" money laundering criminal investigation of  
[REDACTED] to a 315M national security investigation. However, the  
conversion EC was neither uploaded into ACS nor sent to the Bureau file,  
and it was not approved by the [REDACTED] Special Agent in Charge  
(SAC). Principal Relief Supervisor SA [REDACTED] who received the  
conversion request by Bureau Mail from the RA, was unaware that the  
[REDACTED] SAC needed to approve the conversion and thus did not send

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~~SECRET~~

NSL VIO-35498



~~SECRET~~

(U)

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Page 4

the EC up the chain for approval. Nevertheless, SA [ ] believed he had proper authority to conduct a 315 investigation, and on 10/21/2003, he submitted a National Security Letter (NSL) for toll and billing records of the subject. The NSL was served and the results transmitted to [ ] by the delivering division on 01/06/2004. At this point, the case agent realized that the conversion of his investigation had not yet occurred, so he re-submitted the conversion EC on 02/02/2004. This EC, too, was never approved by the SAC. However, SA [ ] continued to investigate the subject under the 315 classification. The error was discovered on [ ] during an inspection of [ ] conducted by the Inspection Division. Still, on [ ] SA [ ] submitted a request for [ ] [ ] even though no [ ] had ever been properly initiated. During the period that SA [ ] conducted this investigation as a 315 matter, no notification of the conversion (which he assumed to have occurred) was made to FBI Headquarters and no annual letterhead memorandum was submitted. In November 2005, following the submission of the potential IOB violation to the Office of the General Counsel, the [ ] Chief Division Counsel instructed SA [ ] on the proper means to convert a criminal investigation to a 315 national security investigation. The continued investigation of the subject by SA [ ] as a 315 national security investigation beginning when he submitted a request for an NSL on 10/21/2003, violated The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), Section II.C. (S)

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

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

~~SECRET~~

NSL VIO-35499

~~SECRET~~

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Page 5

**\*\*FOOTNOTES\*\***

11: (S) [REDACTED] status is not that of a United States person. The term United States person is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA)(codified at 50 U.S.C. 1801 et seq.) and is defined as a citizen of the United States for 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 of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIC).

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~~SECRET~~

NSL VIO-35500

~~SECRET~~

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

Page 1

DECLASSIFIED BY: 65179 DMH/KSR/JW  
ON: 11-14-2007

BY COURIER

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

Dear Mr. Friedman:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2006  (U)

b2

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

Enclosure

1 - 278-HQ-C1229736-VIO

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

Derived from: ~~Multiple Sources~~  
Declassify on: ~~February 7, 2031~~

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

Serial : 1178

~~SECRET~~

NSL VIO-35504

~~SECRET~~

---- Working Copy ----

Page

2

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

~~SECRET~~

NSL VIO-35505

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] FIELD OFFICE  
IOB MATTER 2006-[REDACTED] (S)

b2  
b7E

(S) The [REDACTED] Field Office of the Federal Bureau of Investigation has reported an error in conjunction with that division's [REDACTED]. In this regard, in response to a National Security Letter (NSL) to [REDACTED] [REDACTED] erroneously provided two documents which were unrelated to the subject of the NSL, which were associated with a [REDACTED] customer who is probably a United States person.

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

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

~~SECRET~~

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 11-14-2007  
CLASSIFIED BY: 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032

~~SECRET~~

NSL VIO-35506

~~SECRET~~

---- Working Copy

DATE: 11-14-2007

CLASSIFIED BY 65179 DMH/KSR/JW

REASON: 1.4 (C)

DECLASSIFY ON: 11-14-2032

Page

1

Precedence: ROUTINE

Date: 2/10/2006

To: Director's Office

Attn: OPR

Attn: CDC

b2

b7E om: General Counsel

b6 National Security Affairs/Room 7947

b7C Contact: Julie F. Thomas

Approved By: Thomas Julie F

Drafted By:

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

Title: (U) ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER b2  
2006- [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 IOB and to the FBI's Office of Professional Responsibility (OPR). OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.

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

Reference: ~~(S)~~ 278-HQ-C1229736-VIO-1113

Details: (S) As noted in the electronic communication (EC), this matter has arisen as a result of an investigation titled

[redacted] As part of this investigation, a National Security Letter (NSL) was issued by

[redacted] to [redacted]

[redacted] This NSL sought subscriber and toll records for telephone number [redacted]

[redacted] served the NSL and, via an EC dated 12/30/2005, returned to [redacted] a package of material provided by [redacted] Included in the EC from [redacted] was the name and address of the subscriber to this telephone number.

(U) ~~(S)~~ When the case agent received the material, he noted that the telephone number subscriber was unknown to him. He checked the telephone number of the subject and determined that the telephone number had been erroneously transposed when the NSL was drawn up from his request: the correct telephone

Case ID : 278-HQ-C1229736-VIO

Serial : 1179

~~SECRET~~

NSL VIO-35507

~~SECRET~~

---- Working Copy b1--

Page 2

(S) number on his request was [redacted]

b4  
b7D  
b6  
b7C  
b2  
b7E

(U) ~~(S)~~ The package of material from [redacted] received from [redacted], has not been opened and will be stored in a secure location pursuant to instructions given in an email of AGC [redacted] to all CDCs dated 11/22/2005.il'

(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 production of documents by [redacted] pursuant to the erroneous telephone number in the NSL drawn up by [redacted] and served by [redacted] is a matter which must be reported to the IOB. It is.

b4  
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(U) ~~(S)~~ Section 2.4 of E.O. 12863, dated 9/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential directive." In this instance, the production of subscriber and toll records by [redacted] of an erroneous subscriber telephone number was done without the authorization required by law. Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

b4  
b7D

Set Lead 1: (Action)

[redacted]  
AT [redacted]

Return sealed documents to [redacted]

b2  
b7E  
b4  
b7D

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, D.C.

