

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 08, 2007 11:14 AM
To: [redacted] (OGC) (FBI)
Subject: FW: [redacted] Division NSL/IOB Scenarios Memorialized
~~**SECRET**~~
RECORD 278 [redacted] **40879**

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[redacted]
Here's the summary of NSL issues from [redacted] Hope it helps.
[redacted]

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-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, February 05, 2007 3:54 PM
To: [redacted] (FBI)
Subject: RE: [redacted] Division NSL/IOB Scenarios Memorialized

~~**SECRET**~~
RECORD 278 [redacted] **40879**

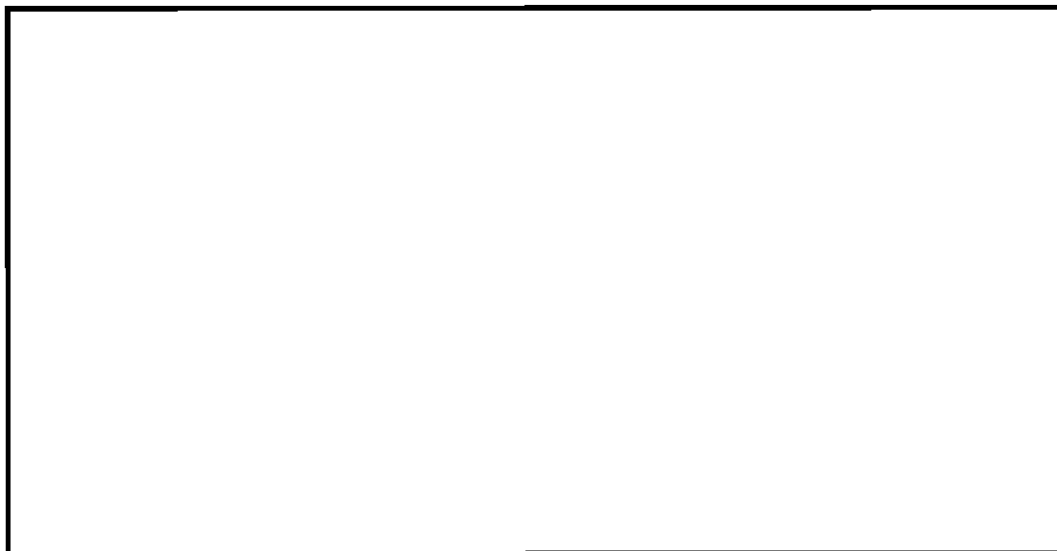
[redacted]
Thank you for memorializing these issues. They are all great questions and it will be helpful for everyone to have further guidance on these issues. In fact, I just received another email asking about these exact issues. Thank you for your help with this.
[redacted]

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-----Original Message-----
From: [redacted] (FBI)
Sent: Monday, February 05, 2007 3:43 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (FBI)
Subject: [redacted] Division NSL/IOB Scenarios Memorialized

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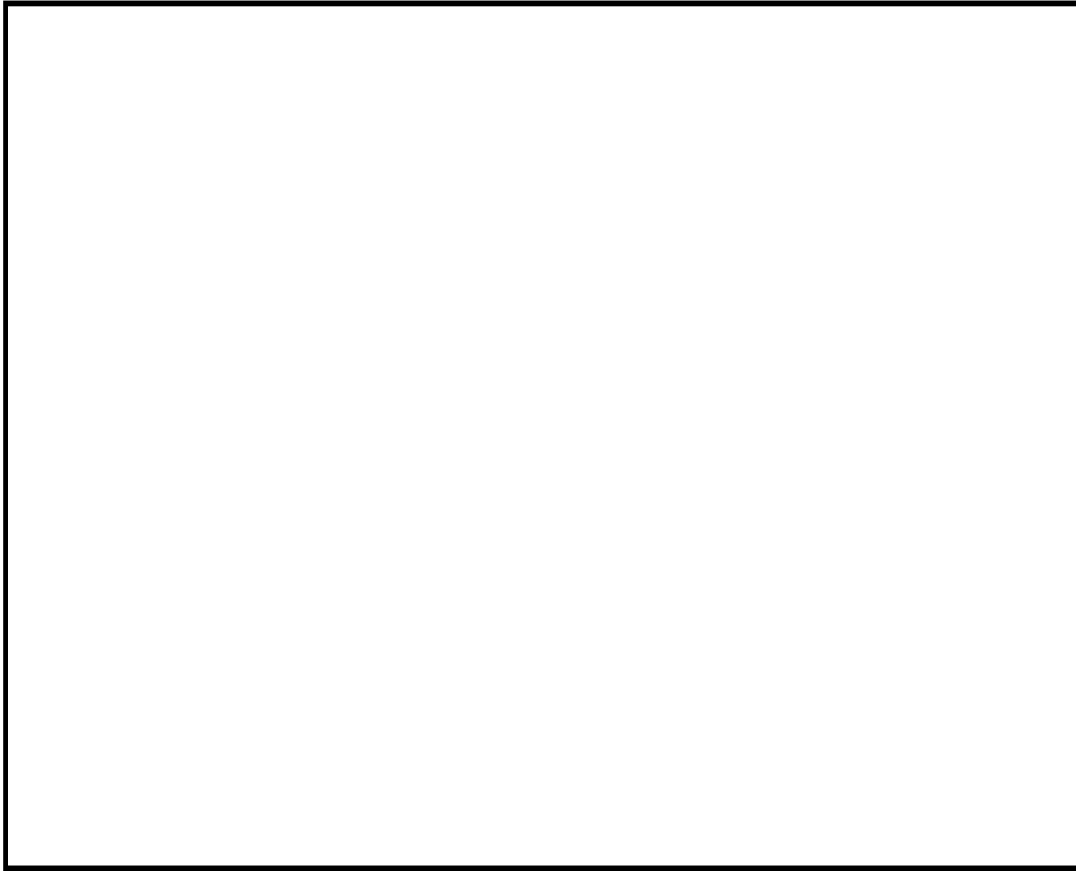
~~**SECRET**~~
RECORD 278 [redacted] **40879**



Duplicate Email OGC Employee 26

NSL VIO-33187

Duplicate



DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign
Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 3
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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence
Investigations
DECLASSIFICATION EXEMPTION 3
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence
Investigations
DECLASSIFICATION EXEMPTION 3
SECRET

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DECLASSIFIED BY 65179/dmh/ksr/cak
ON 12-07-2007

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 08, 2007 11:49 AM
To: [redacted] (OGC) (FBI)
Subject: FW: [redacted] Division NSL/IOB Scenarios Memorialized
~~**SECRET**~~
RECORD 278 [redacted] **40879**

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[redacted]
Here's the summary of NSL issues from [redacted] Hope it helps.
[redacted]

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-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, February 05, 2007 3:54 PM
To: [redacted] (FBI)
Subject: RE: [redacted] Division NSL/IOB Scenarios Memorialized

~~**SECRET**~~
RECORD 278 [redacted] **40879**

Duplicate Email date 2/5/07 this section

[redacted]

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-----Original Message-----
From: [redacted] (FBI)
Sent: Monday, February 05, 2007 3:43 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (FBI)
Subject: [redacted] Division NSL/IOB Scenarios Memorialized

~~**SECRET**~~
RECORD 278 [redacted] **40879**

[redacted]

NSL VIO-33189

Duplicate Email OGC Employee 26



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Counterintelligence Investigations
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Investigations
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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence
Investigations
DECLASSIFICATION EXEMPTION 3
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence
Investigations
DECLASSIFICATION EXEMPTION 3
SECRET

From: [REDACTED] (OGC) (FBI)
Sent: Thursday, March 29, 2007 9:32 AM
To: [REDACTED] (OGC) (FBI)
Subject: FW: Further Guidance Relating to IOB Issues

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RECORD IOB

DECLASSIFIED BY 65179/dmh/ker/cak
ON 12-07-2007

FYI.

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 28, 2007 4:32 PM
To: THOMAS, JULIE E. (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI)
Subject: RE: Further Guidance Relating to IOB Issues

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RECORD IOB

Julie, in the meeting on Friday, [REDACTED]

[REDACTED]

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So please let me know if I misinterpreted the Friday dialogue. Thanks. [REDACTED]

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 28, 2007 11:40 AM
To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI)
Subject: Further Guidance Relating to IOB Issues

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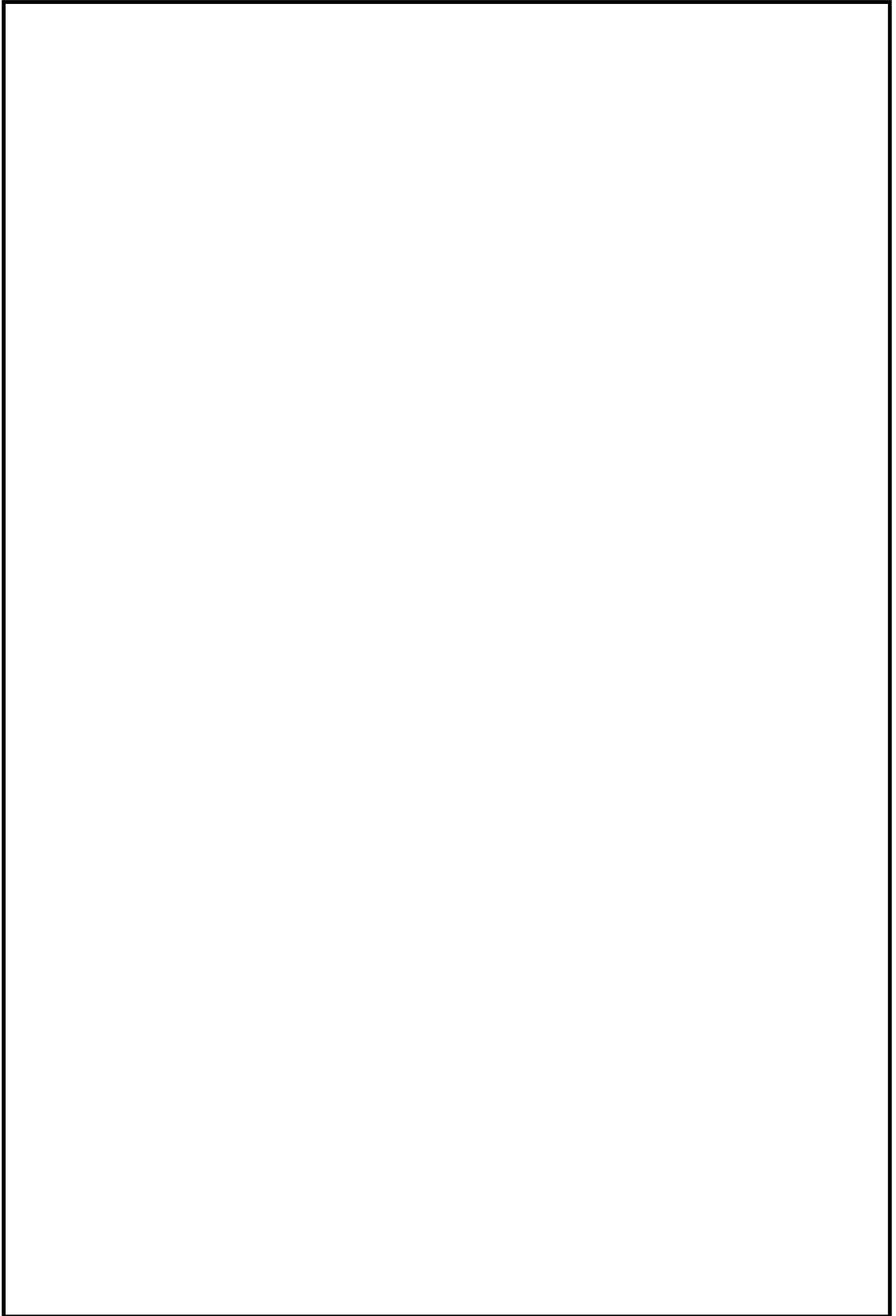
~~SECRET~~
RECORD IOB

Duplicate OGC3-IOB, Section 16

[REDACTED]

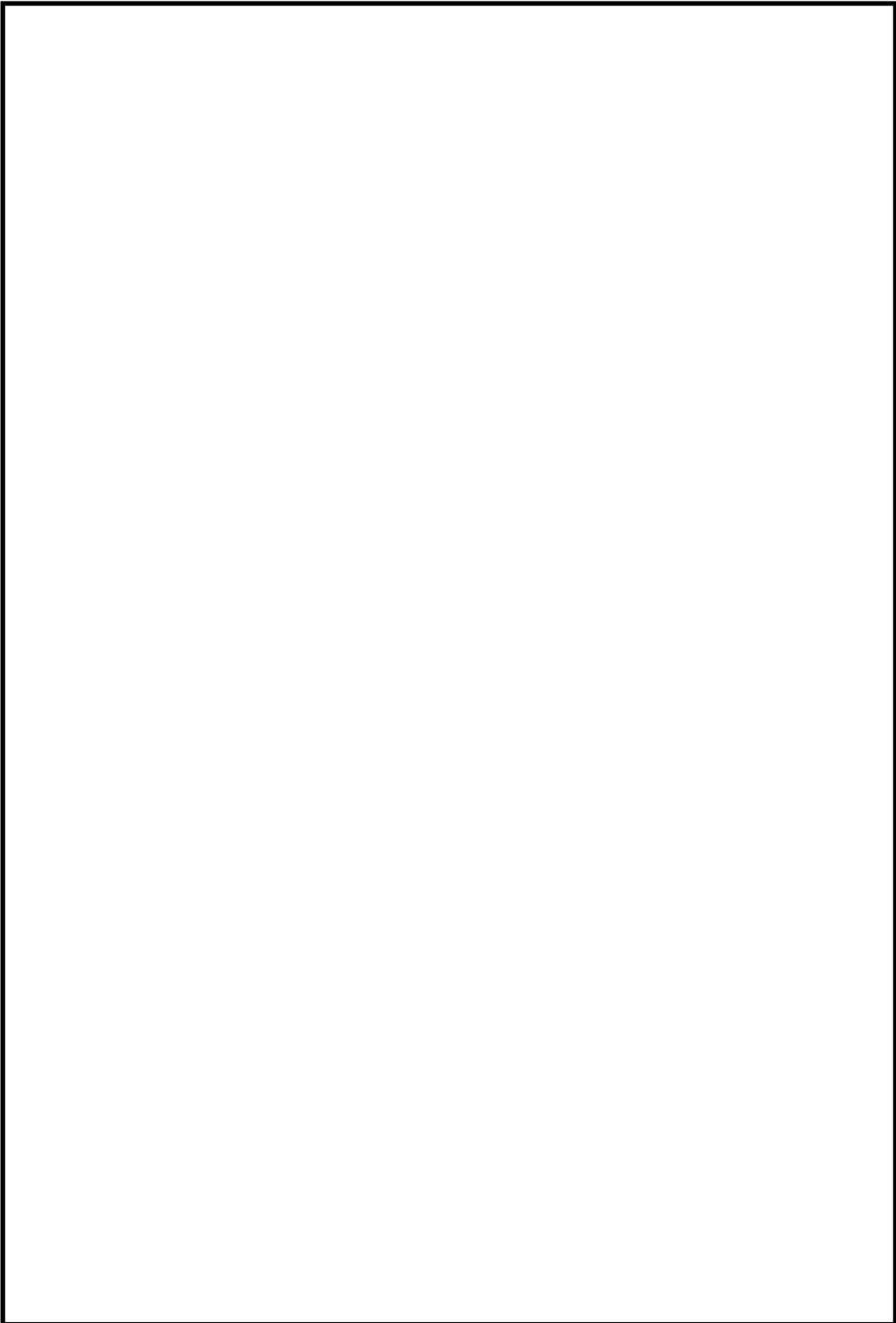
NSL VIO-33191

Duplicate OGC3-IOB, Section 16



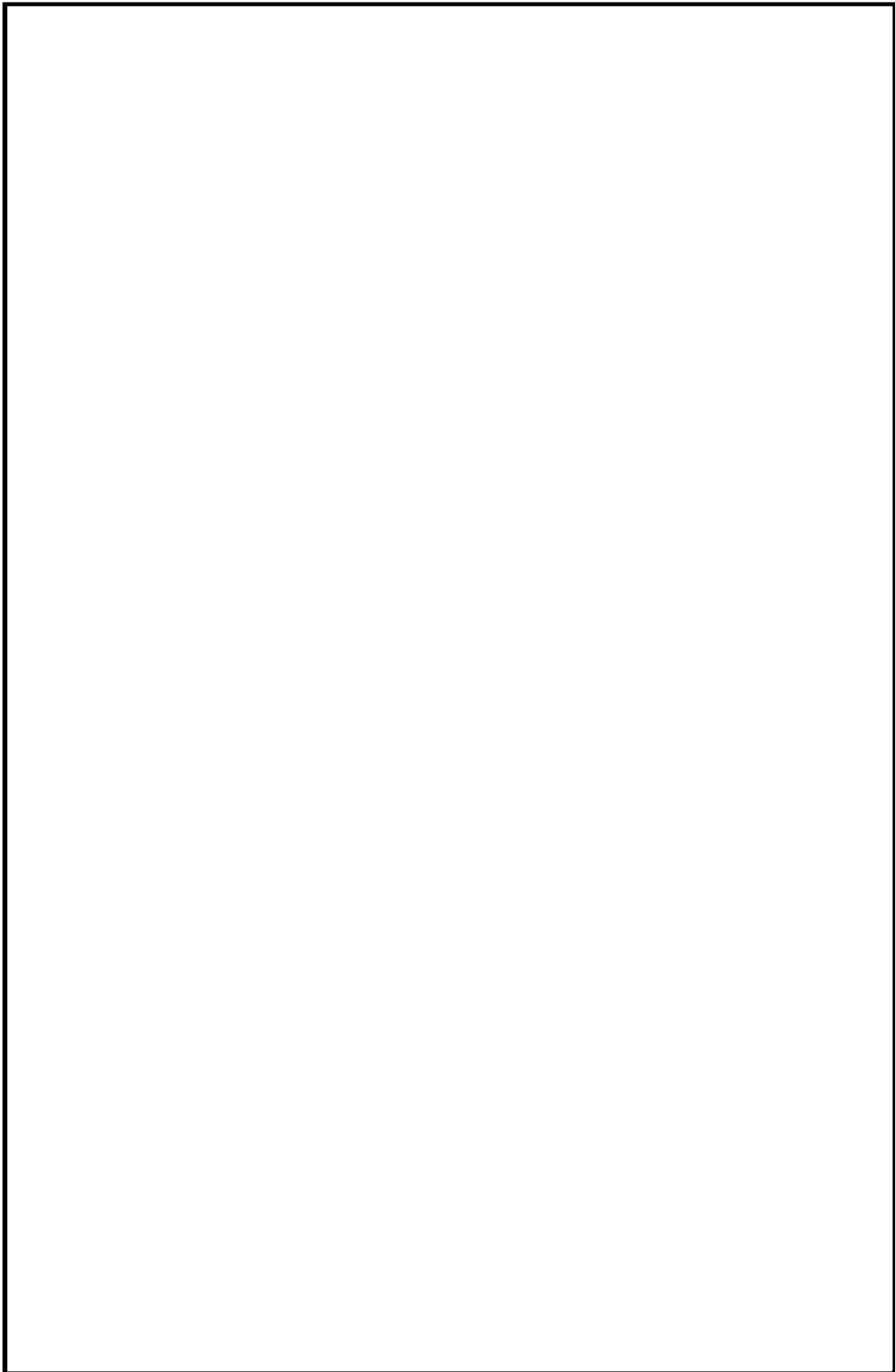
NSL VIO-33192

Duplicate OGC3-IOB, Section 16



NSL VIO-33193

Duplicate OGC3-IOB, Section 16



NSL VIO-33194



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DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

From: [REDACTED] (OGC) (FBI)
Sent: Monday, April 02, 2007 9:35 AM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: FW: Further Guidance Relating to IOB Issues
~~SECRET~~
RECORD IOB

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Do you know anything about Valerie's question? Thanks.

-----Original Message-----

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Friday, March 30, 2007 12:10 PM
To: [REDACTED] (OGC) (FBI)
Subject: FW: Further Guidance Relating to IOB Issues

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~~SECRET~~
RECORD IOB

[REDACTED]

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-----Original Message-----

From: [REDACTED] (FBI)
Sent: Friday, March 30, 2007 12:02 PM
To: [REDACTED] (OGC) (FBI)
Cc: CAPRONI, VALERIE E. (OGC) (FBI)
Subject: RE: Further Guidance Relating to IOB Issues

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RECORD IOB

[REDACTED]

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This is very helpful advice for CDCs.

Thanks.

