

Memorandum

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To : Julie F. Thomas

Date 11/09/2006

From : NSLB Working Group

Subject NSL Issues

The following is a list of issues which currently exist with respect to national security letters.

1) There exists an issue as to [redacted]

[redacted]
[redacted] We have submitted legislative proposals that would provide [redacted]

[redacted]

[redacted] There is no definitive legal answer [redacted]
[redacted] (U)

2) There exists an issue as to [redacted]

[redacted]

[redacted] We have submitted a legislative proposal which would provide that NSLs are one of those defined circumstances [redacted] would have to respond. (U)

3) There exists an issue as to [redacted]

[redacted]
[redacted] (U)

4) There exists an issue, currently being raised [redacted] with regard to the

[redacted]
[redacted] We have been in contact with [redacted] which is

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Memorandum from NSLB Working Group to Julie F. Thomas
Re: NSL Issues, 11/09/2006

[Redacted]

[Redacted] (U)

5) The above [Redacted] issues somewhat blends in with another issue with [Redacted] inasmuch as their legal counsel has advised [Redacted]

[Redacted]

[Redacted] (U)

6) There exists an issue with respect to [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted] (U)

7) An issue exists as to the [Redacted]

[Redacted]

[Redacted] (U)

8) An issue exists as to [Redacted]

[Redacted]

[Redacted]

[Redacted]

In my discussion with [Redacted]

general counsel [Redacted]

would prefer [Redacted]

[Redacted] (U)

9) An issue exists as to [Redacted]

[Redacted]

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Memorandum from NSLB Working Group to Julie F. Thomas
Re: NSL Issues, 11/09/2006

[Redacted]

10) An issue exists with respect to [Redacted]

[Redacted]

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[Redacted] (S)

11) An issue exists regarding [Redacted]

[Redacted]

[Redacted] (S)

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NATIONAL SECURITY LETTERS TRAINING

What, if any, training is provided to FBI personnel regarding the legal constraints on their authority?

Response:

b5

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 02, 2006 9:51 AM
To: [redacted] (OGC) (FBI)
Subject: NSL's (5 Atchs as of 17 Nov 05)

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

From: [redacted] (OGC) (FBI)
Sent: Thursday, November 17, 2005 4:14 PM
To: [redacted] (OPA) (FBI)
Subject: Follow-up re NSL's

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[redacted]

Here 'tis.

No joke, please don't hesitate to contact me if I can be of further service. In the meantime, I too am looking forward to our next NSLB Happy Hour at [redacted]. (Do you recall [redacted] who sat next to me during our EOD briefings last [redacted] attended our most recent Happy Hour, and she plans to attend next week's as well.)

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[redacted]



ABA NSL update
2005.10.31.wpd ...



DOJ DAG Talking
Points.wpd (24...



Talking Points NSLs
for NSB Ga...



FBI GC's Talking
Points on NSL...



Director's Q&As
from Post arti...

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

From: [redacted] (OPA) (FBI)
Sent: Thursday, November 17, 2005 3:26 PM
To: [redacted] (OGC) (FBI)
Subject: RE: Question re National Security Letters

UNCLASSIFIED
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[redacted]

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I couldn't reinvent this wheel if I tried. I'd have to know what the wheel does, and how to

NSL VIO-29690

build it. That's your area of expertise. :)

Perhaps if you could forward to me or tell me where to find the most important of the documents you referenced in your earlier email, I could start there. I pulled some info from your website before emailing you, but I didn't see the Q&As or any talking points. Perhaps I missed them, or they are not posted on the website. There is no rush, and I don't mean to interrupt you. Whenever you have a moment, just tell me where to look, and I'll take it from there. And thanks for the reference to [redacted] I had not heard of her before.

[redacted]

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-----Original Message-----
From: [redacted] OGC (FBI)
Sent: Thursday, November 17, 2005 3:20 PM
To: [redacted] (OPA) (FBI)
Subject: RE: Question re National Security Letters

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NON-RECORD

Hi, [redacted]

Yep, we've numerous folks who can help you regarding NSL's. In fact, it seems that all we in NSLPTU have done since the 6 November *Washington Post* article is respond to NSL-related questions.