(U) For appropriate action.

1 - Ms. Thomas  
1 - [redacted] (Acting UC)  
1 - [redacted]  
1 - IOB Library

b6  
b7C

~~SECRET~~

NSL VIO-35508

~~SECRET~~

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

Page

3

**\*\*FOOTNOTES\*\***

11: This email instructed the CDCs in Field Offices  
to seal and  
sequester information  
improperly received from a carrier pursuant to an NSL

~~SECRET~~

NSL VIO-35509



~~SECRET~~

---- Working Copy ----

Page

1

DECLASSIFIED BY 65179 DMH/KSR/JW  
ON 11-14-2007

BY COURIER

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

Dear Mr. Friedman:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2006 ☐ (U)

b2

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

Enclosure

1 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

~~Derived from: Multiple Sources  
Declassify on: February 10, 2031~~

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

Serial : 1180

~~SECRET~~

NSL VIO-35510

~~SECRET~~

---- Working Copy ----

Page

2

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

~~SECRET~~

NSL VIO-35511

~~SECRET~~

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

Page 1

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

b2

b7E

[REDACTED] FIELD OFFICE

IOB MATTER 2006-[REDACTED] (S)

(S) The [REDACTED] Field Office of the Federal Bureau of Investigation has reported an error in conjunction with that division's [REDACTED]. In this regard, a telephone number in an NSL to [REDACTED] was erroneously transposed, and [REDACTED] produced subscriber and toll records for a customer who was not the subject of the NSL.

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

Derived from : G-3  
Declassify on: 25X1

~~SECRET~~

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 11-14-2007  
CLASSIFIED BY: 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032

~~SECRET~~

NSL VIO-35512

~~SECRET~~

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Page 1

Precedence: ROUTINE

Date: 02/09/2006

T [REDACTED]

Counterterrorism  
Inspection

Attn: SAC, CDC

Attn: AD

Attn: IIS

b2

b7E

b6

b7C

From: General Counsel

Counterterrorism Law Unit II/LX: 3S100

Contact: [REDACTED]

Approved By: Thomas, Julie F

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

Drafted By: [REDACTED]

(U)

b6 re ID #: 278-HQ-C1229736-V10

DATE: 11-14-2007

CLASSIFIED BY: 65179 DMH/KSP/JH

REASON: 1.4 (C)

DECLASSIFY ON: 11-14-2032

b7C (U) SA [REDACTED]

b2 INTELLIGENCE OVERSIGHT BOARD MATTER,  
IOB 2006 [REDACTED]

(U)

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

(U)

Derived from: G-3

Declassify On: X-1

Reference: 278-HQ-C1229736-V10 Serial 1093 (S)

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

Case ID : 278-HQ-C1229736-V10

Serial : 1191

~~SECRET~~

NSL VIO-35513

~~SECRET~~

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Page 2

document in WordPerfect 6.1.

Details: (U) Referenced communication from the [redacted] Field Office [redacted] dated 12/14/2005, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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(S) ~~(S)~~ As discussed in the electronic communication (EC) from [redacted] cited below, [redacted] who was and remains a United States person as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA), [redacted]

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(S) ~~(S)~~ During the course of the investigation, [redacted] 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 subscriber information and 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 18, 2005, was addressed to [redacted] and requested what was intended to be subscriber information and the telephone records of [redacted]

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[redacted] However, the number was mistakenly written with one number changed, so that the NSL was issued for the wrong telephone number.<sup>13</sup> Records for that telephone number were provided by the telephone company to the [redacted] Division of the FBI, which forwarded the information to [redacted] via an EC dated 6/23/2005.<sup>14</sup> Upon receipt of the records, the case agent realized his mistake. The records from [redacted] were destroyed. Further, serials created before the mistake was discovered and which referenced the incorrect phone number and information have been permanently charged out of the

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NSL VIO-35514

~~SECRET~~

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Page 3

FBI's Automated Case Support system. By EC dated 07/01/2005, this matter was reported to OGC and the [ ] Division and notice was given of the destruction of the NSL return information.<sup>15</sup> It was reported as a possible IOB violation by EC dated 12/14/2005.<sup>16</sup>

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(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of 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

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NSL VIO-35515

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Page 4

an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(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.

**\*\*FOOTNOTES\*\***

(U) 11: ~~OGC~~ EC from [ ] to OGC dated 12/14/2005 and titled

"Special Agent (SA) [ ] Possible Intelligence Oversight Board (IOB) Matter - International Terrorism Related."

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

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

~~SECRET~~

NSL VIO-35516

~~SECRET~~

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Page 5

document. Since the  
EC approving the NSL and the NSL itself include the incorrect telephone  
number, these documents have been permanently charged out of the  
FBI's Automated Case  
Support (ACS) system.

(S) 14: ~~XX~~ 66F-HQ-C1303375, Serial-53874; [REDACTED]

[REDACTED] Since this document contains the incorrect telephone  
number and the name of the subscriber of that telephone number, these three  
file copies of the document have been permanently charged out of ACS.