[REDACTED]
[REDACTED]

CDC Advisory Committee

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 28, 2007 12:40 PM
To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI)
Subject: Further Guidance Relating to IOB Issues

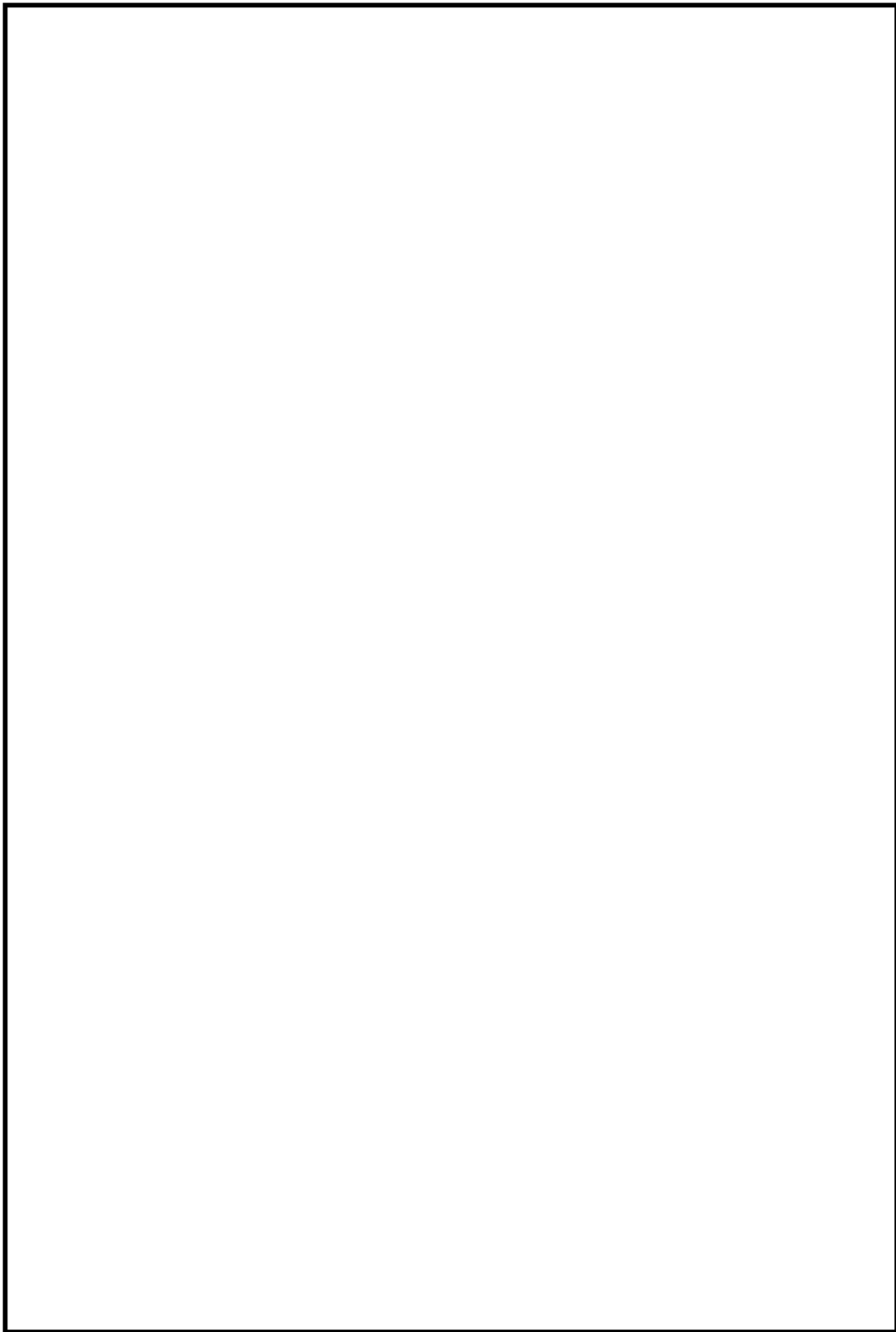
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RECORD IOB

Duplicate OGC3-IOB, Section 16

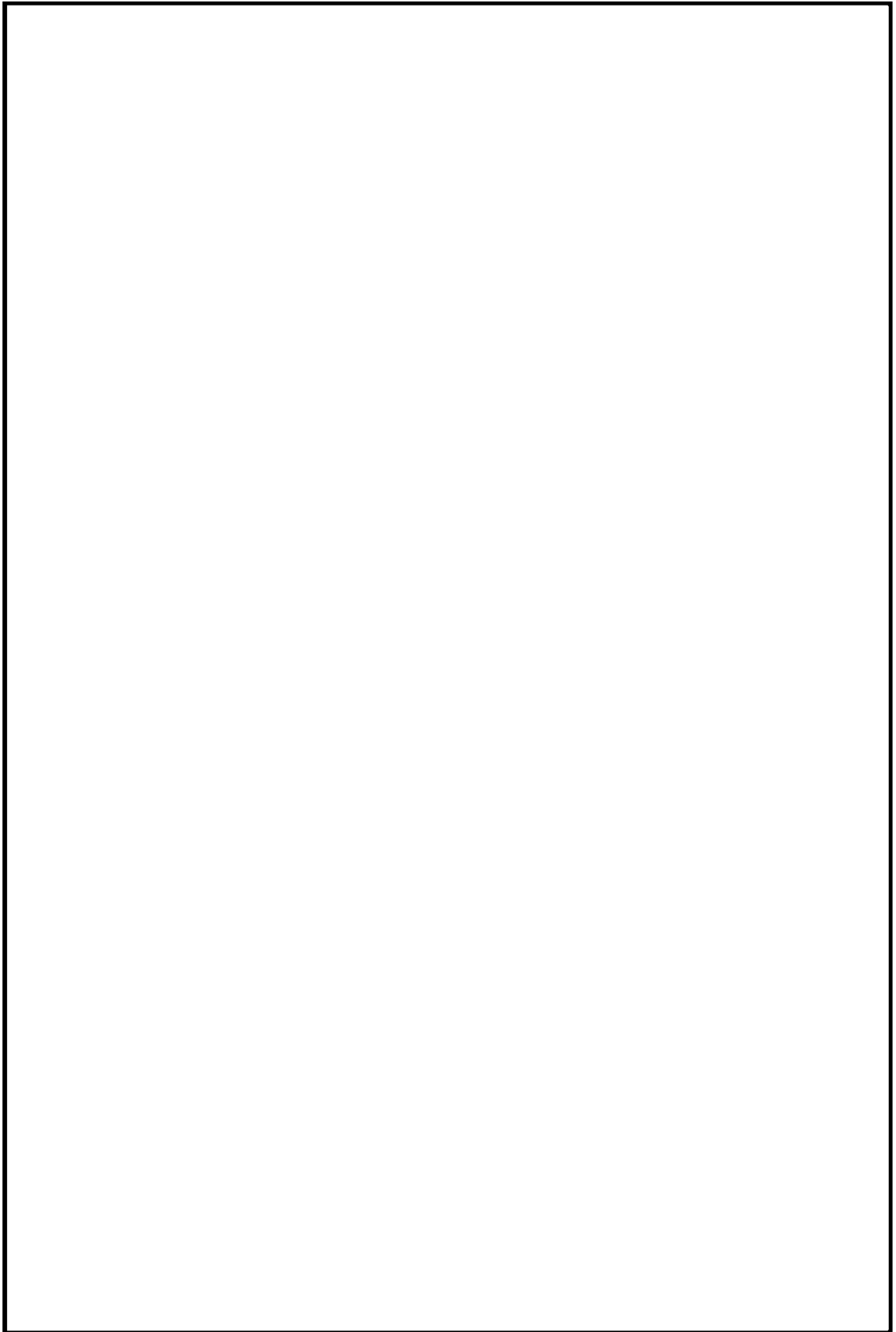
[REDACTED]

Duplicate OGC3-IOB, Section 16



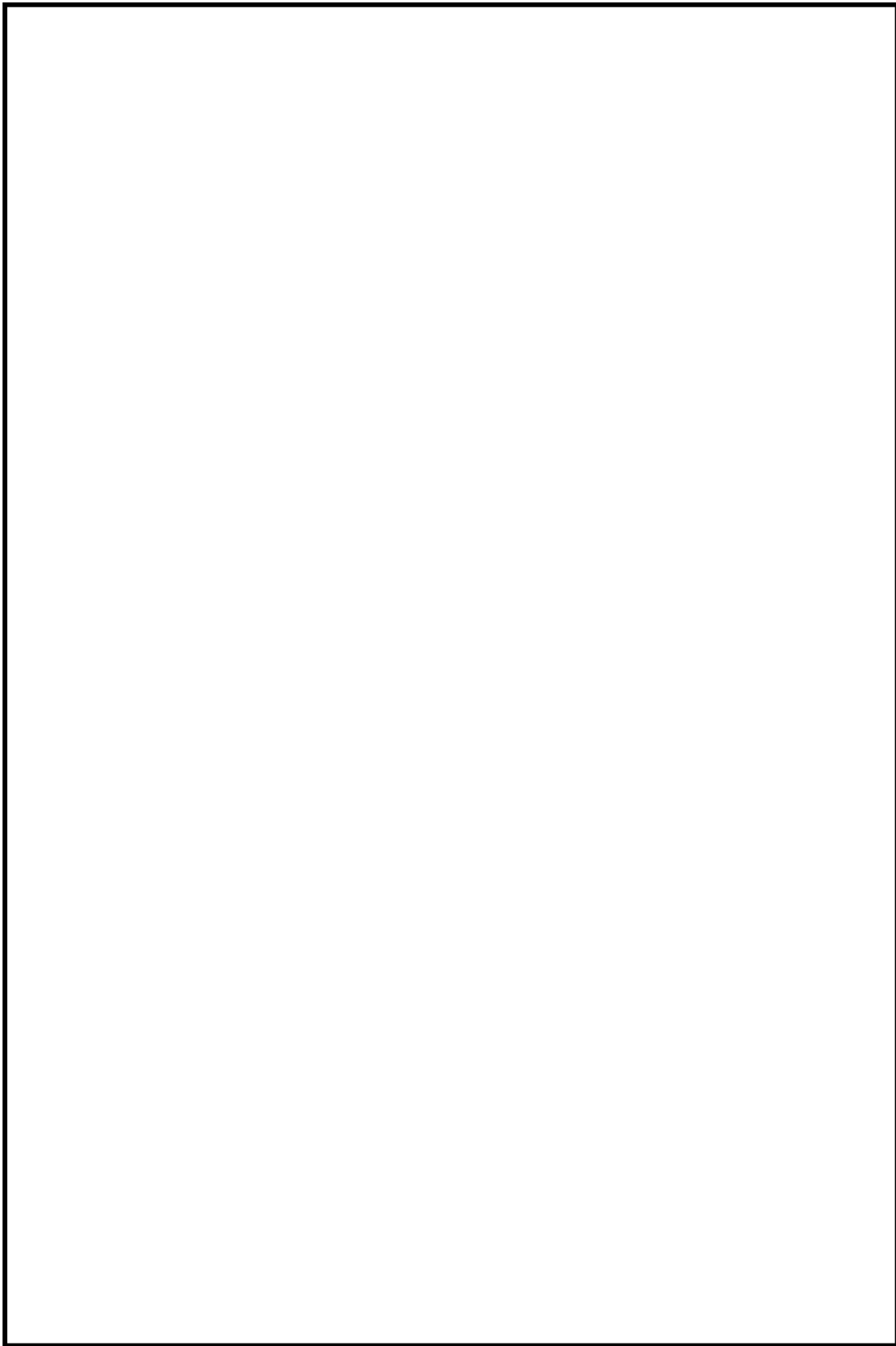
NSL VIO-33197

Duplicate OGC3-IOB, Section 16



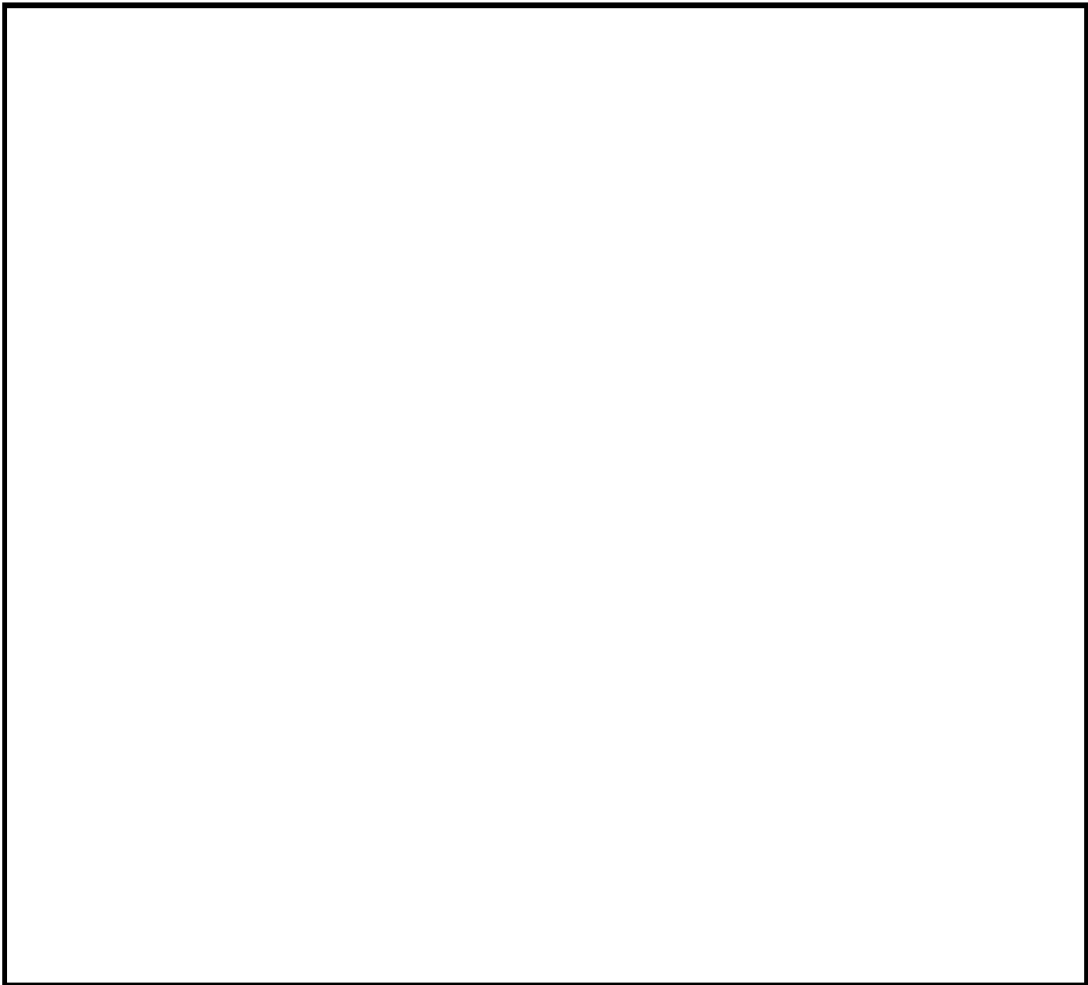
NSL VIO-33198

Duplicate OGC3-IOB, Section 16



NSL VIO-33199

Duplicate OGC3-IOB, Section 16



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DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence
Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

From: [REDACTED] (OGC) (FBI)
Sent: Monday, January 29, 2007 2:45 PM
To: [REDACTED] (OGC) (FBI)
Subject: FW: IOB Handbook
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Here it is.

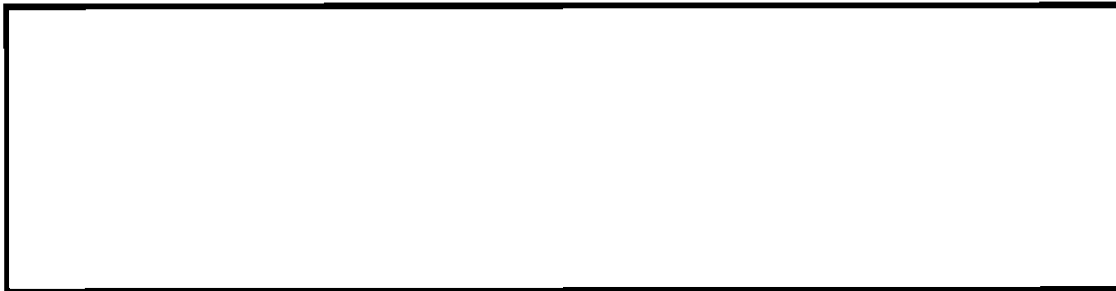
-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Friday, December 08, 2006 8:50 AM
To: HQ-Div09-NSLB
Subject: RE: IOB Handbook

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Duplicate CTD/NSL responsive records (CD) volume 13

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RECORD IOB



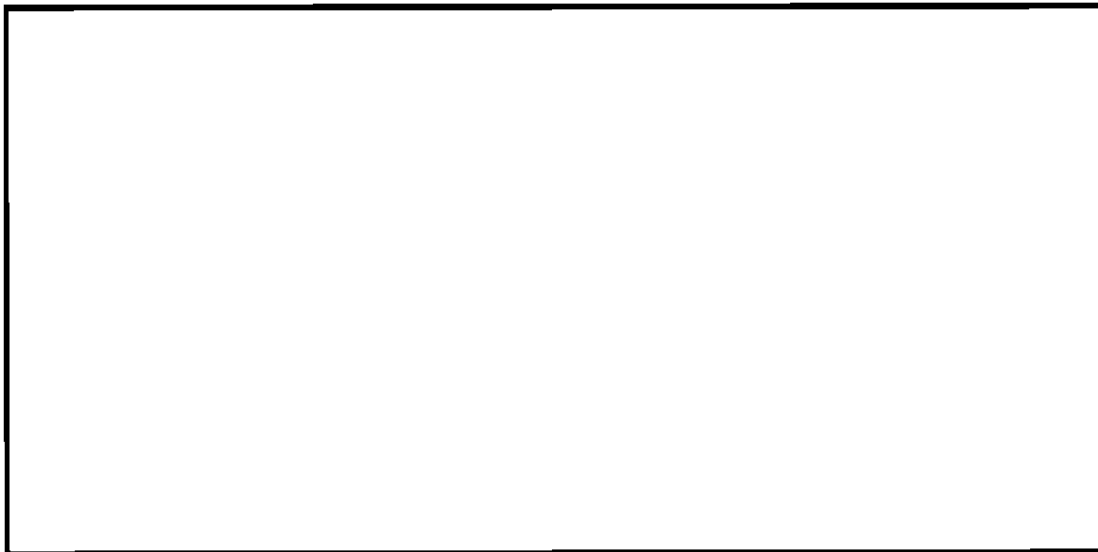
-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Thursday, December 07, 2006 3:36 PM
To: HQ-Div09-NSLB
Subject: IOB Handbook

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RECORD IOB

Duplicate CTD/NSL responsive records (CD) volume 13



Duplicate CTD/NSL responsive records (CD) volume 13



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~~DERIVED FROM: Multiple Sources
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~DERIVED FROM: Multiple Sources
DECLASSIFICATION EXEMPTION 1
SECRET~~

From: [redacted] (OGC) (FBI)
Sent: Monday, February 12, 2007 9:28 AM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: FW: IOB Issues

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RECORD 278 [redacted] 40879

[redacted]

Thanks for your comments that you made in your 2/9/2007. To clarify the reporting requirements for NSLs, please read email trail below.

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[redacted]

-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Thursday, February 08, 2007 2:18 PM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: IOB Issues

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RECORD 278 [redacted] 40879

[redacted]

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I talked with [redacted] CDC [redacted] about these issues. He summarized our conversation in an email below that is very useful. [redacted]

[redacted]

[redacted]

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The second issue is more of an issue that your field office should determine. However, from what I have seen, it is typically the case agent who reviews the NSL results.

I hope that these answers help. Please let me know if you have any other questions.

[redacted]
National Security Law Branch
Office of the General Counsel

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[redacted]

[redacted]

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[Redacted]

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What are your thoughts?

[Redacted]

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[Redacted]

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CDO [Redacted]

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[Redacted]

-----Original Message-----

From: [Redacted] (FBI)

Sent: Monday, February 05, 2007 3:43 PM

To: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted]

[Redacted] (OGC) (FBI)

Cc: [Redacted] (FBI)

Subject: [Redacted] Division NSL/IOB Scenarios Memorialized

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~~RECORD 278~~ [Redacted] 40879 Duplicate Email OGC Employee 26

[Redacted]

[Redacted]

NSL VIO-33205



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DECLASSIFICATION EXEMPTION 3
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 3
SECRET

From: [REDACTED] (OGC) (FBI)
Sent: Thursday, March 22, 2007 11:11 AM
To: [REDACTED] (OGC) (FBI)
Subject: FW: IOB Issues Relating to the Inspection Division's Audit
~~**SECRET**~~
RECORD IOB

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Did the Inspection Division raise this as a problem?

-----Original Message-----
From: [REDACTED] (FBI)
Sent: Thursday, March 22, 2007 11:07 AM
To: [REDACTED] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

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~~**SECRET**~~
RECORD IOB

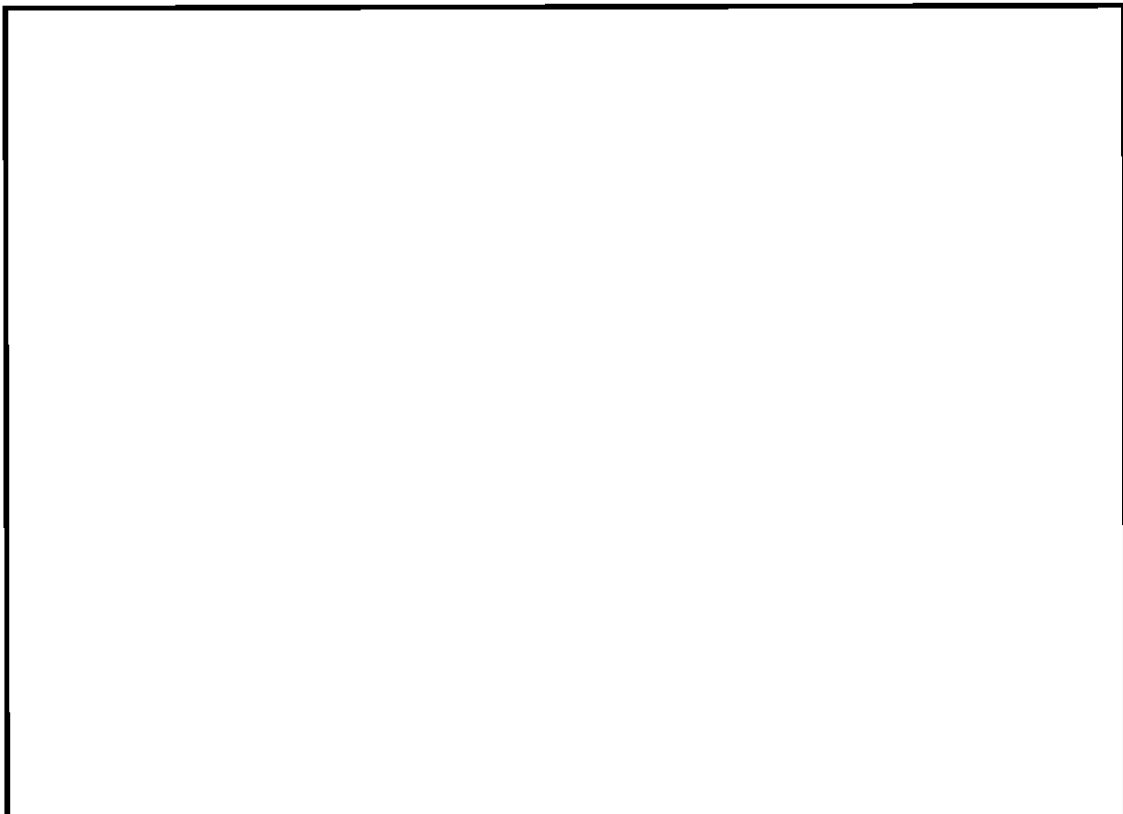
How is the fact that there is no NSL in a particular file an error, or even an issue?

-----Original Message-----
From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 21, 2007 4:22 PM
To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI); [REDACTED] (INSD) (FBI)
Subject: IOB Issues Relating to the Inspection Division's Audit

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~~**SECRET**~~
RECORD IOB

Duplicate CTD/NSL-CD volume 19



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~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence~~

NSL VIO-33208

~~Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence
Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 3:40 PM
To: THOMAS, JULIE E. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: IOB Issues Relating to the Inspection Division's Audit

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~~**RECORD IOB**~~

Julie,

I realize how busy you are, but wanted to bring two reoccurring issues to your attention.

1. CDC [redacted] raised an interesting point as stated below. Further, I have received many variations of this same question [redacted]

[redacted]

Several CDCs have argued [redacted]

[redacted]

I agree [redacted]

[redacted]

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2. The following issue has also been raised. [redacted]

[redacted]

Do you think that this should be considered a potential IOB violation? My opinion is that it should not. [redacted]

[redacted]

Thank you.

[redacted]

-----Original Message-----

From: [redacted] (FBI)
Sent: Wednesday, March 21, 2007 6:08 PM
To: [redacted] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

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~~**RECORD IOB**~~

[redacted]

One question concerning the reportability. You noted the need to report "If the EC

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does not contain the telephone number/account number listed in the NSL".