The most important point I'll make is that there's no need for you to reinvent the wheel. Since 6 November, we've prepared NSL Summaries, Talking Points, Q's & A's, etc., etc., etc., for the General Counsel and for the Director. Each is UNCLAS, and I'd gladly share them with you. (The Q's & A's in response to the 6 November article is the one that I drafted.) Furthermore, our NSLB website contains some very useful info on NSL's.

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Our ultimate NSL expert (the one to whom even Ms. Caproni turns for NSL answers) is [redacted] She's absolutely awesome, and I'm confident that she'd gladly answer any NSL question you may have. In fact, I'd recommend that you meet with [redacted] rather than with Ms. Caproni. But, in the meantime, just let me know what you need. I'll be more than happy to provide whatever I have and to answer as many questions as possible within my limited experience.

[redacted]

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-----Original Message-----
From: [redacted] (OPA) (FBI)
Sent: Thursday, November 17, 2005 3:03 PM
To: [redacted] OGC (FBI)
Subject: Question re National Security Letters

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[REDACTED]

What do you know about National Security Letters? Loaded question, I know. I've been tasked with writing [REDACTED]

[REDACTED]

[REDACTED] My knowledge of these letters is rudimentary at best. Would you or any of your colleagues be able to meet with me to discuss the basics? I would like to meet with Valerie Caproni at some point, but don't want to pester her with basic questions. Let me know what you think.

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Looking forward to drinks next Tuesday . . .

[REDACTED]

Executive Writing Unit
Office of Public Affairs
(202) 324-[REDACTED]

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From: [redacted] (OGC) (FBI)
Sent: Thursday, February 01, 2007 5:19 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: NSLs - OIG Audit (NFIPM Sec. 2-17)

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[redacted]

The attached includes responsive documents for the OIG Audit regarding NSLs. It's an e-mail, dated 7 August 2006, which in turn has an attachment.

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The attached represents **OGC's revisions for NFIPM, Sec. 2-17, on NSLs.** [redacted] revised the section on our behalf. To the best of my knowledge, it was our only NFIPM submission regarding NSLs.

[redacted]



COMPLETED
VIEW: NFIPM, Sec.

SENSITIVE BUT UNCLASSIFIED

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NSL VIO-29728

[redacted] RMD) (FBI)

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 11:35 AM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI)
Subject: OCA Questions Re Dir's SJC Testimony

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Importance: High

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Ms. Caproni --

Here are the questions that we discussed in your office a few minutes ago.

[redacted]

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

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From: [redacted] (OCA)(FBI)
Sent: Thursday, March 22, 2007 11:13 AM
To: [redacted] (OGC) (FBI)
Subject: Fw: Questions

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

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From: BEERS, ELIZABETH RAE (OCA) (FBI)
Sent: Thursday, March 22, 2007 11:10 AM
To: [redacted] (OCA)(FBI); [redacted] (DO) (FBI)
Subject: FW: Questions

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[redacted] the enclosed list of questions comes from a review of Valerie Caproni's testimony this week before HJC - instances in which she did not provide complete answers - and we can expect the same questions for the Director. Please work with NSLB to draft responses to these specific questions (suggest starting with [redacted] for the Director's Q&A book we can include them under the existing NSL tab and can probably be in a single document. [redacted] is working on several NSL-related issues for us now - please clarify that the briefing book is our current priority. Thanks,

Beth Beers
Office of Congressional Affairs
202-324-[redacted]

b2

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

From: KALISCH, ELENI P. (OCA) (FBI)
Sent: Thursday, March 22, 2007 10:48 AM
To: BEERS, ELIZABETH RAE (OCA) (FBI)
Subject: Questions

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Beth:

Please have the attached Questions from the House Judiciary hearing added to the Q&A book.