(S) 15: ~~XX~~ See [REDACTED] [REDACTED]  
66F-

HQ-C1303375. This document includes the incorrectly written telephone number.  
However, this document has not been deleted from ACS because the document  
itself reveals the mistaken nature of the telephone number, and provides a  
record for the fact that the information was obtained and then destroyed.

16: (U) See 278-HQ-C1229736-VIO-1093, addressed to OGC.

LEAD(s):

Set Lead 1: (ACTION)

[REDACTED]

AT [REDACTED]

(U) For review and action deemed appropriate.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

~~SECRET~~

NSL VIO-35517

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b7E



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Page 6

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.



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NSL VIO-35518

~~SECRET~~

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Page 1

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 11-14-2007  
CLASSIFIED BY: 69179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032

BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory  
memorandum entitled Intelligence Oversight Board (IOB) Matter,  
[redacted] Field Office, IOB Matter 2006-[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
- 1 - Inspection (IOB 2006-[redacted])
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO

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~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

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

Serial : 1192

~~SECRET~~

NSL VIO-35519

~~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

b2

b7E

[REDACTED] FIELD OFFICE

IOB MATTER 2006 [REDACTED] U)

(S)

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

[REDACTED] the FBI improperly used a National Security Letter (NSL) to obtain subscriber information and 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

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~~SECRET~~

NSL VIO-35520

(S)

~~SECRET~~

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Page

3

Investigations and Foreign Intelligence Collection (NSIG).i1 In  
this regard, on 10/17/2003, [REDACTED]

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[REDACTED]  
During the course of the investigation, [REDACTED] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. 2709, to a telephone carrier for the telephone subscriber and toll billing records of a telephone number intended to be identified as that of the target. Instead, one of the numbers within the telephone number was incorrectly written; thus, the information returned from the carrier was subscriber information and 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.

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

~~SECRET~~

**\*\*FOOTNOTES\*\***

i1: (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.

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NSL VIO-35521

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Page

1

ALL INFORMATION CONTAINED  
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WHERE SHOWN OTHERWISE

DATE: 11-14-2007  
CLASSIFIED BY 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-14-2032

<<Date>>  
BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory  
letterhead memorandum (LHM), entitled "Intelligence Oversight  
Board (IOB) Matter, [REDACTED] DIVISION, IOB Matter 2006-[REDACTED]" (U)

b2  
b7E

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

Enclosure

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

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

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

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Case ID : 278-HQ-C1229736-VIO

Serial : 1223

~~SECRET~~

NSL VIO-35530

~~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

Enclosure

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

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

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

(S)

The Federal Bureau of Investigation ("FBI") has determined that in conducting a [REDACTED] [REDACTED] the FBI improperly used a National Security Letter (NSL) to obtain subscriber information and telephone toll billing records on a telephone number that was not related to the investigation. The [REDACTED] Division [REDACTED] reported this potential IOB matter. (X)

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NSL VIO-35531

(S)

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Page

3

The overcollection was due to a mistake in the NSL in identifying the telephone number [REDACTED] whose number was intended to be the subject of the request. The overcollection was a violation of Section V of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) 11. In this regard, on March 11, 2004, [REDACTED]

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[REDACTED] During the course of the investigation, [REDACTED] issued an NSL pursuant to the Electronic Communications Privacy Act, 18 U.S.C. 2709, to a telephone carrier for the records of a telephone number intended to be identified as that of the target. Instead, the telephone number was misidentified and the information returned from the carrier consisted of 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.

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

(U)

~~(S)~~

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

**\*\*FOOTNOTES\*\***

(U) 11: ~~(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.

~~SECRET~~

NSL VIO-35532

ALL INFORMATION CONTAINED  
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WHERE SHOWN OTHERWISE

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DATE: 11-28-2007  
CLASSIFIED BY 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-28-2032

Page 1

Precedence: ROUTINE

Date: 03/08/2006

To: [REDACTED] Attn: SAC, CDC  
Counterterrorism Attn: AD  
Inspection Attn: IIS

From: General Counsel  
Counterterrorism Law Unit I/LX-1 3S100  
Contact: [REDACTED]

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Approved By: Thomas Julie F

Drafted By:

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

~~(U)~~  
Title: ~~(S)~~ SA [REDACTED]  
INTELLIGENCE OVERSIGHT BOARD MATTER,  
IOB 2006 [REDACTED]

b6  
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b2

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

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

~~(U)~~  
Reference: ~~(S)~~ 278-HQ-C1229736-V10 Serial 1148

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

Case ID : 278-HQ-C1229736-V10

Serial : 1225

~~SECRET~~

NSL VIO-35533



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Page 2

document in WordPerfect 6.1.

Details: (U) Referenced communication from the [ ] Field Office [ ] dated 1/16/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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(S) As discussed in the electronic communication (EC) from [ ] cited below, i1 [ ] [ ] who was and remains a United States person as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA). i2

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b1  
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b7C

(U) ~~(S)~~ During the course of the investigation, [ ] issued two National Security Letters (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. 2709. That statute permits the FBI to request subscriber information and 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."