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[REDACTED]

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What are

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your thoughts? Thanks.

[REDACTED]

-----Original Message-----

From: [REDACTED] (OGC) (FBI)

Sent: Wednesday, March 21, 2007 4:22 PM

To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI); [REDACTED] NSD) (FBI)

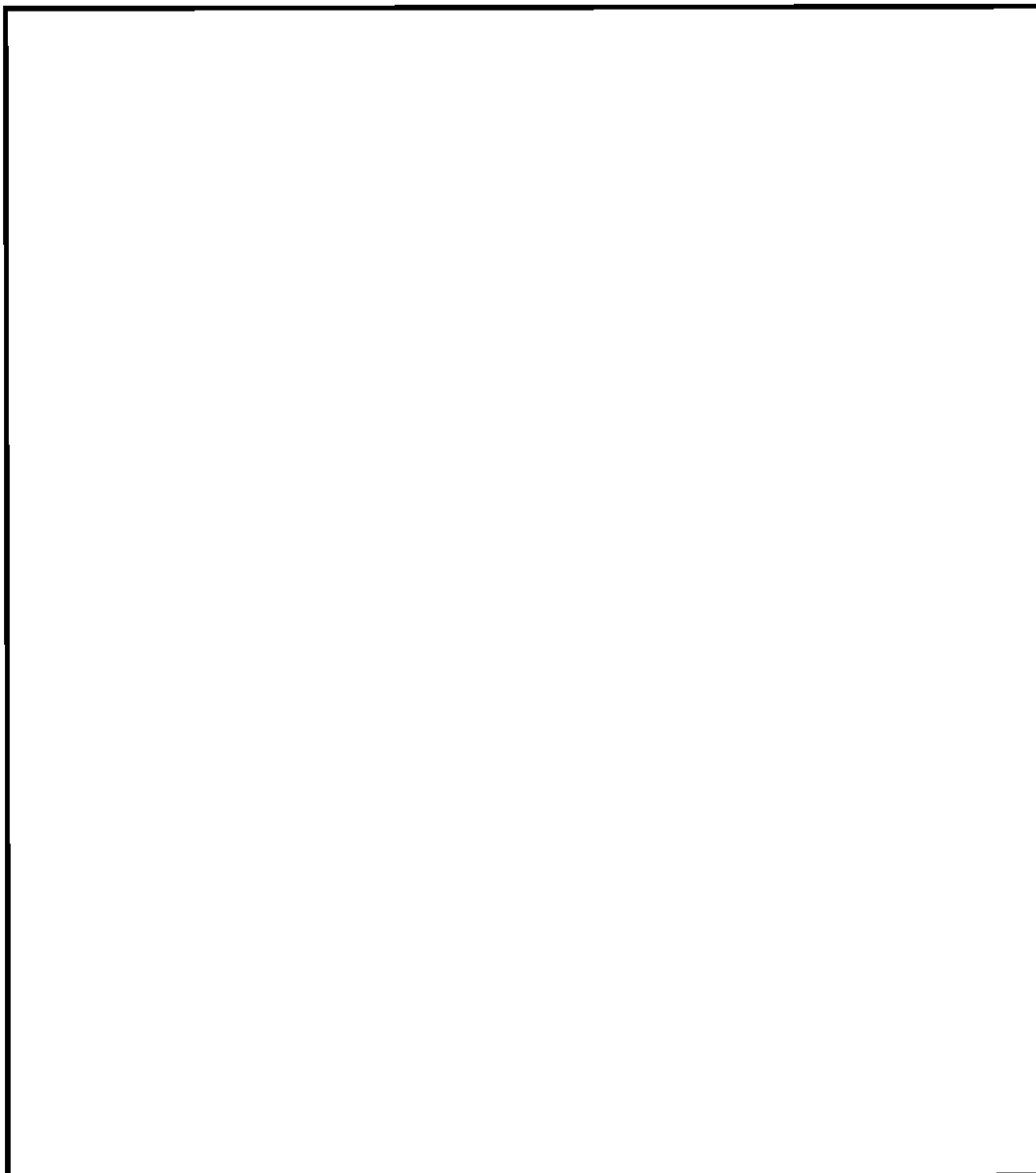
Subject: IOB Issues Relating to the Inspection Division's Audit

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~~**RECORD IOB**~~

Duplicate CTD/NSL-CD volume 19





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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

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From: [REDACTED] (OGC) (FBI)
Sent: Monday, March 26, 2007 10:37 AM
To: [REDACTED] (OGC) (FBI)
Subject: FW: IOB Issues Relating to the Inspection Division's Audit
UNCLASSIFIED
NON-RECORD

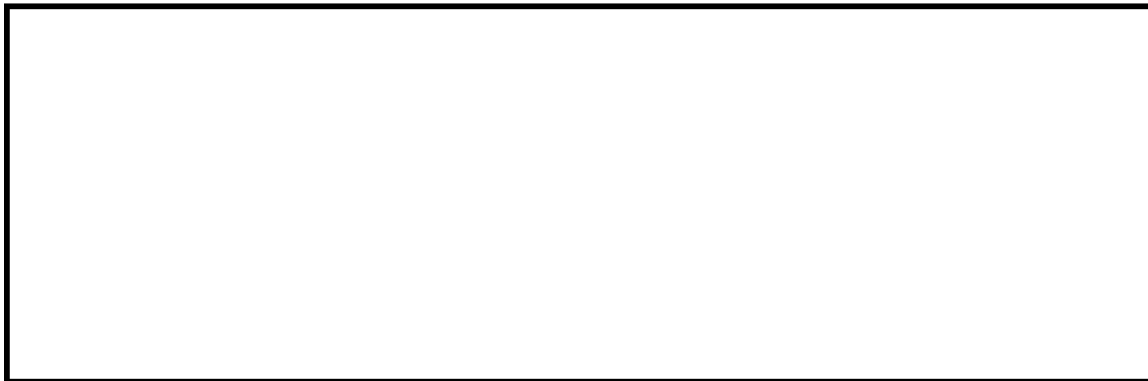
FYI

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-----Original Message-----

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Friday, March 23, 2007 8:05 AM
To: [REDACTED] (OGC) (FBI); [REDACTED] (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (INSID) (FBI); FBI_ALL CDCs
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

UNCLASSIFIED Duplicate Email OGC Employee 70
NON-RECORD



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-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Friday, March 23, 2007 8:02 AM
To: [REDACTED] (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

Duplicate Email OGC Employee 70

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-----Original Message-----

From: [REDACTED] (FBI)
Sent: Thursday, March 22, 2007 3:44 PM
To: [REDACTED] (OGC) (FBI)
Subject: FW: IOB Issues Relating to the Inspection Division's Audit

SECRET
RECORD IOB



Duplicate Email OGC Employee 70
NSL VIO 53219

[Redacted]
[Redacted]

Duplicate

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-----Original Message-----

From: [Redacted] (FBI)
Sent: Thursday, March 22, 2007 4:42 PM
To: [Redacted] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

~~**SECRET**~~
~~**RECORD IOB**~~

Duplicate Email OGC Employee 70

[Redacted]

[Redacted]

[Redacted]

-----Original Message-----

From: [Redacted] (OGC) (FBI)
Sent: Wednesday, March 21, 2007 4:22 PM
To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI) [Redacted] (INSD) (FBI)
Subject: IOB Issues Relating to the Inspection Division's Audit

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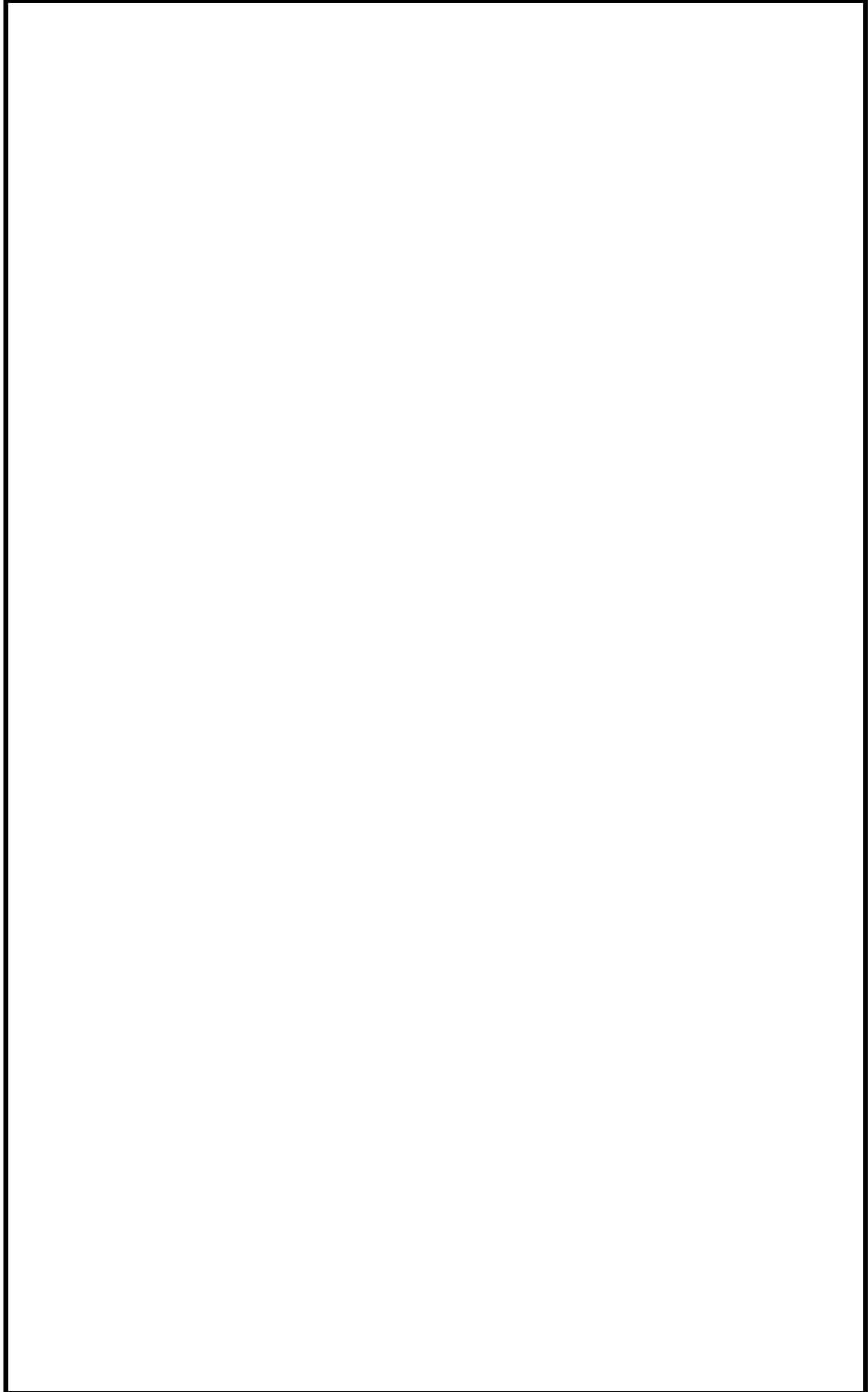
~~**SECRET**~~
~~**RECORD IOB**~~

Duplicate CTD/NSL-CD volume 19

[Redacted]

NSL VIO-33214

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NSL VIO-33215

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Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign
Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

UNCLASSIFIED

UNCLASSIFIED

From: [REDACTED] (OGC) (FBI)
Sent: Monday, March 26, 2007 11:03 AM
To: [REDACTED] (OGC) (FBI)
Subject: FW: IOB Issues Relating to the Inspection Division's Audit
UNCLASSIFIED
NON-RECORD

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-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Friday, March 23, 2007 9:01 AM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

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Julie, I am confused. [REDACTED]

[REDACTED]

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-----Original Message-----

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Thursday, March 22, 2007 3:41 PM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

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UNCLASSIFIED
NON-RECORD

1. Agree [REDACTED]
2. Agree [REDACTED]

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Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
202-324-[REDACTED]
202-324-[REDACTED] (fax)

b2

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Thursday, March 22, 2007 4:14 PM
To: [REDACTED] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

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[Redacted]

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-----Original Message-----

From: [Redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 2:40 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)
Subject: FW: IOB Issues Relating to the Inspection Division's Audit

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~~**SECRET**~~
~~**RECORD IOB**~~

Duplicate email this file

[Redacted]

-----Original Message-----

NSL VIO-33218

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From: [REDACTED] (FBI)
Sent: Wednesday, March 21, 2007 6:08 PM
To: [REDACTED] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

~~**SECRET**~~
~~**RECORD IOB**~~

Duplicate email this file



-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 21, 2007 4:22 PM
To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI); [REDACTED]
[REDACTED] (INSD) (FBI)
Subject: IOB Issues Relating to the Inspection Division's Audit

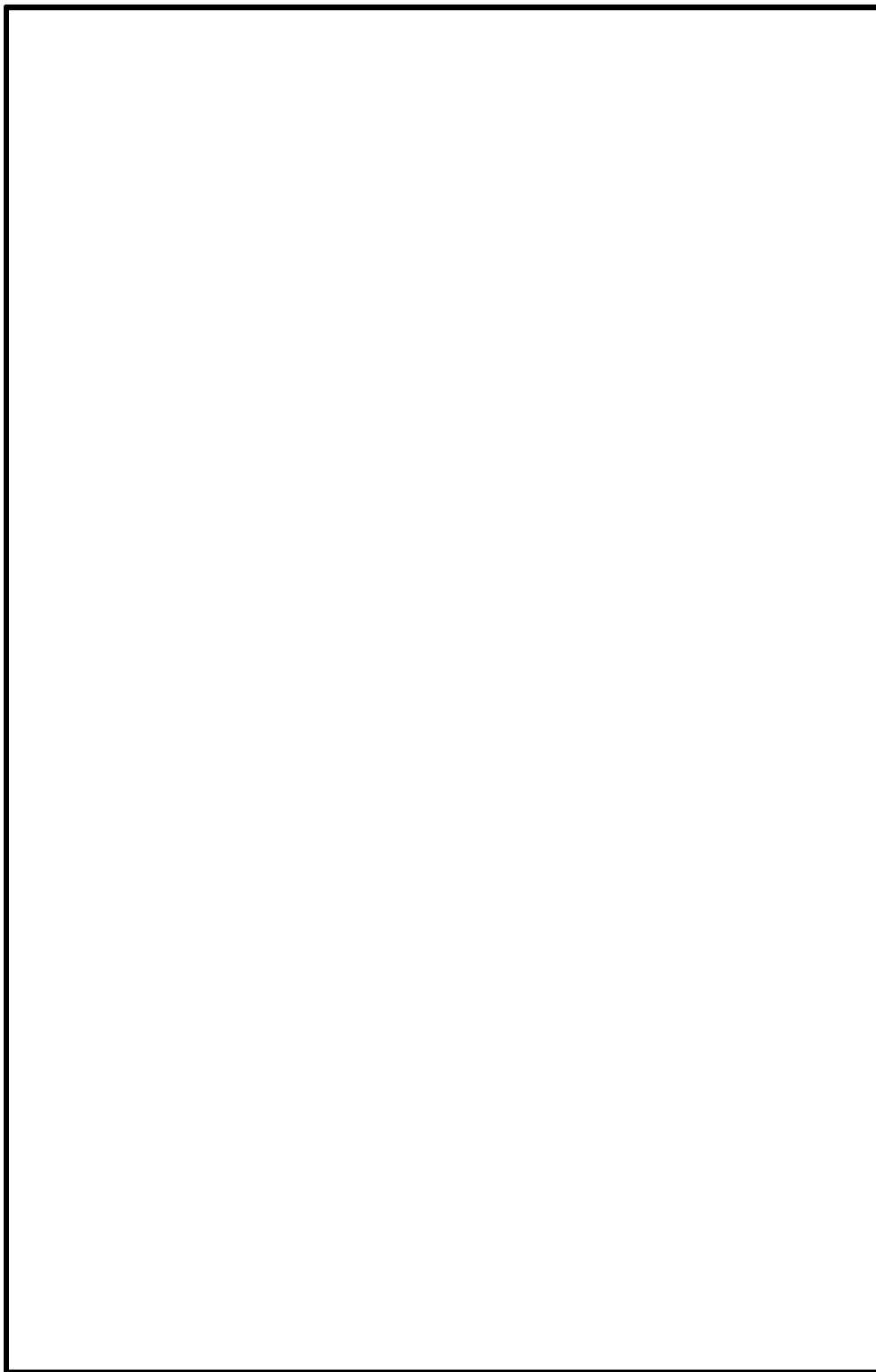
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~~**SECRET**~~
~~**RECORD IOB**~~

Duplicate CTD/NSL-CD volume 19



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NSL VIO-33220

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~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign
Counterintelligence Investigations
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UNCLASSIFIED

UNCLASSIFIED

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From: [REDACTED] (OGC) (FBI)
Sent: Monday, March 26, 2007 12:40 PM
To: THOMAS, JULIE F. (OGC) (FBI); [REDACTED] (OGC) (FBI);
[REDACTED] (OGC) (FBI)

Subject: FW: IOB Issues Relating to the Inspection Division's Audit
SECRET
RECORD IOB Duplicate Email OGC Employee 70

[REDACTED]

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b7C
b2
b7E

-----Original Message-----

From: [REDACTED] (FBI)
Sent: Monday, March 26, 2007 12:32 PM
To: [REDACTED] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

SECRET
RECORD IOB Duplicate Email OGC Employee 70

[REDACTED]

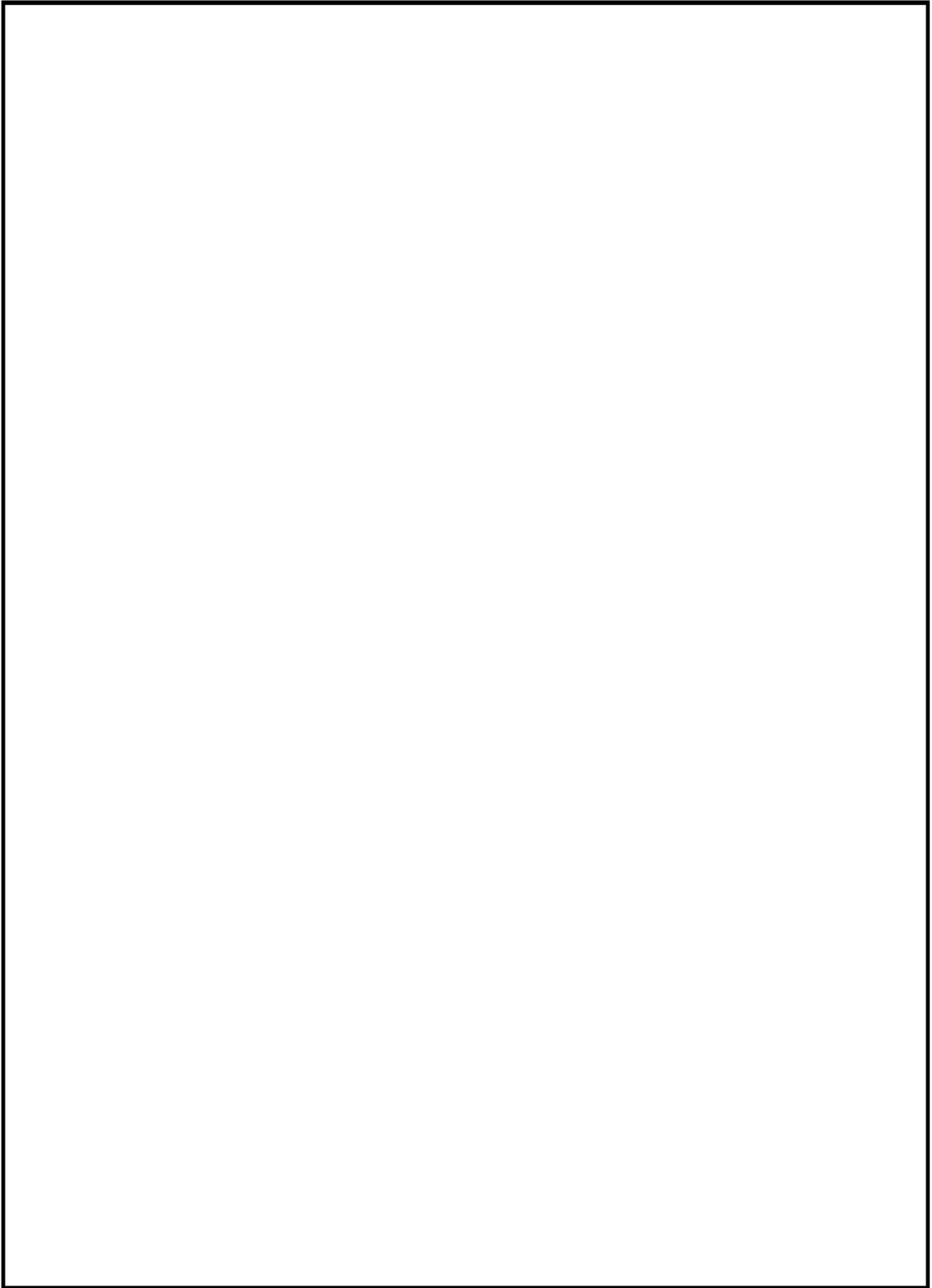
-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 21, 2007 3:22 PM
To: HQ-Div09-NSLB; FBI ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI); [REDACTED] (INSD) (FBI)
Subject: IOB Issues Relating to the Inspection Division's Audit

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RECORD IOB Duplicate CTD/NSL-CD volume 19

[REDACTED]



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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence
Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

From: [REDACTED] (OGC) (FBI)
Sent: Monday, June 26, 2006 1:59 PM
To: [REDACTED] (FBI)
Subject: FW: IOB matters
SENSITIVE BUT UNCLASSIFIED
NON-RECORD

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[REDACTED]

Below is the email to which you were referring. Please feel free to call me if you have any other questions regarding this issue. Thank you.

[REDACTED]

Counterintelligence Law Unit
(202) 324-[REDACTED]

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Friday, April 07, 2006 3:47 PM
To: FBI, ALL CDCs
Cc: [REDACTED] (OGC)(FBI); [REDACTED]

b6
b7C

[REDACTED]

[REDACTED] (OGC)(FBI); THOMAS, JULIE F. (OGC)
[REDACTED] (FBI);
[REDACTED] (OGC) (FBI)
Subject: FYI - IOB policy

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

This is the current IOB policy:

1) Late annual LHMs and late 10 day LHMs are not reportable as potential IOBs, consistent with the EC which OGC issued within the past year that stated such a policy and the rationale for the policy, based upon changes in the October 2003 Attorney General Guidelines. However, the field should be aware that Inspection Division focuses upon such reporting violations during inspections and is not adverse to having them reported as IOBs if deemed of sufficient importance or magnitude.

2) Investigations that expired and were neither closed nor renewed at the time of expiration do have to be reported as potential IOBs, regardless of whether there was any investigative activity that took place after expiration of the investigation. While it is likely that the situation will not be reported to the IOB if no investigative activity took place after expiration and prior to renewal or closing of the investigation, some such situations may be reported if that lag time was sufficiently great. If there was investigative activity during that period of time, then the situation most likely will be reported to the IOB as unauthorized investigative activity.