Thanks,

Eleni



Followup Qs.wpd (5
KB)

UNCLASSIFIED
Tracking:

Recipient

CAPRONI, VALERIE E. (OGC) (FBI)

THOMAS, JULIE F. (OGC) (FBI)

Read

Read: 3/22/2007 11:48 AM

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From: [redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 5:30 PM
To: [redacted] (INSD) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: OCA Tasking for INSD "Chart"

Importance: High
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[redacted]

As my comments (below) indicate, we in NSLB had not previously heard of any tasking regarding your chart.

We have, of course, prepared numerous Briefing Papers and Q&As in preparation for the Director's testimony. Two of them (attached) relate to your tasking:



OGC-FISA OGC-Intelligence
pting(with edits).do. Oversight Boa...

The above papers have already been submitted to DRG. They should already be in OCA's briefing materials.

Will these papers be of any help? What, if anything, may we do to assist further? And, in that regard, I'll be your POC.

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[redacted]
OGC / NSLB / NSLPTU
(202) 324-[redacted]

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

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Thursday, March 22, 2007 5:20 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (INSD) (FBI)
Subject: RE: Follow-up Re OCA Tasking OGC Input Needed (CHART)

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Please work with [redacted] to see if our taskings overlap.

Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
202-324- b2
202-324- (fax)

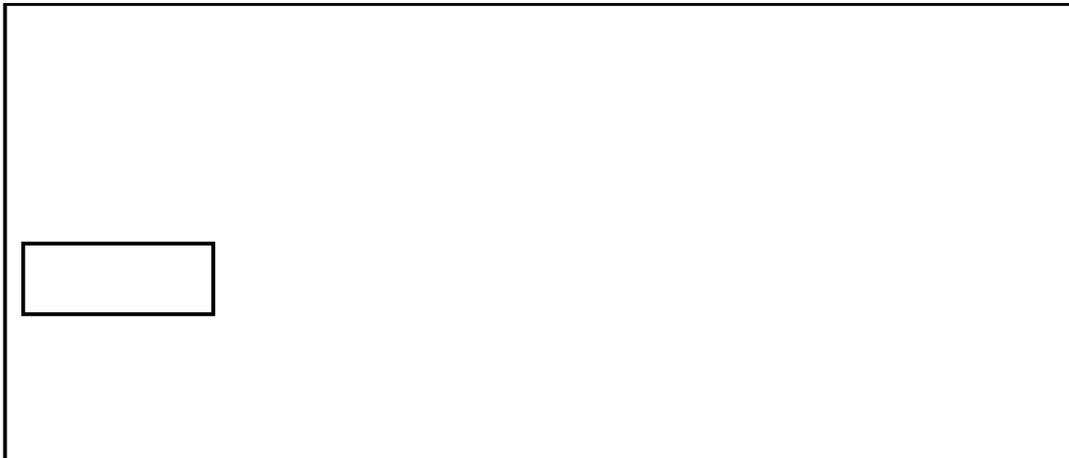


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-----Original Message-----
From:  (OGC) (FBI)
Sent: Thursday, March 22, 2007 5:08 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: Follow-up Re OCA Tasking OGC Input Needed (CHART)
Importance: High

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NON-RECORD

Duplicate volume 2



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-----Original Message-----
From:  (OGC) (FBI)
Sent: Thursday, March 22, 2007 5:03 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: OCA Tasking OGC Input Needed (CHART)
Importance: High

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NON-RECORD

Duplicate volume 2

No, Julie.



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

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Thursday, March 22, 2007 5:01 PM
To: [REDACTED] (OGC) (FBI)
Subject: FW: OCA Tasking OGC Input Needed

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[REDACTED]

Are you working on any chart for OCA?

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

b2

[REDACTED]

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

From: [REDACTED] (INSD) (FBI)
Sent: Thursday, March 22, 2007 2:08 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: OCA Tasking OGC Input Needed

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I spoke with Beth Beers to see what she needed from Inspection in preparation for the Director's testimony. She is requesting I make chart outlining the action taken, scope of review and current status for the three areas below. I think this should be a very general overview.