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(S) ~~(S)~~ On October 14, 2005 [ ] served two NSL's, including the subject one, relating to the above referenced [ ] [ ]

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The subject NSL requested subscriber and transactional records for email account: [ ]

(S) On or about October 20, 2005 [ ] responded to the two NSLs by transmitting information responsive to both on a single compact disk (CD). Subsequently [ ] determined that the CD contained full email content for both accounts.

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(U) ~~(S)~~ Upon learning that the CD contained full email content, CDO [ ] and NSLB were contacted. Pursuant to the direction of NSLB, SA [ ] sealed and sequestered in A1 envelopes

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NSL VIO-35534

~~SECRET~~

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Page 3

the CD, along with all paper copies of its contents.

(S) On December 1, 2005, [ ] contacted [ ] at [ ] and advised him of the overproduction and requested he verify compliance with the limits of National Security Letters.

(S) In the interest of administrative purity, on December 10, 2005, [ ] served [ ] with another NSL, addressed to [ ] requesting subscriber and transactional records for email account [ ]

(U) On January 3, 2006, [ ] transmitted a CD to the FBI [ ] Office. Once again information responsive to multiple NSLs was included on the CD.

(S) On January 4, 2006, SA [ ] took the CD to CART and had the information separated by email account/NSL. A duplicate of the original CD was produced as well as two working copies of information regarding [ ] SA [ ] provided the copies to SA [ ]

(U) On January 6, 2006, [ ] reviewed the contents of the original CD and determined that despite (a) the fact that the NSL expressly sought only transactional records, and (b) the fact that [ ] had been personally contacted regarding [ ] prior overproduction, full email content was again provided by [ ]

(U) SSA [ ] retrieved all copies of the CD prior to the information being sent to the case file. Based upon advice of CDC [ ] and NSLB SA [ ] took corrective action. SA [ ] ensured that the CDs, along with all paper copies of their contents, were sealed and sequestered in 1A envelopes. They will be preserved in the case file.

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

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NSL VIO-35535

~~SECRET~~

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Page 4

They must.

~~(S)~~ Because the email content was never analyzed, it is unknown whether [ ] collected historical stored email content, or if the content was gathered pursuant to subsequent surveillance. Over collection of stored email content could violate the Electronic Communications Privacy Act, 18 U.S.C. 2701 et seq. (ECPA), whereas over collection of subsequent surveillance could violate the Foreign Intelligence Surveillance Act (FISA) pen register provisions.

b7D

(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.

(U) ~~(S)~~ Pursuant to ECPA, in the absence of a appropriate authorization, it is unlawful to "access", or for a provider to "divulge" the content of any stored electronic communications. 18 U.S.C. 2701(a)(1), and 2702(a). Consequently, any viewing of the content of any stored electronic communications must be obtained pursuant to a court order.

(U) ~~(S)~~ 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.<sup>13</sup>

(U) ~~(S)~~ In the present case, it is clear that the service

~~SECRET~~

NSL VIO-35536

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Page 5

provider [redacted] erroneously provided content information concerning an 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.

b7D

(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: (ACTION)

[redacted]

b2

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AT [redacted]

(U) For review and action deemed appropriate. If not already done so, sequester the documents at issue with the CDC and await further instructions regarding disposition by NSLB.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

\*\*FOOTNOTES\*\*

(U) ~~(S)~~ EC from [redacted] to OGC dated 01/16/2006 and titled "SA

[redacted] Intelligence Oversight Board (IOB) Violation - [redacted] Division."

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

~~SECRET~~

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NSL VIO-35537

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Page 6

et seq.) as a citizen of the United States nor 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 General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

(3) There are certain enumerated exceptions to this prohibition. See 50 U.S.C. Section 1802.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

~~SECRET~~

NSL VIO-35538

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Page 1

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 11-19-2007  
CLASSIFIED BY: 65179 DMH/KSP/AM  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-19-2032

March 13, 2006  
BY COURIER

Mr. Stephen Friedman  
Chairman  
Intelligence Oversight Board  
New Executive Office Building  
Washington, D.C.

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory  
letterhead memorandum (LHM), entitled "Intelligence Oversight  
Board (IOB) Matter, Counterterrorism Division, IOB Matter 2006-

b2

☐ (U)

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

Case ID : 278-WO-G1229736-V10

Serial : 1226

~~SECRET~~

NSL VIO-35539

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Page 2

(U)

Enclosure

1 - 278-HQ-C1229736-V10

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

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

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

1 - Mr. James A. Baker  
Counsel, Office of Intelligence Policy and Review

~~SECRET~~

NSL VIO-35540

~~SECRET~~

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Page 3

U.S. Department of Justice  
Room 6150

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] DIVISION

IOB MATTER 2006 [REDACTED] (U)

(U)

~~(S)~~ The [REDACTED] Division reported this potential IOB matter involving unauthorized surveillance.

(S)

[REDACTED]  
[REDACTED] who was and  
remains a United States person as that term is used in Section  
101(i) of the  
Foreign Intelligence  
Surveillance Act of 1978 (FISA). During the course of the investigation,  
[REDACTED] issued two NSIs,  
upon [REDACTED] pursuant to the Electronic Communications  
Privacy Act, 18 U.S.C.