3) If we receive information pursuant to an NSL that was not sought by the NSL, due to an error by the recipient, the improper collection should be reported as a potential IOB. Contrast this

NSL VIO-33225

situation to one where the recipient takes a broad reading of the NSL and provides information on associated accounts as is commonly done in the criminal area. There are no problems with that.

OGC will be issuing official guidance to reflect the principles set forth above shortly.

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SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

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From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, December 20, 2006 3:26 PM
To: [REDACTED] (FBI)
Subject: FW: IOB Policy
~~**SECRET**~~
~~**RECORD IOB**~~

-----Original Message-----

b6
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From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, November 29, 2006 4:20 PM
To: FBI_ALL CDCs
Cc: THOMAS, JULIE F. (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: IOB Policy

~~**SECRET**~~
~~**RECORD IOB**~~

The Revised IOB Policy was uploaded into ACS yesterday - 278 HQ C1229736 Serial 2570. I've attached an electronic copy to this email for your convenience. Please don't hesitate to call NSLB if you have any questions about IOBs.

Thanks

b6
b7C
b2

[REDACTED]
Assistant General Counsel
National Security Law Branch
(202) 324-[REDACTED]



IOB External
Guidance.wpd (37 ..

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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

From: [redacted] (OGC) (FBI)
Sent: Wednesday, January 31, 2007 11:15 AM
To: [redacted] (OGC) (FBI)
Subject: FW: IOB Policy

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b7C

~~SECRET
RECORD IOB~~

[redacted]
Here's a copy of the IOB policy. Thanks for your help on asset investigations.
[redacted]

-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Wednesday, November 29, 2006 4:20 PM
To: FBI_ALL CDCs
Cc: THOMAS, JULIE E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
Subject: IOB Policy

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~~SECRET
RECORD IOB~~

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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
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From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, March 27, 2007 1:40 PM
To: [REDACTED] (OGC) (FBI) [REDACTED] (OGC) (FBI)
Subject: FW: IOB question
SENSITIVE BUT UNCLASSIFIED
NON-RECORD

b6
b7C

Another question that I will include on the list. Will write a question and answer to discuss issue below.

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Monday, March 26, 2007 12:19 PM
To: THOMAS, JULIE E. (OGC) (FBI); [REDACTED] (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE: IOB question

b6
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NON-RECORD

Julie,

I agree with [REDACTED] analysis that the below scenario is not a potential IOB. [REDACTED]

As [REDACTED] noted, [REDACTED]

Do you agree? Thank

you!

b6
b7C
b5

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Monday, March 26, 2007 12:08 PM
To: [REDACTED] (OGC) (FBI)
Subject: IOB question

b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[REDACTED]
[REDACTED] My thought is that [REDACTED]
[REDACTED] there is no IOB or potential IOB.
[REDACTED]

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SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

b6
b7C

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 06, 2007 2:16 PM
To: [redacted] (OGC) (FBI)
Subject: FW: IOBs
SENSITIVE BUT UNCLASSIFIED
NON-RECORD

-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Wednesday, April 05, 2006 9:31 AM
To: FBI, ALL CDCs
Cc: [redacted] (OGC) (FBI); [redacted]

b6
b7C

[redacted]

(FBI);
(OGC) (FBI)
FW: IOBs

(OGC) (FBI); THOMAS, JULIE E (OGC)

Subject:

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Julie Thomas, the deputy General Counsel, has determined [redacted]

[redacted]

b5
b6
b7C

There is going to be an EC to this effect in the near future, but this policy is currently effective.

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)

NSL VIO-33232

Sent: Tuesday, April 04, 2006 5:22 PM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: IOBs

b6
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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Concerning [redacted] [redacted] and I just talked to Julie Thomas on this issue. She wants [redacted]

[redacted]

b5
b6
b7C

I know this is new, [redacted] so we will be sending something out on this.

[redacted]

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SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

~~SECRET~~

DATE: 12-11-2007
CLASSIFIED BY 65179/dmh/kst/cak
REASON: 1.4(c)
DECLASSIFY ON: 12-11-2032

b6
b7C

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 28, 2007 2:58 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC)
(FBI)
Subject: FW: NSL Results

b1
b2 (S)
b7E

SECRET
RECORD [redacted]

Unfortunately, I think that the below incident has to be reported as a PIOB and the information has to be sequestered. What do you think?

b6
b7C
b2
b7E
b1

-----Original Message-----
From: [redacted] (FBI)
Sent: Wednesday, March 28, 2007 2:56 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (FBI)
Subject: FW: NSL Results

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(S) **SECRET**
RECORD [redacted]

[redacted]

Please provide me with your thoughts about the situation described below.

[redacted]
[redacted] do we have to report this as a
PIOB, sequester the results, etc? [redacted]
[redacted]
CDC [redacted]
[redacted]

b6
b7C
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b5
b4
b7D

b6
b7C
b2
b7E
b1

-----Original Message-----
From: [redacted] (FBI)
Sent: Wednesday, March 28, 2007 2:22 PM
To: [redacted] (FBI)
Subject: FW: NSL Results

(S) **SECRET**
RECORD [redacted]

[redacted]

b5
b6
b7C
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b7E

b6
b7C
b2
b7E

-----Original Message-----
From: [redacted] (FBI)
Sent: Tuesday, March 27, 2007 3:07 PM
To: [redacted] (FBI)
Subject: FW: NSL Results

NSL VIO-33234

~~SECRET~~

~~SECRET~~

b1
b2
b7E

~~SECRET~~
~~RECORD~~

A handwringer?

-----Original Message-----

From: [redacted] (FBI)
Sent: Tuesday, March 27, 2007 12:31 PM
To: [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (FBI) [redacted] (FBI)
Subject: NSL Results

b6
b7C
b2
b7E
b1

(S)

~~SECRET~~
~~RECORD~~

b6
b7C
b4
b7D
b1
b2
b7E

(S)

[redacted]
[redacted] received the results of an NSL that your office sent [redacted]. The NSL requested information under 1681 (u) (a). I noticed that in responding to the NSL that [redacted] [redacted] may have provided full credit reports for the subjects in question [redacted] is the case agent and the case number is [redacted]. I wanted to advise you of this situation in case you want to review the results once they are received by your office. We will forward those to your office today.

[redacted]

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NSL VIO-33235

SECRET

~~SECRET~~

~~Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET~~

NSL VIO-33236

~~SECRET~~

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 08, 2007 9:50 AM
To: [redacted] (OGC) (FBI)
Subject: FW: OIG Audit (NSLs) [redacted]
~~**SECRET**~~
~~**RECORD IOB**~~

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b5

b6
b7C

[redacted]
According to [redacted] if we ask for something not permitted by statute in connection with an NSL,
it's reportable. Thanks for talking about the issue.
[redacted]

-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 08, 2007 9:45 AM
To: [redacted] (OGC) (FBI)
Subject: FW: OIG Audit (NSLs) [redacted]

b6
b7C
b5

~~**SECRET**~~
~~**RECORD IOB**~~

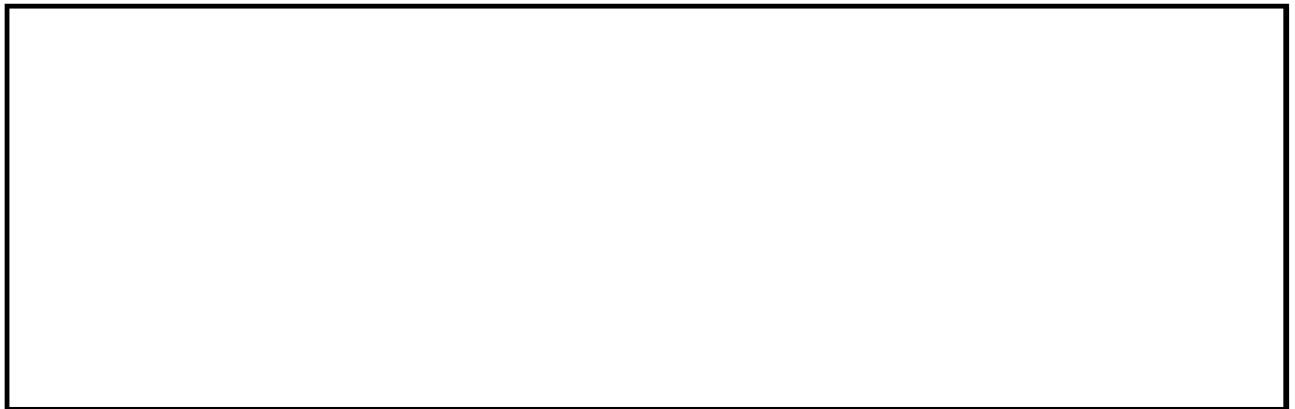
b6
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-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 07, 2007 9:54 AM
To: [redacted] (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs) [redacted]

~~**SECRET**~~
~~**RECORD IOB**~~

Duplicate Email OGC Employee 66



-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 07, 2007 9:33 AM
To: [redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs) [redacted]

~~**SECRET**~~
~~**RECORD IOB**~~

b6
b7C
b5

NSL VIO-33237

Duplicate Email OGC Employee 66



-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 07, 2007 9:01 AM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs) [redacted]

b6
b7C
b5

~~SECRET~~
~~RECORD IOB~~ Duplicate Email OGC Employee 66



-----Original Message-----

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Wednesday, March 07, 2007 8:58 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs) [redacted]

b6
b7C
b5

~~SECRET~~
~~RECORD IOB~~ Duplicate Email OGC Employee 66



-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 07, 2007 8:47 AM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted]
[redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs) [redacted]

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~~SECRET~~
~~RECORD IOB~~ Duplicate Email OGC Employee 66



Duplicate

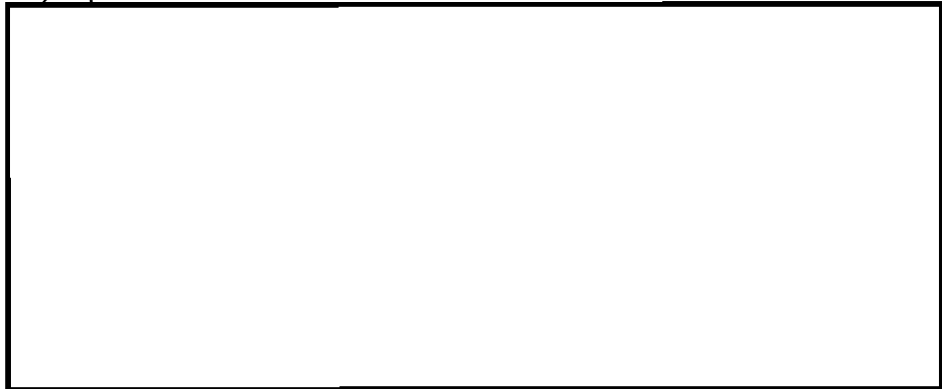


b6
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-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Monday, March 05, 2007 4:29 PM
To: [REDACTED] (OGC) (FBI); CAPRONI, VALERIE E. (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

~~**SECRET**~~ Duplicate OGC2-IOB-volume 6
~~**RECORD IOB**~~

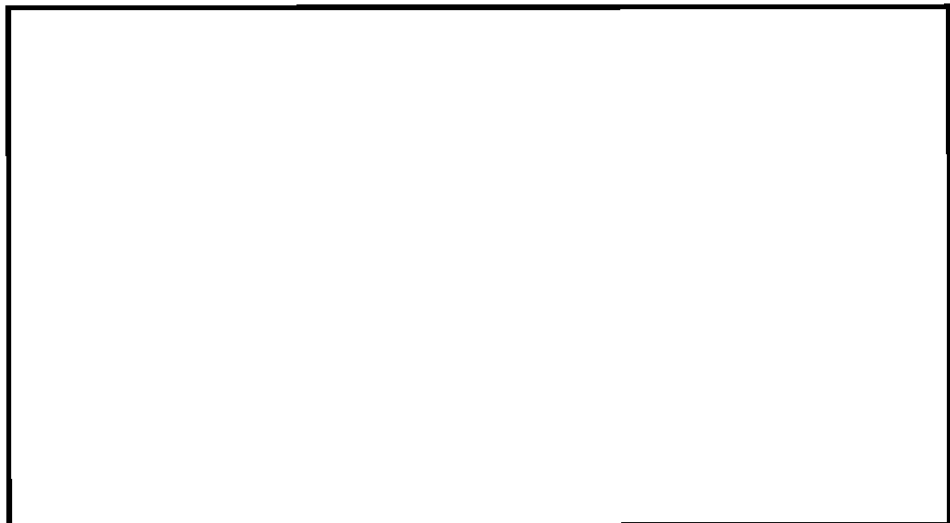


b6
b7C

-----Original Message-----

From: [REDACTED] (OGC) (FBI)
Sent: Monday, March 05, 2007 4:19 PM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

~~**SECRET**~~
~~**RECORD IOB**~~ Duplicate OGC2-IOB volume 6



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-----Original Message-----

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Monday, March 05, 2007 1:55 PM
To: [REDACTED] (OGC) (FBI)

NSL VIO-33239

Subject: RE: OIG Audit (NSLs)

~~**SECRET**~~
~~**RECORD IOB**~~ Duplicate OGC2-IOB volume 6

[Redacted]

-----Original Message-----

From: [Redacted] (OGC) (FBI)
Sent: Monday, March 05, 2007 1:45 PM
To: CAPRONI, VALERIE E. (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

b6
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~~**SECRET**~~
~~**RECORD IOB**~~ Duplicate OGC2-IOB volume 6

[Redacted]

-----Original Message-----

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Monday, March 05, 2007 12:35 PM
To: [Redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

b6
b7C

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[Redacted]

-----Original Message-----

From: [Redacted] (OGC) (FBI)
Sent: Monday, March 05, 2007 12:19 PM
To: CAPRONI, VALERIE E. (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

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NSL VIO-33240

~~SENSITIVE BUT UNCLASSIFIED~~
Duplicate OGC2-IOB volume 6



-----Original Message-----

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Monday, March 05, 2007 11:59 AM
To: THOMAS, JULIE F. (OGC) (FBI); [redacted]
[redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

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~~UNCLASSIFIED~~
~~NON~~ Duplicate OGC2-IOB volume 6



-----Original Message-----

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Monday, March 05, 2007 11:40 AM
To: [redacted] (OGC) (FBI)
Cc: CAPRONI, VALERIE E. (OGC) (FBI);
[redacted] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

b6
b7C

~~UNCLASSIFIED~~
~~NON~~ Duplicate OGC2-IOB volume 6



-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Monday, March 05, 2007 11:32 AM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI);
[redacted] (OGC)
(FBI)
Subject: RE: OIG Audit (NSLs)

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~~NON-RECORD~~



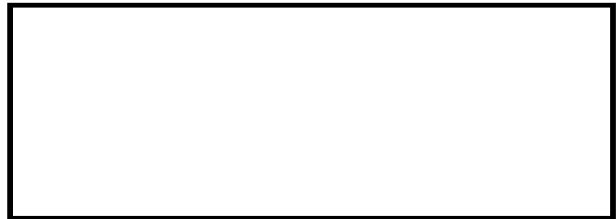
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NSL VIO-33241

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-----Original Message-----

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Monday, March 05, 2007 11:05 AM
To: [REDACTED] (OGC)
(FBI)
Cc: [REDACTED] (OGC)
(FBI)
[REDACTED] (OGC) (FBI)
Subject: RE: OIG Audit (NSLs)

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b6
b7C

-----Original Message-----

From: [REDACTED]
(OGC) (FBI)
Sent: Wednesday, February 28, 2007 7:05 AM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC)
(FBI)
Subject: OIG Audit (NSLs)

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DECLASSIFICATION EXEMPTION 1

~~SECRET~~

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations

DECLASSIFICATION EXEMPTION 1

~~SECRET~~

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, March 27, 2007 1:54 PM
To: [REDACTED] (OGC) (FBI)
Subject: FW: Receipt of Information in Response to NSLs
UNCLASSIFIED
NON-RECORD

This is the email that I was thinking about. I plan to add it [REDACTED]

b5

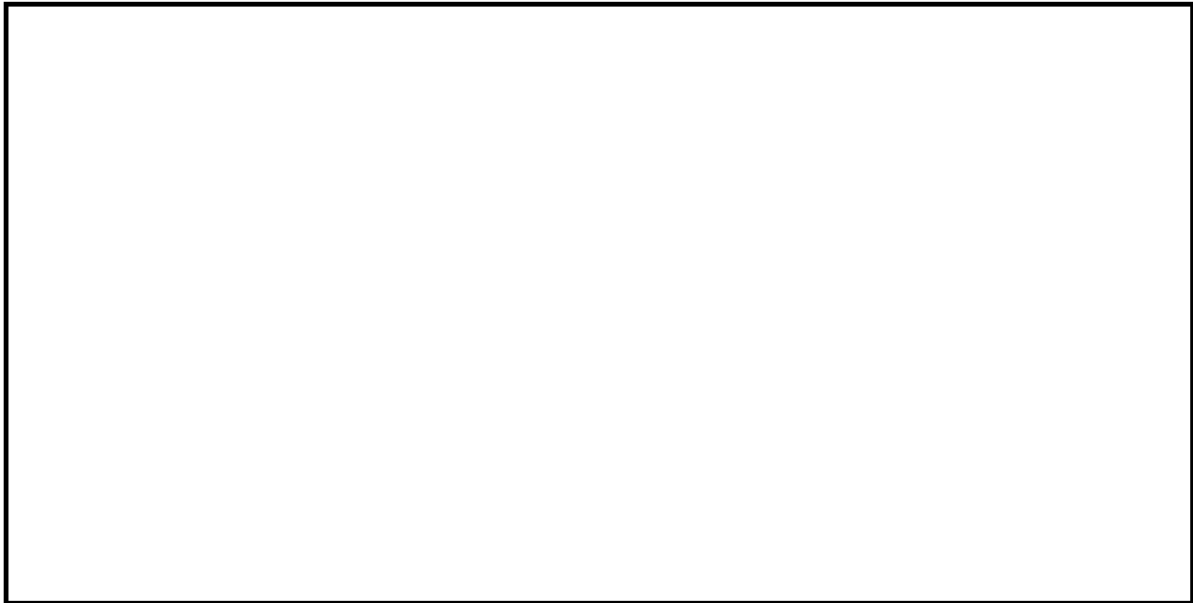
-----Original Message-----

b6
b7C

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Thursday, March 22, 2007 9:07 AM
To: FBI ALL CDCs; HQ-Div09-NSLB
Cc: [REDACTED] (INSD) (FBI); CAPRONI, VALERIE E. (OGC) (FBI)
Subject: Receipt of Information in Response to NSLs

UNCLASSIFIED
NON-RECORD

Duplicate CTD/NSL -CD volume 23



UNCLASSIFIED

UNCLASSIFIED

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Thursday, August 17, 2006 9:24 AM
To: [REDACTED] (OGC) (FBI)
Subject: FW: Revised IOB Policy
~~SECRET~~
~~RECORD IOB Policy~~

Draft policy--has not yet been approved.

-----Original Message-----

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Monday, August 14, 2006 5:21 PM
To: THOMAS, JULIE F. (OGC) (FBI); [REDACTED]
[REDACTED] (OGC) (FBI)
Subject: Revised IOB Policy

~~SECRET~~
~~RECORD IOB Policy~~

b6
b7C

[REDACTED] and I have incorporated the latest revisions of the IOB policy into the attached EC. If you have any changes, please send your changes to both [REDACTED] and me by **close of business on Thursday, August 17**. Also, we do not think that this EC should be classified as Secret. Is there any reason to classify it? Those of you who have classification authority, please look at the classification levels and let us know what you think. Thank you for all of your input!

[REDACTED]



finalIOBpolicyAug14
2006.wpd (3...

-----Original Message-----

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, August 08, 2006 3:36 PM
To: [REDACTED] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [REDACTED]
[REDACTED] (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI)
Subject: RE: Next IOB meeting

~~SECRET~~
~~RECORD IOB Policy~~

Attached is a revised electronic copy of the IOB Guidance that will be disseminated to all divisions. All of the changes that were discussed at the last meeting have been incorporated into this revised copy. I will see you on Monday, August 14 at 1:30. Thank you.

<< File: External IOB Policy Aug2006.wpd >>

-----Original Message-----

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, July 26, 2006 4:50 PM
To: [REDACTED] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [REDACTED]
[REDACTED]

b6
b7c

[redacted] (OGC)
(FBI)

Cc: [redacted] (OGC) (FBI)
Subject: Next IOB meeting

UNCLASSIFIED
NON-RECORD

The excitement continues.... After discussing everyone's schedules, it looks like the next time that almost everyone is available for another IOB meeting is Monday, August 14 at 1:30 p.m. [redacted] is incorporating all of the changes that we discussed into the external IOB policy. We will disseminate a copy of the revised policy to you before the next meeting. Please let me know if this time/date is a problem for anyone.

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b7c

[redacted] is the NSLB conference room available at that time? If so, could you please reserve it from 1:30 to 4:30?

Thank you, [redacted]

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DECLASSIFICATION EXEMPTION 1
SECRET~~

~~**DERIVED FROM: Multiple Sources**
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~**DERIVED FROM: Multiple Sources**
DECLASSIFICATION EXEMPTION 1
SECRET~~

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 28, 2007 3:28 PM
To: [REDACTED] (OGC) (FBI)
Subject: FW: Subscriber NSL
UNCLASSIFIED
NON-RECORD

FYI.

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b2
b7E

-----Original Message-----
From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 28, 2007 3:13 PM
To: [REDACTED] (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE: Subscriber NSL

UNCLASSIFIED
NON-RECORD

Correct [REDACTED] b5
[REDACTED]

b6
b7C
b2
b7E

-----Original Message-----
From: [REDACTED] (FBI)
Sent: Wednesday, March 28, 2007 1:57 PM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: Subscriber NSL

UNCLASSIFIED
NON-RECORD

Pls confirm or not [REDACTED] b5
[REDACTED] b6
[REDACTED] b7C
SSA [REDACTED] b2
[REDACTED] b7E

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UNCLASSIFIED

~~SECRET~~

Field Division _____
Inspection Dates _____
Reviewed By/Date _____

FIELD DIVISION INSPECTION
INTELLIGENCE OVERSIGHT BOARD (IOB)
AUDIT PROGRAM

I. PURPOSE

The purpose of this audit is to determine:

- A. If all field division employees understand Executive Order (EO) 12863, dated 09/13/1993, and the FBI's responsibilities with respect to reporting to the IOB.
- B. If the field division has in place effective procedures through which to ensure that intelligence activity which "may be unlawful or contrary to Executive Order or Presidential Directive" are identified and promptly brought directly to the attention of the National Security Law Branch (NSLB), Office of General Counsel (OGC) and to the Internal Investigations Section (IIS), INSD, FBIHQ for investigation and reporting to the IOB in accordance with EO 12863.
- C. If a review of pending and closed Foreign Intelligence and Foreign Counterintelligence files disclose information or activity in the conduct of these investigations which would raise a question of legality or compliance with EO or Presidential Directive.
- D. If the division has conducted quarterly canvasses of employees for knowledge of possible IOB violations and reported the results of their canvassing efforts to the NSLB, OGC, by the quarterly deadlines.
- E. If allegations of possible IOB violations detected by field offices were reported to NSLB, OGC and IIS, INSD, within 14 days of discovery of each possible violation.