~~SECRET~~

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NSL VIO-35541



(S)

~~SECRET~~

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Page 4

2709. The subject NSL requested subscriber and transactional records for email account:

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b7C

[redacted]  
(S) In October 2005, [redacted] responded to the two NSLs by transmitting information responsive to both on a single compact disk (CD). Subsequently [redacted] determined that the CD contained full email content for both accounts. Pursuant to the direction of NSLB, SA [redacted] sealed and sequestered in A1 envelopes the CD, along with all paper copies of its contents.

b7D

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(S) On December 1, 2005, [redacted] contacted [redacted] and advised regarding overproduction and requested verification of compliance with the limits of National Security Letters. In the interest of administrative purity, on December 10, 2005, [redacted] served [redacted] with another NSL, requesting subscriber and transactional records for email account [redacted]. On January 3, 2006, [redacted] transmitted a CD to the FBI [redacted] Office. Once again information responsive to multiple NSLs was included on the CD.

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(S) On January 6, 2006, after having the information separated by email account/NSL, [redacted] determined that once again [redacted] had provided full email content. Based upon advice of CDC [redacted] and NSLB SSA [redacted] and SA [redacted] took corrective action and ensured that the CDs, along with all paper copies of their contents, were sealed and sequestered in 1A envelopes.

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(S) Despite the fact that [redacted] limited the scope of the subject NSL to subscriber information, [redacted] provided content information concerning an e-mail account. Thus, the

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NSL VIO-35542

~~SECRET~~

.... Working Copy ....

Page 5

FBI unintentionally received that content information not contemplated by the NSL. Such viewing of stored electronic communications and/or electronic surveillance was not authorized under the Electronic Communications Privacy Act, Foreign Intelligence Surveillance Act and/or E.O. 12333.

Under these circumstances, it is OGC's opinion that the error, although inadvertent, must be reported to IOB.

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

(U)

~~(S)~~ Derived From: G-3

~~(S)~~ Declassify On: X1

~~SECRET~~

NSL VIO-35543

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

~~SECRET~~

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

DATE: 11-19-2007

CLASSIFIED BY 65179 DMH/KSP/JM

REASON: 1.4 (C)

DECLASSIFY ON: 11-19-2032

Page 1

Precedence: ROUTINE

Date: 03/08/2006

To: [REDACTED] Attn: SAC, CDC  
Counterterrorism Attn: AO  
Inspection Attn: IIS

b2  
b7E  
b6  
b7C

From: General Counsel  
Counterterrorism Law Unit I/LX-1 35100  
Contact: [REDACTED]

Approved By: Thomas Julie F

Drafted By: [REDACTED]

(U) [REDACTED]  
Case ID #: (S) 278-HQ-C1229736-V10

b6  
b7C  
b2

(U) [REDACTED]  
Title: (S) SA [REDACTED]  
INTELLIGENCE OVERSIGHT BOARD MATTER,  
IOB 2006 [REDACTED]

(U) [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.

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

(U) [REDACTED]  
Reference: (S) 278-HQ-C1229736-V10 Serial 1147

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

Case ID : 278-HQ-C1229736-V10

Serial : 1227

~~SECRET~~

NSL VIO-35544

~~SECRET~~

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Page 2

document in WordPerfect 6.1.

Details: (U) Referenced communication from the [redacted] Field Office [redacted] dated 1/16/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

b2  
b7E

(S) As discussed in the electronic communication (EC) from [redacted] cited below, [redacted] who was and remains a United States person as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA).<sup>12</sup>

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(U) ~~(S)~~ During the course of the investigation, [redacted] issued National Security Letters (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. 2709. That statute permits the FBI to request subscriber information and 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."

b2  
b7E

(S) On October 14, 2005 [redacted] served two NSL's, including the subject one, relating to the above referenced [redacted] upon [redacted]  
[redacted]

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b7D

The subject NSL requested subscriber and transactional records for email accounts: [redacted]

~~(S)~~ On or about October 20, 2005 [redacted] responded to the two NSLs by transmitting information responsive to both on a single compact disk (CD). Subsequently [redacted] determined that the CD contained full email content for both accounts.

b7D  
b2  
b7E

(U) ~~(S)~~ Upon learning that the CD contained full email content, CDC [redacted] and NSLB were contacted. Pursuant to the direction of NSLB, SA [redacted] sealed and sequestered in A1 envelopes

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b7C

~~SECRET~~

NSL VIO-35545

~~SECRET~~

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

Page 3

the CD, along with all paper copies of its contents.

(S) On December 1, 2005, [ ] contacted [ ] at [ ] and advised him of the overproduction and requested he verify compliance with the limits of National Security Letters.

(S) In the interest of administrative purity, on December 10, 2005, [ ] served [ ] with another NSL, addressed to [ ] requesting subscriber and transactional records for email account [ ]

(S) On January 3, 2006, [ ] transmitted a CD to the FBI [ ] Office. Once again information responsive to multiple NSLs was included on the CD.

(S) On January 4, 2006, SA [ ] took the CD to CART and had the information separated by email account/NSL. A duplicate of the original CD was produced as well as two working copies of information regarding [ ] SA [ ] provided the copies to SA [ ]

(S) On January 6, 2006, [ ] reviewed the contents of the original CD and determined that despite (a) the fact that the NSL expressly sought only transactional records, and (b) the fact that [ ] had been personally contacted regarding [ ] prior overproduction, full email content was again provided by [ ]

(U) SSA [ ] retrieved all copies of the CD prior to the information being sent to the case file. Based upon advice of CDC [ ] and NSLB SA [ ] took corrective action. SA [ ] ensured that the CDs, along with all paper copies of their contents, were sealed and sequestered in 1A envelopes. They will be sequestered by the Chief Division Counsel.

(T) 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 over collection errors described here are matters which must be reported to the IOB.

~~SECRET~~

NSL VIO-35546

~~SECRET~~

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Page 4

They must.

~~(S)~~ Because the email content was never analyzed, it is unknown whether [ ] collected historical stored email content, or if the content was gathered pursuant to subsequent surveillance. Over collection of stored email content could violate the Electronic Communications Privacy Act, 18 U.S.C. 2701 et seq. (ECPA), whereas over collection of subsequent surveillance could violate the Foreign Intelligence Surveillance Act (FISA) pen register provisions.

b7D

(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.

(U) ~~(S)~~ Pursuant to ECPA, in the absence of a appropriate authorization, it is unlawful to "access", or for a provider to "divulge" the content of any stored electronic communications. 18 U.S.C. 2701(e)(1), and 2702(a). Consequently, any viewing of the content of any stored electronic communications must be obtained pursuant to a court order.

(U) ~~(S)~~ 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.<sup>13</sup>

(U) ~~(S)~~ In the present case, it is clear that the service

~~SECRET~~

NSL VIO-35547

~~SECRET~~

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Page 5

provider, [redacted] erroneously provided content information concerning an 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.

b7D

(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: (ACTION)

b2

b7E

[redacted]  
(U) For review and action deemed appropriate. If not already done so, sequester the documents at issue with the CDC and await further instructions regarding disposition by NSLB.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

\*\*FOOTNOTES\*\*

(U)

11: ~~(S)~~ EC from [redacted] to OGC dated 01/16/2006 and titled "SA

[redacted] Intelligence Oversight Board (IOB) Violation [redacted] Division."

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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

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NSL VIO-35548

~~SECRET~~

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Page 6

and Naturalization Act) . . . . See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

13: There are certain enumerated exceptions to this prohibition. See 50 U.S.C. Section 1802.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

~~SECRET~~

NSL VIO-35549



~~SECRET~~

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Page 1

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 11-19-2007  
CLASSIFIED BY 65173 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-19-2032

March 8, 2006  
BY COURIER

Mr. Stephen Friedman  
Chairman  
Intelligence Oversight Board  
New Executive Office Building  
Washington, D.C.

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory  
letterhead memorandum (LHM), entitled "Intelligence Oversight  
Board (IOB) Matter, Counterterrorism Division, IOB Matter 2006-

b2

(U)

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

Enclosure

1 - 278-HQ-C1229736-V10

Case ID : 278-HQ-C1229736-V10

Serial : 1228

~~SECRET~~

NSL VIO-35550

~~SECRET~~

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Page 2

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

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

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

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

~~SECRET~~

NSL VIO-35551

~~SECRET~~

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Page 3

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

b2  
b7E

[REDACTED] DIVISION

IOB MATTER 2006 [REDACTED] (U)

(U)

b2  
b7E

~~(S)~~ The [REDACTED] Division reported this potential IOB matter involving unauthorized surveillance.

(S)

[REDACTED] who was and

remains a United States person as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA). During the course of the investigation, Atlanta issued two NSIs upon [REDACTED] pursuant to the Electronic Communications Privacy Act, 18 U.S.C.

2709. The subject NSL requested subscriber and transactional records for email account:

[REDACTED]  
~~(S)~~ In October 2005, [REDACTED] responded to the two NSIs by transmitting

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b7D

~~SECRET~~

NSL VIO-35552

~~SECRET~~

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Page 4

information responsive to both on a single compact disk (CD). Subsequently [redacted] determined that the CD contained full email content for both accounts. Pursuant to the direction of NSLB, SA [redacted] sealed and sequestered in A1 envelopes the CD, along with all paper copies of its contents.

b6  
b7C  
b2  
b7E

(S) On December 1, 2005, [redacted] contacted [redacted] and advised regarding overproduction and requested verification of compliance with the limits of National Security Letters.

b2  
b7E  
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b7D  
b1

In the interest of administrative purity, on December 10, 2005, [redacted] served [redacted] with another NSL, requesting subscriber and transactional records for email account [redacted]. On January 3, 2006, [redacted] transmitted a CD to the FBI [redacted] Office. Once again information responsive to multiple NSLs was included on the CD.

(S) On January 6, 2006, after having the information separated by email account/NSL, [redacted] determined that once again [redacted] had provided full email content. Based upon advice of CDO [redacted] and NSLB SSA [redacted] and SA [redacted] took corrective action and ensured that the CDs, along with all paper copies of their contents, were sealed and sequestered in 1A envelopes.

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b7C

(S) Despite the fact that [redacted] limited the scope of the subject NSL to subscriber information, [redacted] provided content information concerning an e-mail account. Thus, the FBI unintentionally received that content information not contemplated by the NSL. Such viewing of stored electronic communications and/or electronic surveillance was not authorized under the Electronic Communications Privacy Act, Foreign Intelligence Surveillance Act and/or E.O. 12333.

b2  
b7E  
b7D

~~SECRET~~

NSL VIO-35553

~~SECRET~~

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

Page 5

Under these circumstances, it is OGC's opinion that the error, although inadvertent, must be reported to IOB.