II. BACKGROUND

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and

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established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB 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 a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.¹

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

III. IOB REPORTING PROCEDURES

1. (U) **Obligation to Report Potential IOB Matters.** All FBI employees have an obligation to report conduct that may be unlawful or contrary to Executive Order or Presidential

1

(U) The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations (AG Guidelines on General Crimes), effective 05/30/2002, are not considered guidelines or regulations approved by the Attorney General in accordance with EO 12333. Accordingly, any potential violation of the AG Guidelines on General Crimes should not be reported to OGC as a potential IOB matter.

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Directive, as described in the previous paragraph, within **14** days of the discovery of the possible error or violation. The failure to report such matters, for whatever reason, may result in severe disciplinary action, up to and including dismissal from the FBI.

2. (U) **Reporting Procedures.** FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to Internal Investigations Section (IIS), INSD, and National Security Law Branch (NSLB), Office of the General Counsel, as discussed in this section.

3. (U) **Contents of IOB Reporting EC.** Reports of potential IOB matters are to be reported to INSD (Attn: IIS) and OGC (Attn: NSLB) by electronic communication (EC), uploaded into Case ID Number 273-HQ-C1029736-VIO, and should include the following information:

- A. The caption of the reporting EC should state: REPORT OF A POTENTIAL IOB MATTER;
- B. Identification of the substantive investigation in which the questionable activity occurred, including the names of relevant personnel including the case agent and his/her supervisor;²
- C. Identification of the subject's (or asset's) status as a United States (U.S.) person or non-U.S. person;
- D. A complete and thorough explanation of the error believed to have been committed and all relevant facts. The explanation should include:
 - (1) A statement regarding when the error occurred (including, in instances of delayed reporting, an explanation for the delayed reporting);

2

(U) It is no longer necessary to put the names of the case agent and supervisor in the caption, but the names should be included in the text of the reporting EC.

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(2) A statement concerning the controlling law, regulation or NSIG provision that pertains to the violation [for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)"];

(3) A complete statement of the status of the investigation or matter including, if applicable, when it was initiated, when it expired, when it was renewed, and whether it currently is opened or closed; and

(4) A statement if and when a Foreign Intelligence Surveillance Act (FISA) request has been submitted to Office of Intelligence Policy and Review, Department of Justice (OIPR), if relevant.

4. (U) **Approval Level of Reportable IOB Matters.** EC reports of potential IOB matters must be approved by the ADIC/SAC or Assistant Director, as appropriate. FBI personnel are encouraged to call NSLB with any questions as to what is required or should be included in initial reports of IOB matters.

5. (U) **Quarterly Reports.** In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to OGC (Attn: NSLB) an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOB matters. (See MACP, Part 1, 1-22.) The canvassing of employees may be accomplished by e-mail within field offices and HQ divisions. EC certifications to OGC/NSLB may be approved by an ASAC or Deputy Assistant Director, as appropriate. If a field office or FBIHQ division has already reported the matter to OGC, such matter does not need to be included in the quarterly report.

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6. (U) **Action by OGC/NSLB.**³ Following receipt of the information required by paragraph 5 above, OGC/NSLB will review the conduct described to determine if the reported error or violation requires notification to the IOB. OGC/NSLB will prepare a written opinion as to whether the matter is reportable to the IOB. If the reported matter is determined to require IOB notification, OGC/NSLB will prepare the necessary correspondence to the IOB setting forth the basis for the notification (see paragraph 8 below). That correspondence will be signed by the General Counsel or the General Counsel's designee. A copy of the correspondence will also be sent to INSD/TIS and to the SAC or Assistant Director who initially reported the matter for action deemed appropriate. Copies of that correspondence will also be delivered to the Office of the Attorney General, Department of Justice (DOJ), and OIPR.

7. (U) **Retention of reports of potential IOB matters that are not reported.** Reports of potential IOB matters determined by OGC/NSLB 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.

8. (U) **Conduct that must be reported as potential IOB violations.** The following incidents **must be reported** to OGC/NSLB as potential IOB violations. OGC/NSLB will then evaluate the potential IOB violation and determine whether the violation is reportable to the IOB. **This list is not exhaustive.** If there are any concerns regarding whether an incident is reportable to OGC/NSLB, please contact NSLB to discuss the matter.

A. (U) Engaging in activities believed to be unlawful or contrary to Executive Orders or Presidential Directives.

B. (U) Engaging in activities believed to violate the United States Constitution.

C. (U) Initiating electronic surveillance or physical search without authorization from the Foreign Intelligence Surveillance Court (FISC) or other legal authorization.

3

(U) Once INSD has been notified that a potential IOB error has occurred, it will take any action which it deems appropriate.

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D. (U) Failing to terminate an authorized surveillance at the time prescribed by the FISC or other relevant legal authority.

E. (U) Engaging in investigative activity beyond the scope of the FISC order or other relevant legal authority.

F. (U) A carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data.

G. (U) Failing to adhere to the minimization or dissemination requirements specified in a FISC order or other relevant legal authority.

(U) ~~(S)~~ H. ~~(S)~~ Never submitting an initial 10-day notification during a preliminary or full investigation. Never submitting an annual letterhead memorandum (LHM) during a full investigation.

(U) ~~(S)~~ I. ~~(S)~~ Failing to submit the initial 10-day notification within **45** days of the date that it was due.

(U) ~~(S)~~ J. (U) Failing to submit the annual LHM within **90** days of the date that it was due.⁴

(U) ~~(S)~~ K. ~~(S)~~ Attempting to extend a preliminary investigation without the proper authority as delineated in the NSIG.

(U) ~~(S)~~ L. ~~(S)~~ Serving a National Security Letter (NSL) that contains a substantive typographical error that results in the

(S) ~~(S)~~⁴ This is a change from the guidance issued on 02/10/2005 via EC, 66F-HQ-A1247863-172. NSLB has concluded that failure to submit the 10-day notification or annual LHM reports or untimely submission of these reports may substantially impact OIPR and DOJ's ability to conduct adequate oversight of our operations. In an effort to provide a bright-line rule for the field, NSLB has determined that if the 10-day notification or annual LHM report is never submitted, or if a 10-day notification is more than 45 days late or an annual LHM is more than 90 days late, it is a potential IOB violation that NSLB must review to determine whether OIPR and DOJ's oversight ability has been substantially impacted.

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acquisition of data that is not relevant to an authorized investigation (i.e., numbers on telephone number transposed).

(U) ~~(S)~~ M. ~~(S)~~ Serving an NSL that requests information that is beyond the scope permissible by statute (i.e. content information).

(U) ~~(S)~~ N. ~~(S)~~ A carrier providing information beyond the scope of an NSL resulting in the unintentional acquisition of data.

(U) ~~(S)~~ O. ~~(S)~~ Conducting investigative activity after the expiration of a preliminary investigation.

(U) ~~(S)~~ P. ~~(S)~~ During a threat assessment, utilizing a method or technique other than those authorized under the NSIG for a threat assessment.

(U) ~~(S)~~ Q. ~~(S)~~ During an authorized preliminary investigation, utilizing a method or technique other than those authorized under the NSIG for a preliminary investigation.

(U) ~~(S)~~ R. ~~(S)~~ Serving [redacted] that contains a substantive typographical error that results in the acquisition of data that is not relevant to an authorized investigation [redacted]

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(U) ~~(S)~~ S. ~~(S)~~ [redacted] providing information beyond the scope of [redacted] resulting in the unintentional acquisition of data.

(U) ~~(S)~~ 9. ~~(S)~~ **Handling of improperly received information.** If the potential IOB violation involves the improper or unintentional acquisition of information unrelated to a FISC order, including information improperly or unintentionally acquired through an NSL, the field should sequester the information with the Chief Division Counsel pending resolution of the potential IOB matter. As part of the adjudication process, NSLE will advise the field whether the information may be used or whether the information must be returned to the carrier or be destroyed with appropriate documentation to the file.

(U) If the potential IOB violation involves the unintentional acquisition of information under the Foreign Intelligence Surveillance Act, the field should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBTHQ substantive unit to be submitted to the FISC, via OIPR, for appropriate disposition.

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

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[redacted] must be sequestered with the FISC per the procedures above, with a memorandum requesting that the FISC does not destroy [redacted] in case we need the authorized material at a later date.

IV. RELATIONSHIP TO OTHER AUDIT AREAS

This section of the audit history relates to any Squad/RA review which has any NFIP operations and to any NFIP compliance review.

A. Review National Foreign Intelligence Program Manual (NFIPM), Appendix B-4, which is EO 12863.

B. Review the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection.

C. Review the EC dated 11/16/2006 from Office of the General Counsel to all Divisions, Case Identification Number 278-HQ-C1229736, Serial 2570.

V. INSD PROCEDURES

A. Review the SAC's response to the IOB Field Division Interrogatory and the IOB Checklist.

B. In order to answer questions 1 and 3 on the IOB Checklist, the Assistant Inspector (AI) assigned this audit program must contact each AI who is assigned a Squad/RA or General Compliance review involving NFIP matters and determine if any intelligence activities that raise questions of legality or compliance with Executive Order or Presidential Directive have come to the AI's attention.

C. Review the field division's IOB control file and conduct other inquiry as may be necessary to answer questions #2, 4, and 5 on the checklist. With regard to #2, SACs have generally adopted the practice of preparing a quarterly memorandum to all

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employees (Agent as well as support personnel). In the absence of any positive response to these memos, the SAC can then prepare his quarterly communication to FBIHQ. Determine if this quarterly report was submitted to the NSLB, OGC, in compliance with instructions set forth in an Office of the General Counsel EC dated 11/16/2006, Case Identification Number 278-HQ-C1229736, Serial 2570.

D. Prepare as instructed by the Inspector in Charge, an EC, finding or routing slip(s), with appropriate instructions and/or recommendations for any deficiencies detected ("No" answers on the checklist).

E. Questions concerning this Audit or other aspects of the IOB process may be addressed either to the NSLP, OGC, or the ITS, INSD.

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Field Division _____
Inspection Dates _____
Reviewed By/Date _____

FIELD DIVISION INSPECTION
INTELLIGENCE OVERSIGHT BOARD (IOB)
AUDIT PROGRAM

I. PURPOSE

The purpose of this audit is to determine:

- A. If all field division employees understand Executive Order (EO) 12863 and the FBI's responsibilities with respect to reporting to the IOB.
- B. If the field division has in place effective procedures through which to ensure that intelligence activity which "may be unlawful or contrary to Executive Order or Presidential Directive" are identified and promptly brought directly to the attention of the National Security Law Branch (NSLB), Office of General Counsel (OGC) and to the Internal Investigation Section (ITS), INSD, FBIHQ for investigation and reporting to the IOB in accordance with EO 12863.
- C. If a review of pending and closed Foreign Intelligence and Foreign Counterintelligence files disclose information or activity in the conduct of these investigations which would raise a question of legality or compliance with EO or Presidential Directive.
- D. If the division has conducted quarterly canvasses of employees for knowledge of possible IOB violations and reported the results of their canvassing efforts to the NSLB, OGC, by the quarterly deadlines.
- E. If allegations of possible IOB violations detected by field offices were reported to NSLB, OGC and ITS, INSD, within 14 days of discovery of each possible violation.

II. BACKGROUND

The IOB process is the means by which the FBI reports to the Board intelligence activities conducted by the FBI which may be unlawful or contrary to Executive Orders, Presidential Directives, Foreign Intelligence Surveillance Court (FISC) Orders, Departmental guidelines or the investigative procedures and techniques set forth in the National Foreign Intelligence

Program Manual (NFIPM). The IOB procedures outlined in the NFIPM are unique unto themselves and only apply to the FBI's intelligence activities. That uniqueness, when combined with personnel transfers, inter-divisional reassignments and the integration of new agents and support personnel into the FBI's intelligence programs and operations, creates the potential for recurring errors which must be reported to the Board. Many of those errors can be anticipated, and thus avoided, by reviewing certain fundamental aspects of the IOB process.

The Intelligence Oversight Board was established as a standing committee of the President's Foreign Intelligence Advisory Board by Executive Order (EO) 12863 dated 09/13/1993. Among its other responsibilities, the IOB is given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection. Such activities, of course, must be conducted in accordance with the applicable EOs, Presidential Directives, rules, statutes, FISC Orders, Departmental guidelines and the investigative procedures and techniques set forth in the NFIPM.

Section 2.4 of EO 12863 further requires that the Inspectors General and General Counsel of the Intelligence Community components (in the FBI, NSLB, OGC), 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 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 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. Counsel for Intelligence Policy, Office of Intelligence Policy and Review (OIPR), Department of Justice (DOJ), has further opined that the words "may be unlawful" in the Executive Order should be interpreted to include "violations of agency procedures issued under [the Executive Order], unless they involve purely administrative matters."

A. Reporting Procedures - FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to Internal Investigations Section (IIS), Inspection Division, and National Security Law Branch (NSLB), Office of the General Counsel (OGC), as discussed in this section.

Reports of potential IOB Matters are to be reported to

TNSD (Attention: IIS) and OGC (Attention: NSLB) by electronic communication (EC), uploaded into Case ID # 278-HQ-C1229736-VIO, and include the following information:

1. The names of the Case Agent and Case Supervisor captioned in the title section of the EC.
2. Identification of the substantive investigation in which the questionable activity occurred.
3. Identification of the target by name (or in matters involving assets, the asset file number).
4. Identification of the subject's (or asset's) status as a United States (U.S.) person or non-U.S. person.
5. A statement concerning the controlling legal authority for the investigation or the administrative requirements of the NFIPM that pertain (for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)").
6. An explanation of the error believed committed and when it occurred (including, in instances of delayed reporting, an explanation for the delayed submission).

EC reports of potential IOB matters must be signed out by the ADIC/SAC or Assistant Director, as appropriate. FBI personnel are encouraged to call IIS or NSLB personnel concerning questions as to what is required or should be included in initial reports of IOB matters. Allegations of potential IOB violations not previously reported pursuant to the requirements of Section 2-56 of the NFIPM shall be reported to TNSD and OGC within 14 days of discovery.

B. Quarterly Reports - In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to OGC (Attn: NSLB) an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOB matters. (See MACP, Part 1, 1-22.) The canvassing of employees may be accomplished by e-mail within field offices and HQ divisions. EC certifications to OGC may be signed out by an ASAC or Deputy Assistant Director, as appropriate.

C. Reportable Matters - Examples of potential IOB matters which must be reported to OGC and INSD include:

1. Unauthorized investigations. (See, generally, the

Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG).)

2. Use of methods or techniques other than those authorized in the conduct of preliminary or full investigations.
3. Initiating a form of electronic surveillance or a search without authorization from the Foreign Intelligence Surveillance Court (FISC), or failing to terminate an authorized surveillance at the time prescribed by the Court.
(See 50 U.S.C. § 1805, 1824.)
4. Failing to adhere to the minimization or dissemination requirements specified in a FISC Order. (See 50 U.S.C. § 1806.)

D. Nonreportable Matters - By longstanding agreement between the FBI and the IOB, EO 12863 has been interpreted to require the FBI to notify the IOB of any violation of a provision of the foreign counterintelligence guidelines (now the NSIG) or other regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was specifically intended to protect the individual rights of a United States person. This administrative practice often necessitated the submission of reports of potential IOB errors concerning overdue 90-day and annual LHMs because such reports were required to be submitted pursuant to Section IX.C of the FCIG, which pertained uniquely to investigations involving United States persons. In drafting the 2003 NSIG, the separate reporting requirement in the FCIG concerning U.S. persons was determined to be redundant with other reporting criteria, and thus the former requirement was not included in the NSIG. Consequently, while overdue reports of administrative or investigative activities conducted under the NSIG may be considered in evaluating the work performance of FBI employees, such errors are not required to be reported to OGC or INSD as potential IOB matters.

E. Assistance Available - Questions concerning this Audit or other aspects of the IOB process may be addressed either to the NSLB, OGC, or the SC, ITS, INSD.

III. RELATIONSHIP TO OTHER AUDIT AREAS

This section of the audit history relates to any Squad/RA review which has any NFIP operations and to any NFIP compliance review.

A. Review NFIP Manual (NFIPM), Appendix B-4, which is EO 12863.

B. Review the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection.

VI. PROCEDURES

A. Review the SAC's response to the IOB Field Division Interrogatory and the IOB Checklist.

B. In order to answer questions 1 and 3 on the IOB Checklist, the Assistant Inspector (AI) assigned this audit program must contact each AI who is assigned a Squad/RA or General Compliance review involving NFIP matters and determine if any intelligence activities that raise questions of legality or compliance with Executive Order or Presidential Directive have come to the AI's attention.

C. Review the field division's IOB control file and conduct other inquiry as may be necessary to answer questions #2, 4, and 5 on the checklist. With regard to #2, SACs have generally adopted the practice of preparing a quarterly memorandum to all employees (Agent as well as support personnel). In the absence of any positive response to these memos, the SAC can then prepare his quarterly communication to FBIHQ. Determine if this quarterly report was submitted to the NSLB, OGC, in compliance with instructions set forth in an EC from OGC to All Divisions, dated **02/10/2005**.

D. Prepare as instructed by the Inspector in Charge, an EC, finding or routing slip(s), with appropriate instructions and/or recommendations for any deficiencies detected ("No" answers on the checklist).

Field Division _____
Prepared By/Date _____
Reviewed By/Date _____
Inspector's Approval _____

FIELD DIVISION INSPECTION
INTELLIGENCE OVERSIGHT BOARD (IOB)

CHECKLIST

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 1. Field division employees were found to understand Executive Order (EO) 12863, located in the <u>National Foreign Intelligence Program Manual</u> (NFIPM), Appendix B-4, and the FBI's responsibilities with respect to reporting to the IOB. | _____ | _____ |
| 2. The Field Division was found to have effective administrative procedures whereby all personnel can report any intelligence activity which may be reportable under EO 12863 or as described in paragraph 8 of the EC dated 11/16/2006 from the Office of the General Counsel to all Divisions, titled <u>Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board Matters</u> , Case Identification Number 278-HQ-C1229736, Serial 2570 (11/16/2006 OGC EC). | _____ | _____ |
| 3. Pending and closed National Foreign Intelligence Program files sampled were found to contain no indication of activity reportable under EO 12863 or as required by the 11/16/2006 OGC EC. | _____ | _____ |
| 4. Quarterly IOB communications sent to FBIHQ since the last inspection. (Section IV (Procedures)) were timely and were personally prepared and signed out by the ADIC/SAC or Assistant Director, as appropriate, per paragraph 4 of the 11/16/2006 OGC EC. | _____ | _____ |
| 5. Communications reporting on intelligence activities reportable under EO 12863 were sent to the National Security Law Branch, OGC, FBIHQ, and to the Internal Investigations Section, INSD, FBIHQ within 14 days of discovery of each possible violation as required under paragraph 1 of the 11/16/2006 OGC EC. | _____ | _____ |

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DATE 12-12-2007 BY 65179/dmh/ksr/cak

Field Division _____
Prepared By/Date _____
Reviewed By/Date _____
Inspector's Approval _____

FIELD DIVISION INSPECTION
INTELLIGENCE OVERSIGHT BOARD (IOB)

CHECKLIST

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 1. Field division employees were found to understand Executive Order (EO) 12863 and the FBI's responsibilities with respect to reporting to the IOB. | _____ | _____ |
| 2. The Field Division was found to have effective administrative procedures whereby all personnel can report any intelligence activity which may be 1) unlawful or contrary to Executive Orders or Presidential directives; 2) beyond the scope of a Foreign Intelligence Surveillance Court (FISC) Order; 3) contrary to a technique authorized in the conduct of a preliminary or fill investigation; or 4) contrary to Departmental guidelines. | _____ | _____ |
| 3. Pending and closed National Foreign Intelligence Program files sampled were found to contain no indication of activity reportable under EO 12863. | _____ | _____ |
| 4. Quarterly IOB communications sent to FBIHQ since the last inspection (Section IV (Procedures)) were timely and were personally prepared and signed out by the SAC, per INSD EC dated 02/10/2005. | _____ | _____ |
| 5. Communications reporting on intelligence activities reportable under EO 12863 were sent to the National Security Law Branch, OGC, FBIHQ, and to the Internal Investigations Section, INSD, FBIHQ within 14 days of discovery of each possible violation. | _____ | _____ |

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Field Division _____
Prepared By/Date _____

FIELD DIVISION INSPECTION
FIELD DIVISION INTERROGATORY
INTELLIGENCE OVERSIGHT BOARD (IOB)

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB 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 a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.¹

1

(U) The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations (AG Guidelines on General Crimes), effective 05/30/2002, are not considered guidelines or regulations approved by the Attorney General in accordance with EO 12333. Accordingly, any potential violation of the AG Guidelines on General Crimes should not be reported to OGC as a potential IOB
(continued...)

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(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters."

PROCEDURES

1. (U) **Obligation to Report Potential IOB Matters.** All FBI employees have an obligation to report conduct that may be unlawful or contrary to Executive Order or Presidential Directive, as described in the previous paragraph, within **14** days of the discovery of the possible error or violation. The failure to report such matters, for whatever reason, may result in severe disciplinary action, up to and including dismissal from the FBI.

2. (U) **Reporting Procedures.** FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to Internal Investigations Section (IIS), INSD, and National Security Law Branch (NSLB), Office of the General Counsel, as discussed in this section.

3. (U) **Contents of IOB Reporting EC.** Reports of potential IOB matters are to be reported to INSD (Attn: IIS) and OGC (Attn: NSLB) by electronic communication (EC), uploaded into Case ID Number 279-HQ-C1229736-VIO, and should include the following information:

- A. The caption of the reporting EC should state: REPORT OF A POTENTIAL IOB MATTER;
- B. Identification of the substantive investigation in which the questionable

¹(...continued)

matter.

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activity occurred, including the names of relevant personnel including the case agent and his/her supervisor;²

- C. Identification of the subject's (or asset's) status as a United States (U.S.) person or non-U.S. person;
- D. A complete and thorough explanation of the error believed to have been committed and all relevant facts. The explanation should include:
 - (1) A statement regarding when the error occurred (including, in instances of delayed reporting, an explanation for the delayed reporting);
 - (2) A statement concerning the controlling law, regulation or NSIG provision that pertains to the violation [for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)"];
 - (3) A complete statement of the status of the investigation or matter including, if applicable, when it was initiated, when it expired, when it was renewed, and whether it currently is opened or closed; and

2

(U) It is no longer necessary to put the names of the case agent and supervisor in the caption, but the names should be included in the text of the reporting EC.

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(4) A statement if and when a Foreign Intelligence Surveillance Act (FISA) request has been submitted to Office of Intelligence Policy and Review, Department of Justice (OIPR), if relevant.