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

(U)

~~Derived From: G-3~~

~~Declassify On: X1~~

~~SECRET~~

NSL VIO-35554

~~SECRET~~

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

Page 1

DECLASSIFIED BY 65179 DMH/KSR/JW  
ON 11-21-2007

March 8, 2006

Mr. Stephen Friedman, Chairman  
Intelligence Oversight Board  
New Executive Office Building - Room 5020  
Washington, D.C. 20503

Dear Mr. Friedman:

This letter forwards for your information a self-explanatory  
enclosure entitled "Intelligence Oversight Board (IOB),  
[redacted] Division, IOB Matter 2006-[redacted]" (U)

b2  
b7E

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 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE~~

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

Serial : 1243

~~SECRET~~

NSL VIO-35568

~~SECRET~~

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

Page 2

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

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

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER  
[REDACTED] DIVISION  
IOB MATTER 2006 [REDACTED] (U)

b2  
b7E

(U) ~~(S)~~ The [REDACTED] Division [REDACTED] of the Federal Bureau of Investigation (FBI) reported a potential IOB involving a National Security Letter (NSL) requested by [REDACTED] which, through a transcription error, sought information about a telephone number belonging to a person who was not the subject of an FBI national security investigation.

b2  
b7E

(S) The US person [REDACTED] had the phone number [REDACTED]. On 01/16/2006, the case agent directed the investigative support specialist (ISS) to draft an NSL requesting information regarding the subject phone number. The request had the subject telephone number as [REDACTED] however, due to an administrative oversight, the NSL sent to the telephone company had the telephone number as [REDACTED]. The case agent's telephone extension in [REDACTED] is [REDACTED].

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(U) ~~(S)~~ On 02/10/2006, the case agent opened the NSL results and noticed the discrepancy in the telephone number. The case agent immediately notified his supervisor and put the original results in a sealed envelope for sequestration with the Chief Division Counsel (CDC).

~~SECRET~~

NSL VIO-35569

~~SECRET~~

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Page 3

Nothing from the original NSL results was uploaded into the FBI computer systems, nor was any investigative action taken based on the NSL results.

(U) Due to inadvertent typographical error, [ ] received NSL results on a telephone number that was not associated with the subject of an authorized investigation. However, due to the fact that there was an unauthorized collection of presumed U.S. person information, the error is a reportable matter under Section 2.4 of Executive Order 12863.

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b7E

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

~~SECRET~~

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NSL VIO-35570



~~SECRET~~

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Page 1

DATE: 11-28-2007  
CLASSIFIED BY 65179 DMH/KSR/JW  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-28-2032

Precedence: ROUTINE

Date: 3/8/2006

To: [REDACTED]

Attn: SA [REDACTED]  
SA  
CD

Toni Mari Fogle

SSA [REDACTED]  
CD-3B

b2 Inspection  
b7E Counterintelligence  
b6  
b7C

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

Approved By: Thomas Julie F  
[REDACTED]

Drafted By: [REDACTED]

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

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER 2006 [REDACTED]

b2

(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel ("OGC") that this matter must be reported to the Intelligence Oversight Board (IOB). OGC will prepare a cover letter and a letter head memorandum to report this matter to the IOB. Our analysis follows.

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

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1115

b1  
b2  
b7E

(U) Details: ~~(S)~~ By electronic communication (EC) dated 12/19/2005, [REDACTED] Division requested OGC review of a possible IOB error in conjunction with an ongoing counterintelligence investigation. The following facts are derived from this EC.

b2  
b7E

(S) On 9/9/2005, FBI [REDACTED] prepared a National Security Letter (NSL) to obtain subscriber information for telephone number [REDACTED]. The NSL was served to [REDACTED]

b2  
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b4  
b7D

on 9/28/2005 by FBI [REDACTED]

Case ID : 278-HQ-C1229736-VIO

Serial : 1257

~~SECRET~~

NSL VIO-35571

b1  
b6  
b7C

~~SECRET~~

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Page

2

(S) On 12/15/2005, FBI [redacted] discovered that the original NSL dated 9/9/2005 inadvertently requested information for the wrong telephone number. Subscriber information was requested for telephone number [redacted] however, the correct telephone number was [redacted]

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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, 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 verbatim from E.O. 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board.

(U) By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General's foreign counterintelligence guidelines or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, if such provision was designed in full or in part to 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 this case, this matter must be reported to the IOB because FBI [redacted] requested information on a number that had no relevance to an ongoing investigation as required by statute. This error was compounded by the fact that the results from this NSL were documented in an EC and subsequently entered into the FBI's [redacted] database.

b2  
b7E

(U) Based upon these facts, in accordance with the NSIG and the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error must be reported to the IOB.

~~SECRET~~

NSL VIO-35572

~~SECRET~~

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Page

3

Lead(s):

Set Lead 1:

[REDACTED]

AT

[REDACTED]

b2  
b7E

(U) Implement procedures to ensure the accuracy of information contained in NSL requests. Sequester all information from this NSL with [REDACTED] Chief Division Counsel, and purge all information from FBI databases. NSLB will provide further guidance to the CDC regarding the sequestered information.

Set Lead 2:

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Coordinate with [REDACTED] Division to ensure that appropriate procedures are in place to ensure the accuracy of information contained in NSL requests and that the information is properly sequestered and purged.

b2  
b7E

1 - Ms. Thomas

1 - [REDACTED]

1 - [REDACTED]

1 - NSLB Library

b6  
b7C

~~SECRET~~

NSL VIO-35573

~~SECRET~~

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

Page

1

DECLASSIFIED BY: 65179 DMH/KSR/JW  
ON 11-28-2007

March 8, 2006

Mr. Stephen Friedman  
Chairman Intelligence Oversight Board  
New Executive Office Building  
Washington, D.C.