4. (U) **Approval Level of Reportable IOB Matters.** EC reports of potential IOB matters must be approved by the ADIC/SAC or Assistant Director, as appropriate. FBI personnel are encouraged to call NSLB with any questions as to what is required or should be included in initial reports of IOB matters.

5. (U) **Quarterly Reports.** In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to OGC (Attn: NSLB) an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOB matters. (See MACP, Part 1, 1-22.) The canvassing of employees may be accomplished by e-mail within field offices and HQ divisions. EC certifications to OGC/NSLB may be approved by an ASAC or Deputy Assistant Director, as appropriate. If a field office or FBIHQ division has already reported the matter to OGC, such matter does not need to be included in the quarterly report.

6. (U) **Action by OGC/NSLB.**³ Following receipt of the information required by paragraph 3 above, OGC/NSLB will review the conduct described to determine if the reported error or violation requires notification to the IOB. OGC/NSLB will prepare a written opinion as to whether the matter is reportable to the IOB. If the reported matter is determined to require IOB notification, OGC/NSLB will prepare the necessary correspondence to the IOB setting forth the basis for the notification (see paragraph 8 below). That correspondence will be signed by the General Counsel or the General Counsel's designee. A copy of the correspondence will also be sent to INSD/IIS and to the SAC or Assistant Director who initially reported the matter for action

3

(U) Once INSD has been notified that a potential IOB error has occurred, it will take any action which it deems appropriate.

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deemed appropriate. Copies of that correspondence will also be delivered to the Office of the Attorney General, Department of Justice (DOJ), and OIFR.

7. (U) **Retention of reports of potential IOB matters that are not reported.** Reports of potential IOB matters determined by OGC/NSLB 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.

8. (U) **Conduct that must be reported as potential IOB violations.** The following incidents **must be reported** to OGC/NSLB as potential IOB violations. OGC/NSLB will then evaluate the potential IOB violation and determine whether the violation is reportable to the IOB. **This list is not exhaustive.** If there are any concerns regarding whether an incident is reportable to OGC/NSLB, please contact NSLB to discuss the matter.

A. (U) Engaging in activities believed to be unlawful or contrary to Executive Orders or Presidential Directives.

B. (U) Engaging in activities believed to violate the United States Constitution.

C. (U) Initiating electronic surveillance or physical search without authorization from the Foreign Intelligence Surveillance Court (FISC) or other legal authorization.

D. (U) Failing to terminate an authorized surveillance at the time prescribed by the FISC or other relevant legal authority.

E. (U) Engaging in investigative activity beyond the scope of the FISC order or other relevant legal authority.

F. (U) A carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data.

G. (U) Failing to adhere to the minimization or dissemination requirements specified in a FISC order or other

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relevant legal authority.

(U) H. ~~(S)~~ Never submitting an initial 10-day notification during a preliminary or full investigation. Never submitting an annual letterhead memorandum (LHM) during a full investigation.

(U) I. ~~(S)~~ Failing to submit the initial 10-day notification within **45** days of the date that it was due.

J. (U) Failing to submit the annual LHM within **90** days of the date that it was due.⁴

(U) K. ~~(S)~~ Attempting to extend a preliminary investigation without the proper authority as delineated in the NSIG.

(U) L. ~~(S)~~ Serving a National Security Letter (NSL) that contains a substantive typographical error that results in the acquisition of data that is not relevant to an authorized investigation (i.e., numbers on telephone number transposed).

(U) M. ~~(S)~~ Serving an NSL that requests information that is beyond the scope permissible by statute (i.e. content information).

(U) N. ~~(S)~~ A carrier providing information beyond the scope of an NSL resulting in the unintentional acquisition of data.

(U) O. ~~(S)~~ Conducting investigative activity after the

⁴
~~(S)~~ This is a change from the guidance issued on 02/10/2005 via EC,66F-HQ-A1247863-171. NSLB has concluded that failure to submit the 10-day notification or annual LHM reports or untimely submission of these reports may substantially impact OIPR and DOJ's ability to conduct adequate oversight of our operations. In an effort to provide a bright-line rule for the field, NSLB has determined that if the 10-day notification or annual LHM report is never submitted, or if a 10-day notification is more than 45 days late or an annual LHM is more than 90 days late, it is a potential IOE violation that NSLB must review to determine whether OIPR and DOJ's oversight ability has been substantially impacted.

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expiration of a preliminary investigation.

(U) ~~(S)~~ P. ~~(S)~~ During a threat assessment, utilizing a method or technique other than those authorized under the NSIG for a threat assessment.

(U) ~~(S)~~ Q. ~~(S)~~ During an authorized preliminary investigation, utilizing a method or technique other than those authorized under the NSIG for a preliminary investigation.

(U) ~~(S)~~ R. ~~(S)~~ [redacted] that contains a substantive typographical error that results in the acquisition of data that is not relevant to an authorized investigation [redacted]

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(U) ~~(S)~~ S. ~~(S)~~ [redacted] providing information beyond the scope of [redacted] resulting in the unintentional acquisition of data.

(U) ~~(S)~~ S. ~~(S)~~ **Handling of improperly received information.** If the potential IOB violation involves the improper or unintentional acquisition of information unrelated to a FISC order, including information improperly or unintentionally acquired through an NSL, the field should sequester the information with the Chief Division Counsel pending resolution of the potential IOB matter. As part of the adjudication process, NSLE will advise the field whether the information may be used or whether the information must be returned to the carrier or be destroyed with appropriate documentation to the file.

(U) If the potential IOB violation involves the unintentional acquisition of information under the Foreign Intelligence Surveillance Act, the field should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to the FISC, via OIPR, for appropriate disposition.

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

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[redacted] must be sequestered with the FISC per the procedures above, with a memorandum requesting that the FISC does not destroy the [redacted] in case we need the authorized material at a later date.

10. **Inspection Division Requirements.** In order to assist the Inspector in the review of IOB matters in your division, you are requested to respond to the following questions:

1. Identify your IOB control file.
2. Describe the administrative procedures and controls employed by you to ensure that any intelligence activity reportable under EO 12863 is identified and reported to INSD, FBIHQ and NSLB, OGC.
3. Identify specific training which has been provided to Agents, supervisors, and staff regarding their responsibilities in complying with established IOB reporting policies and procedures.

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Field Division _____

Prepared By/Date _____

FIELD DIVISION INSPECTION

FIELD DIVISION INTERROGATORY

INTELLIGENCE OVERSIGHT BOARD (IOB)

The IOB process is the means by which the FBI reports to the Board intelligence activities conducted by the FBI which may be unlawful or contrary to Executive Orders, Presidential Directives, Foreign Intelligence Surveillance Court (FISC) Orders, Departmental guidelines, including the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), or the investigative procedures and techniques set forth in the National Foreign Intelligence Program Manual (NFIPM). The IOB procedures outlined in the NFIPM are unique unto themselves and only apply to the FBI's intelligence activities. That uniqueness, when combined with personnel transfers, inter-divisional reassignments and the integration of new agents and support personnel into the FBI's intelligence programs and operations, creates the potential for recurring errors which must be reported to the Board. Many of those errors can be anticipated, and thus avoided, by reviewing certain fundamental aspects of the IOB process.

Background: The Intelligence Oversight Board was established as a standing committee of the President's Foreign Intelligence Advisory Board by Executive Order (EO) 12863 dated 9/13/93. Among its other responsibilities, the IOB is given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection. Such activities, of course, must be conducted in accordance with the applicable EOs, Presidential Directives, rules, statutes, FISC Orders, Departmental guidelines and the investigative procedures and techniques set forth in the NFIPM.

Section 2.4 of EO 12863 further requires that the Inspectors General and General Counsel of the Intelligence

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Community components (in the FBI, the Assistant Director, Inspection Division (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 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 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. Counsel for Intelligence Policy, Office of Intelligence Policy and Review (OIPR), Department of Justice (DOJ), has further opined that the words "may be unlawful" in the Executive Order should be interpreted to include "violations of agency procedures issued under [the Executive Order], unless they involve purely administrative matters."

(U) Reporting Procedures: FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to Internal Investigations Section (IIS), Inspection Division, and National Security Law Branch (NSLB), Office of the General Counsel (OGC), as discussed in this section.

(U) Reports of potential IOB Matters are to be reported to INSD (Attention: IIS) and OGC (Attention: NSLB) by electronic communication (EC), uploaded into Case ID # 278-HQ-C1229736-VIO, and include the following information:

1. The names of the Case Agent and Case Supervisor captioned in the title section of the EC.
2. Identification of the substantive investigation in which the questionable activity occurred.
3. Identification of the target by name (or in matters involving assets, the asset file number).
4. Identification of the subject's (or asset's) status

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as a United States (U.S.) person or non-U.S. person.

5. A statement concerning the controlling legal authority for the investigation or the administrative requirements of the NFIPM that pertain (for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)").

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

(U) EC reports of potential IOB matters must be signed out by the ADIC/SAC or Assistant Director, as appropriate. FBI personnel are encouraged to call IIS or NSLB personnel concerning questions as to what is required or should be included in initial reports of IOB matters. Allegations of potential IOB violations not previously reported pursuant to the requirements of Section 2-56 of the NFIPM shall be reported to INSD and OGC within 14 days of discovery.

(U) Quarterly Reports: In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to OGC (Attn: NSLB) an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOB matters. (See MACP, Part 1, 1-22.) The canvassing of employees may be accomplished by e-mail within field offices and HQ divisions. EC certifications to OGC may be signed out by an ASAC or Deputy Assistant Director, as appropriate.

(U) Action by INSD: Once INSD has been notified that a potential IOB error has occurred, an appropriate IOB file will be opened and a control number assigned. OGC will be advised of this case file control number, and the number shall be included in the caption (title) of all subsequent communications concerning the potential IOB error. IOB errors or other suspected violations of Executive Orders, Presidential Directives, Departmental guidelines or other regulations approved by the Attorney General in accordance with EO 12333, detected by INSD through case reviews or other inspection procedures, shall be reported to OGC within 14 days of discovery. If the names of the Case Agent and Supervisor are unknown, the reporting EC

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should include the term "UNSUB" in the title block.

(U) Action by OGC: Following receipt of the required information, INSD will prepare an EC to OGC (Attention: NSLB) requesting NSLB review the conduct described to determine if the reported error or violation requires notification to the IOB based on the requirements of EO 12863 and guidance previously provided by the IOB and the Office of Intelligence Policy and Review, Department of Justice. OGC will prepare a written opinion as to whether the matter is reportable to the IOB. If the reported matter is determined to require IOB notification, OGC will prepare the necessary correspondence to the IOB setting forth the basis for the notification (see "Reportable Matters" below). That correspondence will be signed by the General Counsel or the General Counsel's designee and then be hand carried to the IOB. A copy of the correspondence will also be sent to IIS, INSD and to the SAC or Assistant Director who initially reported the matter for action deemed appropriate. Copies of that correspondence will also be delivered to the Office of the Attorney General, Department of Justice (DOJ), and the Office of Intelligence Policy and Review, DOJ.

(U) ~~(S)~~ Reportable Matters: IOB matters which must be reported to INSD and OGC include:

1. (U) Activities believed to be unlawful or contrary to Executive Orders or Presidential directives. (See, generally, EO 12863.)

2. (U) Suspected violations of the Constitution.

(U) ~~(S)~~ 3. ~~(S)~~ Unauthorized investigations. (See, generally, the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), NFIP Manual, Appendix, E-11.)

(U) ~~(S)~~ 4. ~~(S)~~ Use of methods or techniques other than those authorized in the conduct of preliminary or full investigations. (Id.)

5. (U) Initiating a form of electronic surveillance or a search without authorization from the Foreign Intelligence Surveillance Court (FISC), or failing to terminate an authorized

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surveillance at the time prescribed by the Court. (See 50 U.S.C. Sections 1805, 1824.)

6. (U) Failing to adhere to the minimization or dissemination requirements specified in a FISC Order. (See 50 U.S.C. Section 1806.)

(U) ~~(S)~~ Nonreportable Matters: By longstanding agreement between the FBI and the IOB, EO 12963 has been interpreted to require the FBI to notify the IOB of any violation of a provision of the foreign counterintelligence guidelines (now the NSIG) or other regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was specifically intended to protect the individual rights of a United States person. This administrative practice often necessitated the submission of reports of potential IOB errors concerning overdue 90-day and annual LHMs because such reports were required to be submitted pursuant to Section IX.C of the FCIG, which pertained uniquely to investigations involving United States persons. In drafting the 2003 NSIG, the separate reporting requirement in the FCIG concerning U.S. persons was determined to be redundant with other reporting criteria, and thus the former requirement was not included in the NSIG. Consequently, while overdue reports of administrative or investigative activities conducted under the NSIG may be considered in evaluating the work performance of FBI employees, such errors are not required to be reported to OGC or INSD as potential IOB matters.

(U) 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.

(U) Reporting Procedures: FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to Internal Investigations Section (IIS), Inspection Division, and National Security Law Branch (NSLB), Office of the General Counsel (OGC), as discussed in this section.

(U) Reports of potential IOB Matters are to be reported to INSD (Attention: IIS) and OGC (Attention: NSLB) by electronic

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communication (EC), uploaded into Case ID # 278-HQ-C1229736-VIO, and include the following information:

1. The names of the Case Agent and Case Supervisor captioned in the title section of the EC.
2. Identification of the substantive investigation in which the questionable activity occurred.
3. Identification of the target by name (or in matters involving assets, the asset file number).
4. Identification of the subject's (or asset's) status as a United States (U.S.) person or non-U.S. person.
5. A statement concerning the controlling legal authority for the investigation or the administrative requirements of the NFIPM that pertain (for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)").
6. An explanation of the error believed committed and when it occurred (including, in instances of delayed reporting, an explanation for the delayed submission).

EC reports of potential IOB matters must be signed out by the ADIC/SAC or Assistant Director, as appropriate. FBI personnel are encouraged to call IIS or NSLB personnel concerning questions as to what is required or should be included in initial reports of IOB matters.

This list of examples is not all-inclusive of intelligence activities which may be deemed illegal or improper. The examples, however, illustrate areas where training and field office supervision are essential.

In order to assist the Inspector in the review of IOB matters in your division, you are requested to respond to the following questions:

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1. Identify your IOB control file.
2. Describe the administrative procedures and controls employed by you to ensure that any intelligence activity reportable under EO 12863 is identified and reported to INSD, FBIHQ.
3. Identify specific training which has been provided to Agents, supervisors, and staff regarding their responsibilities in complying with established IOB reporting policies and procedures.

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IOB-FO-INT

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NSL VIO-33299

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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DATE: 12-13-2007
CLASSIFIED BY: 65179/dmh/ksr/cak
REASON: 1.4(c)
DECLASSIFY ON: 12-13-2032

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/15/2006

To: [REDACTED]

Attn: SAC [REDACTED]
CDC [REDACTED]
SSA [REDACTED]
SA [REDACTED]

b6
b7C
b2
b7E

Counterintelligence

Attn: CD-2A,
UC [REDACTED]
SSA [REDACTED]

Inspection

Attn: IIS, CRS [REDACTED]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [REDACTED] 202-324 [REDACTED]

Approved By: Thomas Julie F. [REDACTED]

Drafted By: [REDACTED]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 1424 (Pending)

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD b2
MATTER 2006-[REDACTED]

Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that this matter is not reportable to the Intelligence Oversight Board (IOB). Rather, it should be maintained in the control file for periodic review by Counsel to the IOB. Our analysis follows.

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

(U) **Administrative:** ~~(S)~~ This electronic communication (EC) contains information from the following documents: (1) a copy of the National Security Letter (NSL) dated 01/20/2006 to [REDACTED] b4 b7D [REDACTED] (2) a copy of the EC dated 01/20/2006 b2 forwarding the NSL to [REDACTED] Field Division to be served on b7E the carrier; and (3) a copy of the EC dated 06/01/2006 from the [REDACTED] Field Office [REDACTED] to OGC reporting a potential IOB matter.

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NSL VIO-33309

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-CI229736-VIO, 06/15/2006

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b7E

Reference:

(S)

(U) ~~(S)~~ By EC dated 06/01/2006, [REDACTED] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

(U) ~~(S)~~ On 01/20/2006, [REDACTED] drafted an NSL pursuant to 18 U.S.C. § 2709 seeking subscriber and toll billing records for [REDACTED] telephone numbers. Specifically, the NSL sought "the name, address, length of service, and all local and long distance toll billing records associated" with the [REDACTED] telephone numbers from "[i]nception of the account to the present." By EC dated 01/20/2006, the NSL was forwarded to the [REDACTED] Division to be delivered to [REDACTED]

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(U) ~~(S)~~ On 02/15/2006, [REDACTED] received the results of the NSL on a disk. The case agent reviewed the results from the NSL on 02/28/2006. With respect to one telephone number, [REDACTED] received information pertaining solely to the target.

(U) ~~(S)~~ With respect to the second telephone number, however, [REDACTED] received NSL results pertaining to two subscribers: the target and another individual.¹ The case agent brought this to the attention of both her supervisor and the Chief Division Counsel (CDC). The case agent also sequestered the telephone records of the individual who was not the subject of the investigation.

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices

(U) ~~(S)~~ With respect to this telephone number, [REDACTED] received telephone records dated from [REDACTED] that were associated with the target. With respect to this same telephone number, [REDACTED] also received records dated [REDACTED] that were associated with another individual unrelated to the investigation.

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB 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 a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. NSIG, section V.12.

(U) ~~(S)~~ Here, during an authorized investigation,² the FBI properly served an NSL on a telephone carrier. In response to

(S) ~~(S)~~ 2 ~~(S)~~

[REDACTED]

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 06/15/2006

the properly served NSL, the FBI obtained information regarding another subscriber's records that were not relevant to the investigation.³ It appears that this information, although lawfully obtained, is not relevant to the investigation and should be segregated to protect the potential privacy interests of United States persons. Once information not relevant to an authorized investigation is received, the field should contact the carrier and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

(U) ~~3. (S)~~ The target's rights were not violated because he was not the subject of the improperly collected information. It is unknown, however, whether the information associated with the other subscriber pertained to a United States Person inasmuch as there has been no review of the information.

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~~SECRET~~

To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-CIC29736-VIO, 06/15/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) INSD should retain a record of the report of the potential IOB matter, as well as a copy of the OGC opinion concluding that IOB notification is not required, for three years for possible review by the Counsel to the TOR.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

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[REDACTED]
AT [REDACTED]
(U) The [REDACTED] Field Office should contact [REDACTED] and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

cc: Ms. Thomas

b6
b7C

[REDACTED]
IOB Library

♦♦

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

DATE: 12-13-2007
CLASSIFIED BY 65179/dmh/kar/cak
REASON: 1.4 (c)
DECLASSIFY ON: 12-13-2032

Precedence: ROUTINE

Date: 05/05/2006

To: [REDACTED]

Attn: SAC [REDACTED]
ASAC [REDACTED]
SSA [REDACTED]
SA [REDACTED]

b2
b7E Counterintelligence
b6 Inspection
b7C

Attn: CD-2B, SSA [REDACTED]
Attn: IIS, CRS [REDACTED]

From: Office of the General Counsel
NSLE/CILU/Room 7947

Contact: AGC [REDACTED] 202-324-[REDACTED]

Approved By: Thomas Julie F.
[REDACTED]

Drafted By: [REDACTED]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 1289 (Pending)

(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 and deliver the necessary correspondence to the IOB.

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

Reference: (S) [REDACTED]

b1
b2 (U) **Details:** ~~(S)~~ By electronic communication (EC) dated 03/29/2006,
b7E the [REDACTED] Field Office (San Francisco) requested that OGC
b4 review the facts of the captioned matter and determine whether it
b7D warrants reporting to the IOB. In our opinion, it does. Our
analysis follows.

(U) ~~(S)~~ On 11/23/2004, a [REDACTED] case agent
submitted a National Security Letter (NSL) seeking telephone toll
billing records of a certain target to [REDACTED] Due to a

~~SECRET~~

NSL VIO-33314

~~SECRET~~

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To: [REDACTED] From: Office of the General Counsel
Re: 178-HQ-CI229736-V10, 05/05/2006

b2
b7E

typographical error, the telephone number on the NSL was erroneously transcribed.¹ On 02/04/2005, the telephone records were opened and it was determined that they were not the target's records. [REDACTED] immediately ceased review of the telephone records."

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB 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 a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations

¹ (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document.

(U)² ~~(S)~~ On 03/27/2006, [REDACTED] realized that this incident constituted an IOB violation and promptly reported the matter to OGC, the Inspection Division, and the Counterintelligence Division.

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 05/05/2006

for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. NSIG, section V.12.

(U) ~~(S)~~ In this situation, due to the incorrect number stated in the NSL, the FBI received telephone toll billing records pertaining to a telephone number that was neither under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Here, the target's rights were not violated because he was not the subject of the improperly collected information. It is unknown whether the erroneous information received pertained to a United States Person, inasmuch as there has been no review of the information. Nonetheless, based upon 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 Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

~~SECRET~~

~~SECRET~~

b2 To: [REDACTED] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-V10, 05/05/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Information)

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b4
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[REDACTED]
AT [REDACTED]
(U) The [REDACTED] Field Office should contact [REDACTED]
and ask whether the improperly or unintentionally acquired
information should be returned or destroyed with appropriate
documentation to the file.

cc: Ms. Thomas

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b7C

[REDACTED]
IOE Library

♦♦

~~SECRET~~

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IOB Chart

Attorney work product

IOB No.	Date Completed	Late PI/FFI <div></div> /NSL/Others	FISA issue	Service Provider's error	IOB violation	Notes
<div></div>	<div></div>	<div></div>				
2006-	12/2/05	NSL		No	Yes	NSL error on letter wrong email
<div></div>						
<div></div>	<div></div>	<div></div>				
2005-	10/7/05	NSL			No	
<div></div>						
<div></div>						

Outside the Scope

NSL VIO-33336

DATE: 12-27-2007

~~SECRET~~

FBI INFO:

CLASSIFIED BY 65179/dmh/kar/cak

REASON: 1.4 (c)

DECLASSIFY ON: 12-27-2032

b2

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IOB Chart

Attorney work product

IOB No. b2	Date Completed	Late PI/FFI [REDACTED] /NSL/Others	FISA issue	Service Provider's error	IOB violation	Notes
2004	5/3/05	NSL			Yes	Typo on phone on NSL
[REDACTED]						
2005	3/1/05	PI (usper)	NSL		No	Thought PI expired, but it did not (new AG guidelines)
[REDACTED]						
[REDACTED]						

Outside the Scope

ALL INFORMATION CONTAINED
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~~SECRET~~

NSL VIO-33337

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IOB Chart

Attorney work product

b2

IOB No.	Date Completed	Late PI/FFI		FISA issue	Service Provider's error	IOB violation	Notes
2004		1/31/05	NSL		Yes	Yes	Provider gave more info than requested/authorized – gave content
		10/21/04		NSL		Yes	Obtained banking info without NSL
		9/15/04		NSL		Yes	Field cited 1681v instead of 1681u
2006		5/5/06	NSL		No	Yes	Phone number typo on NSL
2006		4/18/06	NSL		No	Yes	Phone number typo on NSL
2006		7/03/06	NSL		No	Yes	Requested more from NSL than legal can
2006			NSL		Yes	Yes	Provider gave more than we asked for

Outside the Scope

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IOB Chart

Attorney work product

IOB No.	Date Completed	Late PI/FFI [REDACTED] /NSL/Others	FISA issue	Service Provider's OFFICE	IOB violation	Notes
[REDACTED]						
2006- [REDACTED]		NSL		Yes		Provider gave more info (other than subscriber info) than we asked for – same person
b2						
						Outside the Scope

~~SECRET~~

DATE: 12-13-2007
CLASSIFIED BY: 65179/dmh/ker/cak
REASON: 1.4(c)
DECLASSIFY ON: 12-13-2032

b6
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From: [REDACTED] OGC) (FBI)
Sent: Tuesday, August 29, 2006 3:46 PM
To: [REDACTED] (FBI)
Cc: [REDACTED] (FBI)
Subject: IOB Issue
SECRET
RECORD 278-HQ-C1229736

(S)

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[REDACTED]
I am an attorney in the National Security Law Branch of the Office of the General Counsel and have been assigned to work on a potential IOB matter that you submitted to our office on July 3, 2006 (in connection with Case ID No. [REDACTED]). In the EC, it was stated that an incorrect telephone number was obtained during a pretext contact [REDACTED]. After reviewing the incorrect NSL results, a subsequent pretext contact with the subject revealed the correct telephone number. I have several questions about this matter:

1. What type of pretext contacts were made?
 2. Did the [REDACTED] provide the incorrect telephone number, or was the number transcribed improperly?
 3. How was the incorrect number obtained from [REDACTED]?
- Thank you for your assistance with these questions. Please contact me if you would like to discuss this matter.

[REDACTED]
National Security Law Branch
Office of the General Counsel
(202) 324-[REDACTED]

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

NSL VIO-33385

SECRET

~~SECRET~~

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From: [REDACTED] (OGC) (FBI)
Sent: Monday, February 12, 2007 1:49 PM
To: [REDACTED] (FBI)
Subject: IOB Issue

DATE: 12-13-2007
CLASSIFIED BY: 65179/dmh/ker/cak
REASON: 1.4 (c)
DECLASSIFY ON: 12-13-2032

(S)

**SECRET
RECORD**

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[REDACTED]

Thank you for answering my questions earlier today. I have a couple of questions. What subscriber information did you receive from [REDACTED]? Did you get anything other than the name, address, and length of service for the mobile telephone numbers? If this is all that you received, the NSL specifically asked for this information, and [REDACTED] response would definitely be within the scope of the NSL. Either way, I am recommending that incident is NOT reportable to the IOB. I believe that my supervisors will agree.

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Thank you again for your help.

[REDACTED]
National Security Law Branch
(202) 324-[REDACTED]

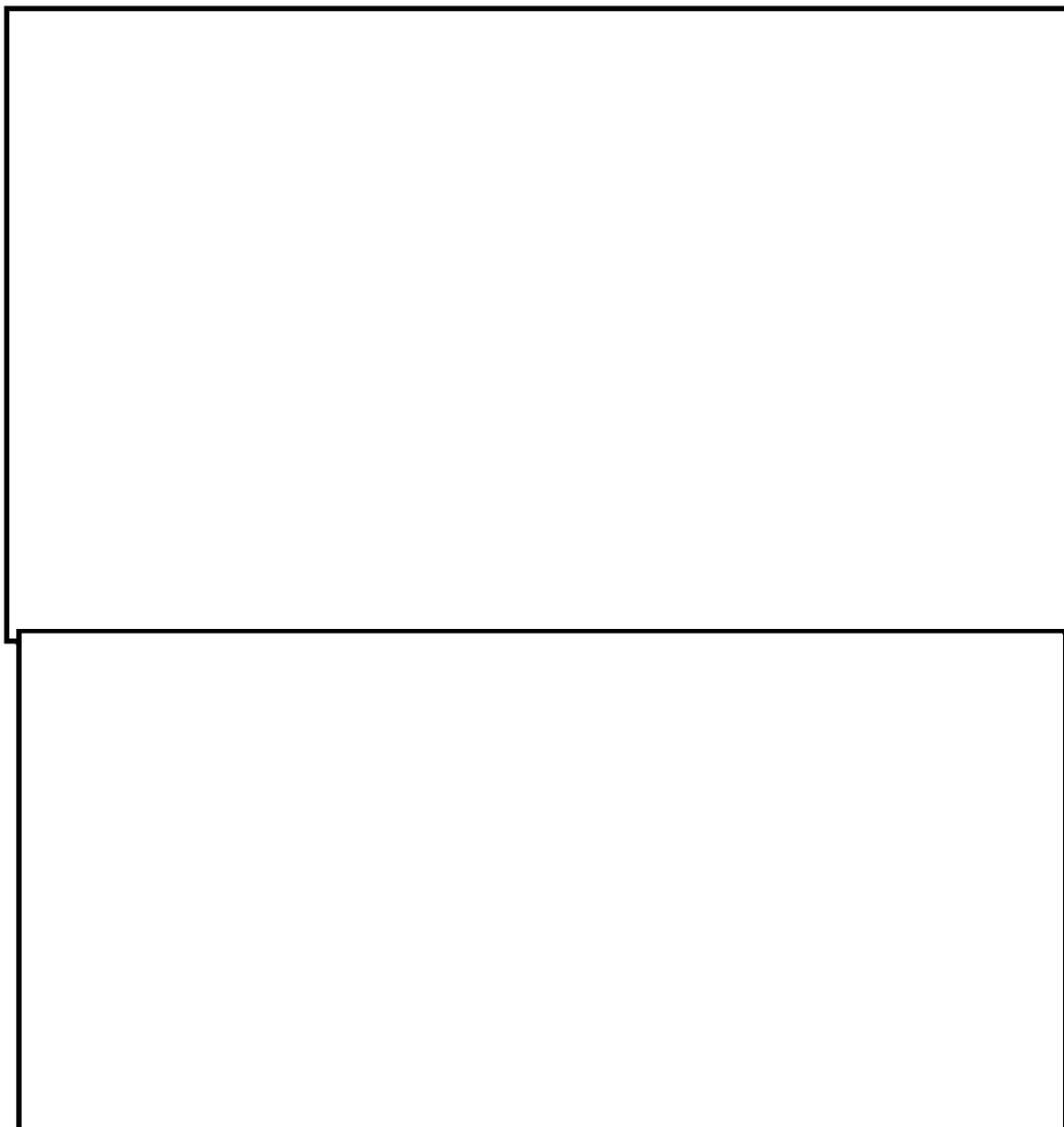
DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence
Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

NSL VIO-33386

SECRET

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From: [redacted] (OGC) (FBI)
Sent: Thursday, February 08, 2007 2:18 PM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: IOB Issues
~~**SECRET**~~
RECORD 278 [redacted] **40879** Duplicate email this file



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b2
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-----Original Message-----

From: [redacted] (FBI)
Sent: Monday, February 05, 2007 3:43 PM

NSL VIO-33387

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b7E

To:

[Redacted]

(OGC) (FBI);

[Redacted]

(OGC) (FBI);

[Redacted]

(OGC) (FBI)

Cc:

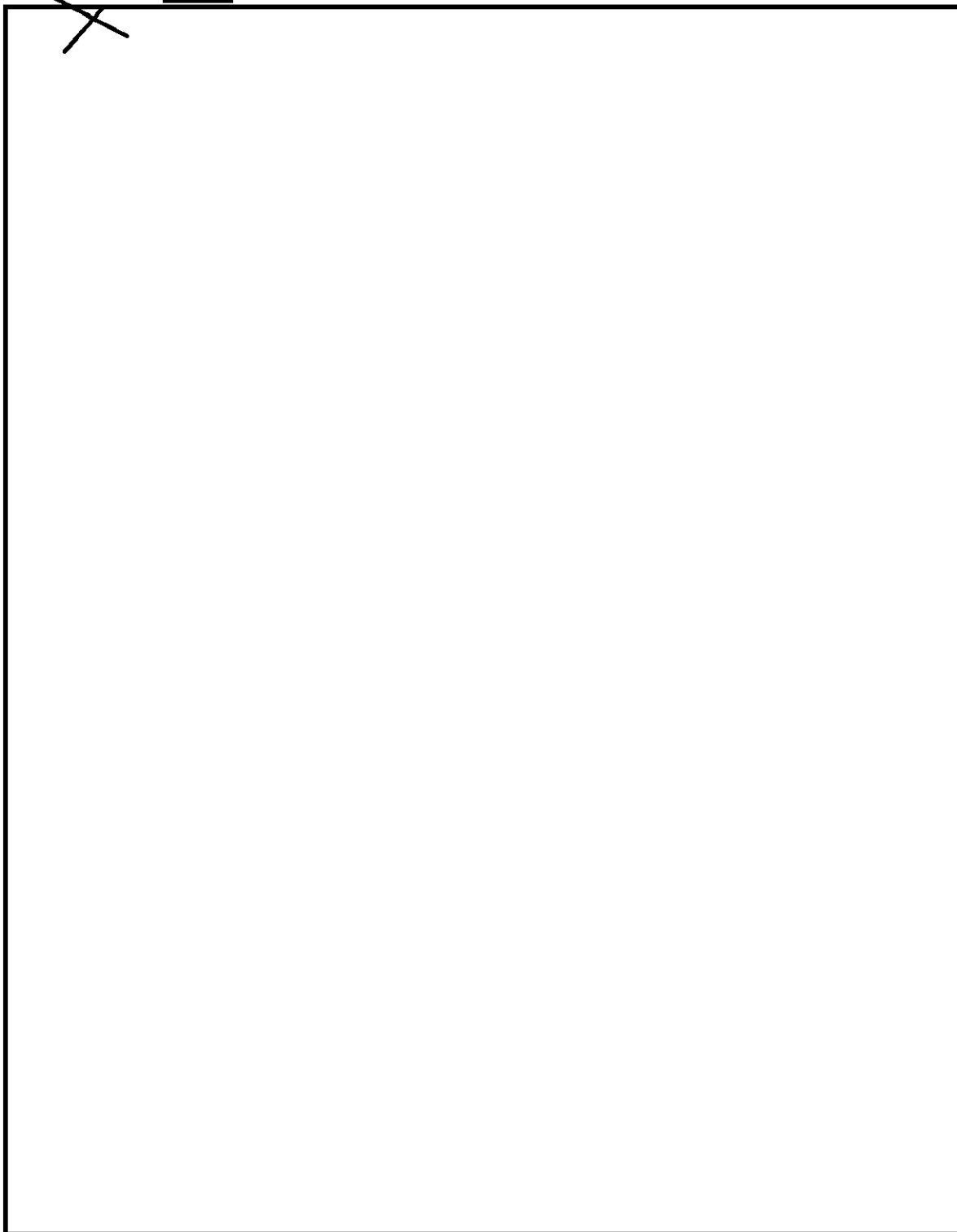
[Redacted]

(FBI)

Subject:

[Redacted]

Division NSL/IOB Scenarios Memorialized



Duplicate email this file
NSL VIO-33388

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence
Investigations
DECLASSIFICATION EXEMPTION 3
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence
Investigations
DECLASSIFICATION EXEMPTION 3
SECRET~~

~~SECRET~~

Duplicate CTD/NSL-CD volume 19

NSL VIO-33390

~~SECRET~~

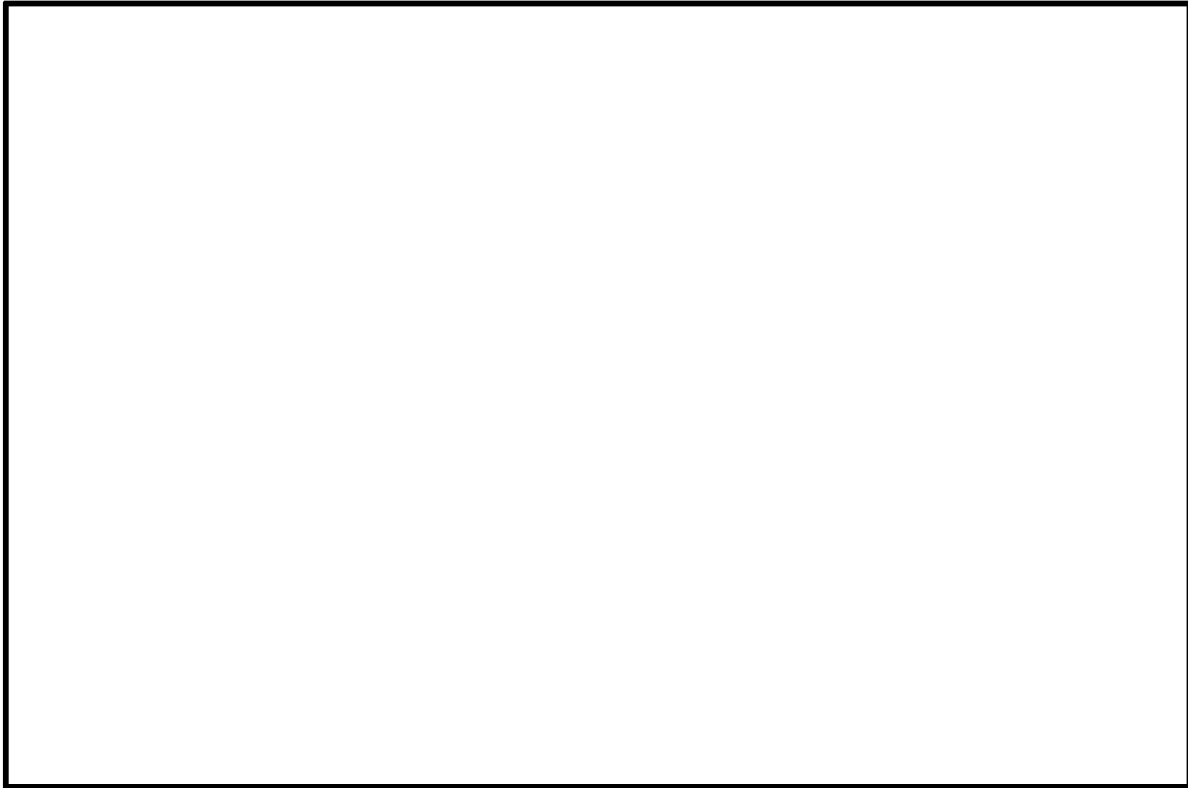
DECLASSIFIED BY 65179/dmh/ksr/cak
ON 12-13-2007

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 21, 2007 3:22 PM
To: HQ-Div09-NSLR; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI);
[REDACTED] (INSD) (FBI)

Subject: IOB Issues Relating to the Inspection Division's Audit
~~SECRET~~ Duplicate CTD/NSL-CD volume 19
RECORD IOB

NSL VIO-33391



Duplicate

~~**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence
Investigations**
DECLASSIFICATION EXEMPTION 1
SECRET~~

b6
b7c

From: [redacted] (OGC) (FBI)
Sent: Monday, November 27, 2006 2:53 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: IOB Policy
~~SECRET~~
~~RECORD IOB policy~~

[redacted]
As [redacted] and I mentioned, the IOB policy has been signed by everyone. Please upload it and distribute it to all divisions. Thank you for your help with this!

b6
b7c



finalIOBpolicyNOV1
6.wpd (37 KB...)



~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET~~

~~SECRET~~

1. Today's Presentation

- Intelligence Oversight Board (IOB)
- Responsibilities Regarding IOB Matters
- Examples of Common Reportable Matters

If you have any questions at any time during this presentation, please feel free to ask them.

2. This presentation will cover the

- History
 - Authorities
 - Composition
 - Responsibilities of the IOB
-

3. Brief History

- Intelligence gathering is an executive function.
- It traditionally focused on spies, and there was little danger that U.S. citizens would be exposed to intelligence gathering methods.
- Intelligence gathering rarely interacted with criminal law
- However, intelligence gathering investigations have had a "checkered history."
- For example, "Executive discretion" really meant little or no oversight
- There were Sweeping interpretations of "national security"
- Real potential for abuse

In 1940, Roosevelt said that electronic surveillance should be used for grave national defense matters and there should be an attempt to limit surveillance to aliens.

- Truman continued the policy into the 1950s
- In 1954, Attorney General Herbert Brownell's memo to Hoover expanded the policy and permitted electronic surveillance whenever national interest required it.
- Because electronic surveillance was not monitored in the national security area, in 1975, the Senate created the Select Committee to Study Governmental Actions, which was later known as the Church Committee
- In 1978, the Foreign Intelligence Surveillance Act was enacted.

~~SECRET~~

NSL VIO-33400

~~SECRET~~

- As a result of these issues, there is now Congressional Oversight & the Foreign Intelligence Surveillance Act (FISA)
-

–

4. Authorities

- Executive Order 12334 (December 4, 1981)
- Executive Order 12863 (Sept. 13, 1993)
- Agency-Specific Guidelines, such as the February 10, 2005 EC.

On December 4, 1981, by Executive Order 12334, the President Reagan created the President's Intelligence Oversight Board.

5. Executive Order 12863

On 09/13/1993, by Executive Order 12863, the President Clinton renamed it the Intelligence Oversight Board and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board.

6. Composition of the Intelligence Oversight Board

As provided in section 2.1 of the executive order, the Intelligence Oversight Board is composed of not more than four members of the President's Foreign Intelligence Advisory Board (PFIAB)

These members are appointed by the Chairman of the President's Foreign Intelligence Advisory Board.

7. IOB Responsibilities

The responsibilities of the board remained largely unchanged. **(look at section 2.2--last page of handout)**

~~SECRET~~

NSL VIO-33401

~~SECRET~~

Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

Specifically, these responsibilities include:

(1) Preparing reports for the President concerning intelligence activities that the IOB believes "may be unlawful or contrary to Executive order or Presidential directive"

(2) Forwarding to the Attorney General reports received about intelligence activities that the IOB believes "may be unlawful or contrary to Executive order or Presidential directive"

8.

(3) Reviewing the internal guidelines of each agency within the Intelligence Community that concern lawfulness of intelligence activities.

(4) Reviewing the practices and procedures of each agency within the Intelligence Community for discovering and reporting intelligence activities that may be IOB matters; and

9.

(5) Conducting such investigations as the IOB deems necessary to carry out its functions.

10.

~~SECRET~~

NSL VIO-33402

~~SECRET~~

Next I will discuss the obligations under executive order 12863 and the reporting requirements. These are listed in section 2.4 of the executive order which is on the last page of the handout that I gave to you this afternoon.

11.

- Under Executive Order 12863, The heads of departments and agencies of the Intelligence Community, to the extent permitted by law, shall provide the IOB with all information that the IOB deems necessary to carry out its responsibilities.

“Inspectors General and General Counsel of the Intelligence Community, *to the extent permitted by law*, shall report to the IOB, at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be *unlawful or contrary to Executive order or Presidential directive*.” (Section 2.4)

12.

“to the extent permitted by law”

The IOB has determined that this language was inserted to ensure compliance with FISA Court orders and to protect Grand Jury Information.

- The IOB has stated that the phrase does not mean the FBI (or any other intelligence agency) may withhold information that would otherwise be reported to the IOB because of its classification or sensitivity.
-

13. *“unlawful or contrary to Executive Order or Presidential Directive”*

~~SECRET~~

NSL VIO-33403

~~SECRET~~

This phrase sets the standard for reporting IOB matters

14.

Reporting Requirement One

- Provisions of AG approved guidelines or regulations ***designed in full or in part to ensure the protection of individual rights*** are regarded as incorporated by reference within the Executive Order.
 - Therefore, a violation of such provision would constitute a breach of the Executive Order and would be reportable to the IOB.
-

15. —

Reporting Requirement Two

Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB.¹

- Uncertainty as to the reportability of an incident shall be resolved by reporting it or by contacting the National Security Law Branch for further guidance.
-

—

¹ This interpretation of the reporting requirements was furnished to the FBI by the PIOB during a meeting on 06/18/1982. William H. Webster, then Director of the FBI, concurred with this interpretation and confirmed the immediate implementation of reporting procedures in adherence to this interpretation in a letter, dated 07/14/1982, to Dr. W. Glenn Campbell, Chairman of the PIOB. This interpretation was confirmed by Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, by letter dated 04/08/1983.

~~SECRET~~

NSL VIO-33404

~~SECRET~~

16.

Reporting Requirement Three

Professional judgment will be exercised by the General Counsel in deciding whether a particular incident is reportable to the IOB.

17.

Reporting Requirement Four

A record of decisions not to report potential IOB matters shall be maintained by the FBI, specifically the Inspection Division for three years. These decisions shall be subject to review by the Counsel to the IOB on request

—

18. (Don't read this slide)

Don't Forget...

"The words 'may be unlawful' in the EO should be interpreted to include violations of agency procedures issued under the EO"

- **Counsel for Intelligence Policy, OIPR (1983)**
-

—

19.

Examples of when to report potential IOB Violations

A. (U) Engaging in activities believed to be unlawful or contrary to Executive Orders or Presidential Directives.

B. (U) Engaging in activities believed to violate the United States Constitution.

~~SECRET~~

NSL VIO-33405

~~SECRET~~

C. (U) Initiating electronic surveillance or physical search without authorization from the Foreign Intelligence Surveillance Court (FISC) or other legal authorization.

D. (U) Failing to terminate an authorized surveillance at the time prescribed by the FISC or other relevant legal authority.

E. (U) Engaging in investigative activity beyond the scope of the FISC order or other relevant legal authority.

F. (U) A carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data.

G. (U) Failing to adhere to the minimization or dissemination requirements specified in a FISC order or other relevant legal authority.

(U) H. ~~(S)~~ Never submitting an initial 10-day notification during a preliminary or full investigation. Never submitting an annual letterhead memorandum (LHM) during a full investigation.

(U) I. ~~(S)~~ Failing to submit the initial 10-day notification within 45 days of the date that it was due.

J. (U) Failing to submit the annual LHM within 90 days of the date that it was due.²

(U) K. ~~(S)~~ Attempting to extend a preliminary investigation without the proper authority as delineated in the NSIG.

(S) ² ~~(S)~~ This is a change from the guidance issued on 02/10/2005 via EC, 66F-HQ-A1247863-172. NSLB has concluded that failure to submit the 10-day notification or annual LHM reports or untimely submission of these reports may substantially impact OIPR and DOJ's ability to conduct adequate oversight of our operations. In an effort to provide a bright-line rule for the field, NSLB has determined that if the 10-day notification or annual LHM report is never submitted, or if a 10-day notification is more than 45 days late or an annual LHM is more than 90 days late, it is a potential IOB violation that NSLE must review to determine whether OIPR and DOJ's oversight ability has been substantially impacted.