Dear Mr. Friedman:

This letter forwards for your information a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB), Matter 2006 [ ]" (U)

b2

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 - 278-HQ-C1229736-VIO

~~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)

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

Serial : 1258

~~SECRET~~

NSL VIO-35574

~~SECRET~~

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

Page 2

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

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] DIVISION

IOB MATTER 2006 [REDACTED] (U)

(U) ~~(S)~~ The [REDACTED] Division of the Federal Bureau of Investigation has reported a possible violation in conjunction with an ongoing counterintelligence investigation. By electronic communication (EC) dated 12/19/2005 [REDACTED] requested FBI Office of General Counsel review of this possible IOB error. The following facts are derived from this EC.

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b7E

~~SECRET~~

NSL VIO-35575

~~SECRET~~

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

Page

b2  
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b1  
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b7C

(S) On 9/9/2005, FBI [ ] prepared a National Security Letter (NSL) to obtain subscriber information for telephone number [ ]

The NSL was served to [ ]

on 9/28/2005 by FBI [ ]

(S) On 12/15/2005, FBI [ ] discovered that the original NSL dated 9/9/2005 inadvertently requested information for the wrong telephone number [ ]. Subscriber information was requested for telephone number [ ] however, the correct telephone number was [ ]

(U) ~~(S)~~ In this case, this matter must be reported to the IOB because FBI [ ] requested information on a number that had no relevance to an ongoing investigation as required by statute. This error was compounded by the fact that the results from this NSL were documented in an EC and subsequently entered into the FBI's Telephone Applications database.

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b2  
b7E

(U) Based upon these facts, in accordance with the NSIG and the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error must be reported to the IOB.

~~SECRET~~

NSL VIO-35576

~~SECRET~~

----- working copy -----

Page 1

Precedence: ROUTINE

Date: 03/09/2006

To: [REDACTED]  
Counterterrorism  
Inspection

Attn: SAC, CDC  
AD  
Internal Inspection Section

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

From: General Counsel

National Security Law Branch (NSLB)

Contact: [REDACTED]

b2  
b7E  
b6  
b7C

DATE: 11-28-2007  
CLASSIFIED BY: 65179 DMH/KSR/JU  
REASON: 1.4 (C)  
DECLASSIFY ON: 11-28-2032

Approved By: Thomas Julie F

Drafted By: [REDACTED]

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

(S) ~~(U)~~ [REDACTED]

Title: (U) ~~(S)~~ TFO [REDACTED]  
SSA [REDACTED]

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POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER

IOB MATTER 2006 [REDACTED]

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Synopsis: (U) ~~(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) and to the FBI Inspection Division. OGC will prepare a cover letter and a memorandum for the Deputy General Counsel to report this matter to the IOB. Our analysis follows.

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

Details: (S) As discussed in the electronic communication (EC) referenced below [REDACTED] in accordance with the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG). During the investigation of a U.S. person (as that term is used in Section

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Case ID : 278-HQ-C1229736-VIO

Serial : 1262

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NSL VIO-35577

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(S)

(C)(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA), i2 [redacted] a National Security Letter (NSL) was submitted for toll records for the subject's home telephone number for [redacted] [redacted] to the time the NSL was issued. Due to an error on the part of the Joint Terrorism Task Force Officer working on the case, the telephone number was misidentified. Consequently, records unrelated to the subject were received. The error was quickly recognized, and the records have been sealed by the [redacted] CDC. All relevant records have been permanently charged out of the FBI's Automated Case Support system. Neither the incorrect number nor any records received with respect to the number were uploaded into FBI databases [redacted] i3

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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, INSD, and the General Counsel, CGC, 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 verbatim from E.O. 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board.

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

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[redacted]  
[redacted] When the FBI issues an NSL for toll records, it must certify in accordance with Title 18, U.S.C., Section 2709(b), that "the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, and 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." This means that the subject of the NSL need not be the subject of an FBI investigation but there must be "relevance" to some authorized FBI national security investigation. In this case, despite the honest mistake of the Task force Officer, the FBI received telephone records for which no relevance existed to an authorized investigation.

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Therefore, we believe this matter must be reported.

(U) OGC will prepare an appropriate cover letter and memorandum for the Deputy General Counsel to report this matter to the IOB.

**\*\*FOOTNOTES\*\***

(U) 11: ~~(S)~~ EC from the [redacted] Division, dated 01/25/2006 and titled Intelligence Oversight Board (IOB) Matter (hereinafter cited as [redacted] EC).

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(U) 12: ~~(S)~~ A United States person 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) . . . .

13: (U) [redacted] EC.

(U) 14: ~~(S)~~ Part V.12 list use of NSLs as an authorized investigative technique "in conformity with . . . 18 U.S.C. 2709 (relating to subscriber information, toll billing records, and electronic communication transactional records)."

LEAD (s)

Set Lead 1: (Action)

[redacted]  
AT [redacted]

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(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

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(U) For action consistent with this opinion.

Set Lead 3: (Action)

INSPECTION

AT IIS, WASHINGTON, DC

(U) For action deemed appropriate.

1 - Ms. Thomas

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NSL VIO-35580