~~SECRET~~

NSL VIO-33406

~~SECRET~~

- (U) L. ~~(S)~~ Serving a National Security Letter (NSL) that contains a substantive typographical error that results in the acquisition of data that is not relevant to an authorized investigation (i.e., numbers on telephone number transposed).
- (U) M. ~~(S)~~ Serving an NSL that requests information that is beyond the scope permissible by statute (i.e. content information).
- (U) N. ~~(S)~~ A carrier providing information beyond the scope of an NSL resulting in the unintentional acquisition of data.
- (U) O. ~~(S)~~ Conducting investigative activity after the expiration of a preliminary investigation.
- (U) P. ~~(S)~~ During a threat assessment, utilizing a method or technique other than those authorized under the NSIG for a threat assessment.
- (U) Q. ~~(S)~~ During an authorized preliminary investigation, utilizing a method or technique other than those authorized under the NSIG for a preliminary investigation.
- (U) R. ~~(S)~~ [redacted] that contains a substantive typographical error that results in the acquisition of data that is not relevant to an authorized investigation (i.e., [redacted]).
- (U) S. ~~(S)~~ [redacted] providing information beyond the scope of [redacted] resulting in the unintentional acquisition of data.

b2
b7E

- Constitutional violations
- Unauthorized investigations
- Unauthorized techniques
- FISA overruns
- Dissemination/minimization errors

(U) **Contents of IOB Reporting EC.** Reports of potential IOE Matters are to be reported to INSD (Attn: IIS) and OGC (Attn:

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NSL VIO-33407

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NSLR) by electronic communication (EC), uploaded into Case ID Number 278-HQ-C1229736-VIO, and include the following information:

- A. The caption of the reporting EC should state: REPORT OF A POTENTIAL IOE MATTER;
- B. Identification of the substantive investigation in which the questionable activity occurred, including the names of relevant personnel including the case agent and his/her supervisor;³
- C. Identification of the subject's (or asset's) status as a United States (U.S.) person or non-U.S. person;
- D. A complete and thorough explanation of the error believed to have been committed and all relevant facts. The explanation should include:
 - (1) A statement regarding when the error occurred (including, in instances of delayed reporting, an explanation for the delayed reporting);
 - (2) A statement concerning the controlling law, regulation or NSIG provision that pertains to the violation [for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)"];
 - (3) A complete statement of the status of the investigation or matter including, if applicable, when it was initiated, when it expired, when it was renewed, and whether it currently is

³ (U) It is no longer necessary to put the names of the case agent and supervisor in the caption, but the names should be included in the text of the reporting EC.

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NSL VIO-33408

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opened or closed; and

(4) A statement if and when a Foreign Intelligence Surveillance Act (FISA) request has been submitted to Office of Intelligence Policy and Review, Department of Justice (OIPR), if relevant.

20.

Summary

- EO 12863 is the controlling authority regarding IOB violations.
- The IOB is responsible for reviewing the practices and procedures for discovering and reporting on IOB matters.
- Each agency in the Intelligence Community must report on at least a quarterly basis concerning intelligence activities that may be contrary to law, Executive Orders, or Presidential Directives.

21.

Questions?

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NSL VIO-33409

PROCEDURES FOR HANDLING REPORTS OF POTENTIAL
INTELLIGENCE OVERSIGHT BOARD MATTERS

A. (U) Background. The Intelligence Oversight Board (IOB) was established as a standing committee of the President's Foreign Intelligence Advisory Board by Executive Order (EO) 12863 dated 09/13/95. Among its other responsibilities, the IOB has authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection. Within the FBI, the "IOB process" is the means by which the FBI reports to the Board intelligence activities conducted by the FBI which may be unlawful or contrary to Executive Orders, Presidential Directives or Departmental guidelines.

(U) Section 2.4 of EO 12863 requires that the Inspectors General and the General Counsel of the Intelligence Community components report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." By longstanding agreement between the FBI and the IOB, this language has been interpreted to mandate the reporting of any violation of a provision of the foreign counterintelligence guidelines or other guidelines or regulations approved by the Attorney General, in accordance with EO 12333, if such provision was intended to protect the individual rights of a United States person. The Counsel for Intelligence Policy, Office of Intelligence Policy and Review (OIPR), Department of Justice (DOJ), has further opined that the words "may be unlawful" in the Executive Order should be interpreted to include violations of agency procedures issued under the Executive Order, unless they involve purely administrative matters.

B. (U) Obligation to Report Potential IOB Matters. FBI employees have an obligation to report potential IOB matters within 14 days of the discovery of a possible error or violation. The failure to report such matters, for whatever reason, may result in severe disciplinary action, up to and including dismissal from the FBI.

C. (U) Reporting Procedures. Under procedures awaiting promulgation by the Director, the National Security Law Branch (NSLB), OGC, will be responsible for coordinating all aspects of the FBI's IOB process. FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to OGC.

(U) In accordance with Section 2-56 of the NEIPM, reports of potential IOE Matters are required to be submitted to NSLE, OGC, by EC and include the following information: 1) identification of the substantive investigation in which the questionable activity occurred; 2) identification of the target by name [or in matters involving assets, the asset file number]; 3) identification of the subject's (or asset's) status as a United States (U.S) person or non-U.S. person; 4) a statement concerning the controlling legal authority for the investigation or the administrative requirements of the NEIPM that pertain [for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)"]; and 5) a statement of the error believed committed and when it occurred (including, in instances of delayed reporting, an explanation for the delayed submission). EC reports of potential IOE matters must be signed out by the SAC or Assistant Director, as appropriate.

D. (U) Quarterly Reports. In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to OGC (Attn: NSLE) an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOE matters. (See MIOG, Part 1-22.) The canvassing of employees may be accomplished by e-mail within field offices and HQ divisions. EC certifications to OGC must be signed out by the SAC or Assistant Director, as appropriate.

E. (U) Action by NSLE. NSLE shall review reports of potential IOE matters determine if a reported error or violation requires notification to the IOE based on the requirements of EO 12863 and guidance previously provided by the IOE and OIGR. If the reported matter is determined to require such notification, NSLE will prepare a letterhead memorandum (LHM), setting forth the basis for the notification (see "Reportable Matters" below), and a cover letter to forward the LHM. That correspondence will be signed by the General Counsel or his designee. The LHM and its cover communication will then be hand carried to the IOE. A copy of the LHM will also be sent to the SAC or Assistant Director who initially reported the matter for action deemed appropriate. The reporting SAC or Assistant Director will also be notified if a potential IOE matter was determined by OGC not to require notification to the IOE.

(U) Reports of potential IOE matters determined by OGC not to require notification to the IOE will be retained by OGC for three years for possible review by the Counsel to the IOE, together with a statement concerning the basis for the determination that notification was not required.

(U) F. ~~(S)~~ Reportable Matters. Examples of potential IOB matters which should be reported to OGC include:

(U) 1. ~~(S)~~ Unauthorized investigations. (See, generally, the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSG).)

(U) 2. ~~(S)~~ Use of methods or techniques other than those authorized in the conduct of preliminary or full investigations. (Id.)

3. (U) Initiating a form of electronic surveillance or a search without authorization from the Foreign Intelligence Surveillance Court (FISC), or failing to terminate an authorized surveillance at the time prescribed by the Court. (See 50 U.S.C. § 1805, 1804.)

4. (U) Failing to adhere to the minimization or dissemination requirements specified in a FISC Order. (See 50 U.S.C. § 1806.)

(U) G. ~~(S)~~ Non-reportable Matters. As previously noted, by longstanding agreement between the FBI and the IOB, EO 12863 has been interpreted to require the FBI to notify the IOB of any violation of a provision of the foreign counterintelligence guidelines or other regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was intended to protect the individual rights of a United States person. This administrative practice often necessitated the submission of reports of IOB errors concerning overdue reports of investigative activity (i.e., 90-day and annual LHMs) because such reports were required to be submitted pursuant to Section IX.C of the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (1999). The current Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (2003) do not contain a separate reporting requirement specifically intended to protect the rights of United States persons. Consequently, while overdue reports of administrative or investigative activities conducted under the NSG may be considered in evaluating the work performance of FBI employees, such errors need not be reported to OGC as potential IOB matters.

H. The preparation of LHMs and related IOB correspondence, and the dissemination of these items, are accomplished in accordance with the standardized IOB correspondence procedures updated periodically by the branch's legal technicians.

In regard to Number 7, [redacted]

[redacted]

was looking for an opportunity to mention to you this exact point, which was made to me during my training in [redacted] yesterday. The agents pointed out [redacted]

[redacted]

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[redacted]
What about [redacted]

[redacted]

SA [redacted]
[redacted] Division
[redacted] (cell)

[redacted]

b5

records

b6
b7C

6) this is one she hasn't seen but came to me today and that I sent to you

[REDACTED]

7) [REDACTED]
[REDACTED]

I am getting a question similar to #5 on [REDACTED] sheet. However, this is **financial** records, not toll records. [REDACTED]

[REDACTED]

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b7C

[REDACTED]

[REDACTED]

[REDACTED]

Should this be reported?

[REDACTED]

CDC [REDACTED]

[REDACTED]

, I agree with you.

[REDACTED]

[redacted] I agree [redacted]
[redacted] However,
there has been much confusion [redacted] and it was my understanding that Julie
though [redacted] Yesterday afternoon, [redacted] told me about the comments that Julie made at the
meeting, but it was after the all CDC email had already been sent. Maybe we can send another email
clarifying this issue if Julie agrees [redacted]

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-----Original Message-----

From: [redacted] OGC) (FBI)
Sent: Wednesday, March 28, 2007 4:32 PM
To: THOMAS JULIE E. (OGC) (FBI)
Cc: [redacted] OGC) (FBI)
Subject: RE: Further Guidance Relating to IOB Issues

~~SECRET~~
~~RECORD IOB~~

Julie, in the meeting on Friday, I think you said that [redacted]

[redacted]

b5
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If this is a correct interpretation of what you and Valerie said on Friday, then I think [redacted]

[redacted]

So please let me know if I misinterpreted the Friday dialogue. Thanks. [redacted]

~~SECRET~~

DATE: 12-19-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 12-19-2032



U.S. Department of Justice

Federal Bureau of Investigation

b2
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b4
b7D

In Reply, Please Refer to
File No.



January 20, 2006

Custodian of Records



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Dear Custodian of Records:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (Section 201 of the Electronic Communications Privacy Act of 1986) (as amended, October 26, 2001), you are hereby requested to provide to the Federal Bureau of Investigation (FBI) the name, address, length of service, and local and long distance toll billing records associated with the following:

Telephone Number(s):

(S)



b1

For the Period:

Inception of the account to the
present

Detailed local and long distance toll billing records should be returned on a 3.5 diskette or CD-Rom, in CSV format or XLS format, if possible. Should the long distance carrier(s) bill separately, please provide contact information for the long distance carrier(s) utilized during the specified time frame.

In accordance with Title 18, U.S.C., Section 2709(b), I certify that the information sought is 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.

You are further advised that Title 18, U.S.C., Section 2709(c), prohibits any officer, employee or agent of yours from disclosing to any person that the FBI has sought or obtained access

NSL VIO-33467

SECRET

~~SECRET~~

Custodian of Records, [REDACTED]

to information or records under these provisions.

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You are requested to provide records responsive to this request personally to a representative of the [REDACTED] Division within 30 business days of receipt of this request.

Any questions you have regarding this request should be directed only to the [REDACTED] Division. 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 yours,

[REDACTED]
Special Agent in Charge

b2
b7E

SECRET

~~SECRET~~

b4
b7D

Custodian of Records,

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 toll billing records in accordance with Title 18, United States Code, Section 2709:

b2
b7E

We are not requesting, and you should not provide, information pursuant to this request that would disclose the content of any electronic communication as defined in Title 18, United States Code, Section 2510(8).

SECRET

~~SECRET~~



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

January 20, 2006


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b4
b7D
b6
b7C



DATE: 12-19-2007
CLASSIFIED BY: 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 12-19-2032

Dear 

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (section 201 of the Electronic Communications Privacy Act, as amended, October 26, 2001), you are hereby requested to provide the Federal Bureau of Investigation (FBI) the names, addresses, and length of service and electronic communications transactional records, to include existing transaction/activity logs and all electronic mail (e-mail) header information (not to include message content and/or subject fields), for the below-listed e-mail address holder(s):

(S) Email Address(es): 

b1

For the Period: Inception of the account to the present.



b2
b7E

In accordance with Title 18, U.S.C., Section 2709(b), I certify that the information sought is 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.

NSL VIO-33470

SECRET

~~SECRET~~

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[REDACTED]

You are further advised that Title 18, U.S.C., Section 2709(c), prohibits any officer, employee or agent of yours from disclosing to any person that the FBI has sought or obtained access to information or records under these provisions.

You are requested to provide records responsive to this request personally to a representative of the [REDACTED] Division within 30 business days of receipt of this request.

b2
b7E

Any questions you have regarding this request should be directed only to the [REDACTED] Division. 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,

[REDACTED]

Special Agent in Charge

b2
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SECRET

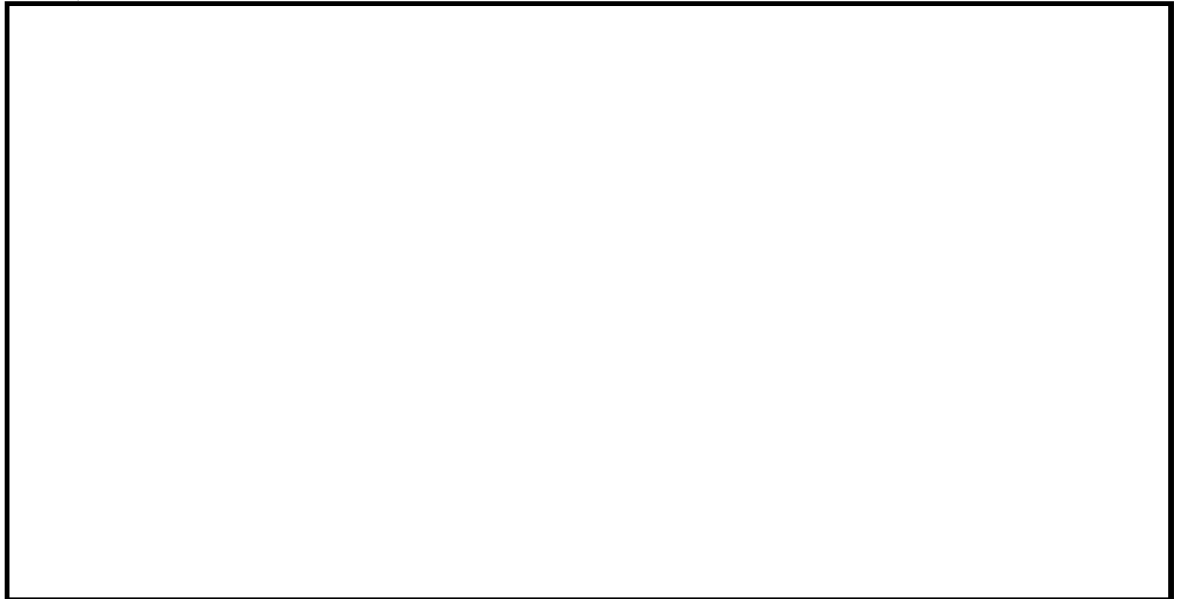
~~SECRET~~

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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 an electronic communication transactional record in accordance with Title 18, United States Code, Section 2709:



b2
b7E

This National Security Letter does not request, and you should not provide, information pursuant to this request that would disclose the content of any electronic communication as defined in Title 18, United States Code, Section 2510(8).

SECRET

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From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, March 07, 2007 5:33 PM
To: CAPRONI, VALERIE E. (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI);
[REDACTED] (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: Possible Questions and Answers Relating to IOB issues in the OIG Report
SECRET
RECORD IOB

Valerie:

Attached possible questions and answers relating to IOB issues in the OIG NSL report. Please let me know if you have any questions. Thank you.



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QandAtestimonyMA
RCH2007.wpd (2...

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

b6
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From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 4:31 PM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC)
(FBI)
Subject: RE:
UNCLASSIFIED
NON-RECORD

[REDACTED]

Thank you for all of your input. We will definitely raise these issues with Julie. They are not easy issues, and that is why we want to discuss them with her before finalizing the policy.

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What is your view of [REDACTED]
[REDACTED] Do you think [REDACTED]
[REDACTED]

We will look at the format for the internal policy and try to make it more readable. We provided everyone with the draft for a point of discussion, but so far, you are the only one who has given us any feedback. Thanks.

[REDACTED]

b6
b7C

-----Original Message-----
From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:23 PM
To: [REDACTED] (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI)
Subject: RE:

UNCLASSIFIED
NON-RECORD

I can't make that meeting, but please raise these issues. Could you also raise the issues, for one last time, that I mentioned in my original September 25 email 1) the distinction, which I don't see [REDACTED]

[REDACTED] and 2) the distinction, which I don't see, [REDACTED]
[REDACTED] for purposes of whether the violation has to be reported.

b5

I would also suggest, one last time, that the internal guidance be formatted a little more like the outside guidance, which has bullet points which are very succinct and readable. If we don't change the format, could we at least use [REDACTED]

[REDACTED]

[REDACTED] Otherwise, it really takes awhile to go through the document to find a particular situation that you need when you are doing your IOB and then finding the rule.

b6
b7C

Thanks, [REDACTED]

b6
b7C

-----Original Message-----
From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:11 PM
To: [REDACTED] (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE:

UNCLASSIFIED
NON-RECORD

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b5

[REDACTED]

You raise some interesting issues that should probably be discussed with Julie [REDACTED] and I have set up a meeting with Julie for tomorrow at 2 pm. We hope to talk about the internal policy (including [REDACTED] and this issue), as well other IOB issues. We'd like for you to join us, if possible. If not, we'll be sure to raise this issues with Julie.

Thanks!

-----Original Message-----

From: [REDACTED] OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:02 PM
To: [REDACTED] OGC) (FBI); [REDACTED] OGC) (FBI)
Cc: [REDACTED] OGC) (FBI)
Subject: [REDACTED]

b6
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UNCLASSIFIED
NON-RECORD

Anybody have any thoughts on the following [REDACTED]

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UNCLASSIFIED

b6
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From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 4:41 PM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC)
(FBI)
Subject: RE:
UNCLASSIFIED
NON-RECORD

I am getting ready to leave right now, but will you be available by phone tomorrow b/t 2:00 and 3:00 if any questions arise?

-----Original Message-----

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b7C

From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:38 PM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE:

UNCLASSIFIED
NON-RECORD

I did not realize that our draft did not account for the situation in [REDACTED]

We have had that policy for awhile now, with Julie's approval [REDACTED]

[REDACTED] That definitely needs to be added in, and thanks for catching that. That could have been a major oversight!

The reason I am focused on this now is that I have literally forty of these on my desk for dissemination to my unit and I am going through and putting notes on them so we have consistent responses by whomever does them. So I am applying the new draft, which is raising in my mind some new issues that I have just focused on and some old issues that I have already conveyed to you.

Ask Julie if I don't get credit for persistency - if I ask enough times for a change, shouldn't it happen. Otherwise, you will demoralize me and I won't be responsive to future taskings. So try that tact, okay?

-----Original Message-----

b6
b7C

From: [REDACTED] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:31 PM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: RE:

UNCLASSIFIED
NON-RECORD

Duplicate email this file



Duplicate

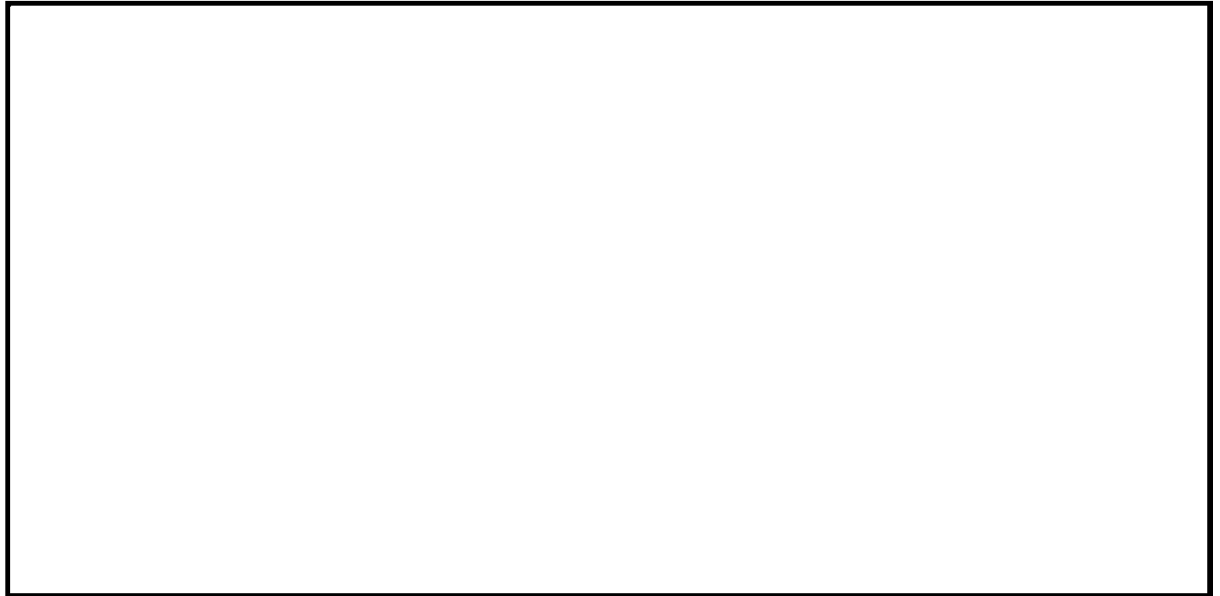


-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:23 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: RE: Duplicate email this file

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b7C

UNCLASSIFIED
NON-RECORD

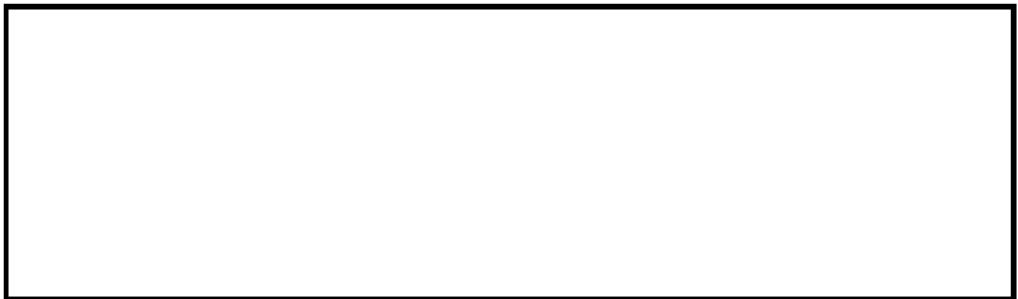


-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:11 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Duplicate email this file

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UNCLASSIFIED
NON-RECORD



-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 31, 2006 3:02 PM

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NSL VIO-33522

b6
b7C

To: [REDACTED] (OGC) (FBI) [REDACTED] (OGC) (FBI)
Cc: [REDACTED] (OGC) (FBI)
Subject:

UNCLASSIFIED
NON-RECORD

Anybody have any thoughts on the following - [REDACTED]

[REDACTED]

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UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

No Duplication Fees are charged for Deleted Page Information Sheet(s).

Total Deleted Page(s) ~ 198

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