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Congressional Reporting
Exigent Letters
IOB Issues

I think this chart should include input from both INSD and OGC. Have you assigned anyone to work on this already or is this the first you are hearing about it? It is due Friday mid-day, so I want to get started soon. Let me know what you think. [REDACTED]

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NSL VIO-29737

From: [redacted] (OGC) (FBI)
Sent: Tuesday, April 11, 2006 1:59 PM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Subject: Thx! (QFRs)
~~**SECRET//ORCON,NOFORN**~~
~~**RECORD xxx**~~

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Sincere thanks, Ma'am!

[redacted]

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

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Tuesday, April 11, 2006 12:01 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: QFRs

~~**SECRET//ORCON,NOFORN**~~
~~**RECORD xxx**~~

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[redacted]

Attached is a redraft of these QFRs. There are a number of embedded questions that need to be answered. We also should individually portion mark the different paragraphs.

VC



qfrsscimarch2006.0
01.wpd (23 K...

~~**DERIVED FROM: Multiple Sources**~~
~~**DECLASSIFY ON: 20160411**~~
~~**SECRET//ORCON,NOFORN**~~

From: [redacted] (OGC) (FBI)
Sent: Friday, March 23, 2007 3:56 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: QUESTION Re GC Caproni's HPSCI Testimony (28 Mar 07)

Importance: High
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Julie --

As you know, OCA provided HPSCI staffers a copy of our 1 March EC on emergency disclosures (attached).



telephone_queries_
emergency_di...

OCA (in their e-mail, below) now asks whether we've any objection to the Members' quoting from it during GC Caproni's 28 March testimony before the HPSCI. I personally can't imagine any valid grounds on which we could object. Are you aware of any?

[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Friday, March 23, 2007 3:34 PM
To: [redacted] (DO) (FBI)
Cc: [redacted] (DO) (FBI)
Subject: RE: Question in preparation for the hearing

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[redacted]

Given that the EC is UNCLAS legal advice to the Field, I personally can't imagine why they couldn't quote from it. **HOWEVER**, in case I'm overlooking some subtlety, let me check with the "Powers That Be."

I'll get back to you ASAP.

[redacted]

NSL VIO-29808

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

From: [redacted] (DO) (FBI)
Sent: Friday, March 23, 2007 3:16 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (DO) (FBI)
Subject: Question in preparation for the hearing

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[redacted] HPSCI staff received the EC yesterday on the emergency disclosure provision. They asked if Members could quote from that EC during the open hearing next week or if there are reasons why questions about the content of the EC should be more general when discussing the EC (maybe operational or attorney/client privilege reasons).

Staff believe Members may want to clarify parts of the EC and used footnote 4 as an example (ie: why the distinction between customer records and content information may not be clear).

If there are reasons why Members shouldn't quote from the EC, staff will provide that guidance to Members.

Let me know what NSLB thinks and we'll work with staff as needed.

Nancy

[redacted]

Office of Congressional Affairs

phone: 202-324-[redacted]
fax: 202-324-[redacted]

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Subject: Recent NSL Rpts (as of 17 Feb 06)

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

From: [redacted] OGC (FBI)
Sent: Friday, February 17, 2006 12:20 PM
To: MONACO, LISA (DO) (OGA)
Cc: [redacted] OGC (FBI); [redacted] OGC (FBI); [redacted] OGC (FBI)
Subject: RE: NSLs

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RECORD cccc~~

The 3rd and 4th quarters for 2004 are reported in the reports dated March 2005. The 2005 numbers (1Q/2Q) have been recalculated for the toll records after we discovered a software issue.

I've attached electronic drafts of the 2005 reports.



05TOLL1.REP2.wpd (21 KB) 05BANK1.REP.wpd (11 KB) 05FCRA1.ENC.wpd (7 KB) 05FCRA1.REP.wpd (11 KB) 05BANK1.ENC.wpd (7 KB)

[redacted]

Assistant General Counsel
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) [redacted]
Unclassified Fax: (202) 324-[redacted]
Secure Fax: (202) [redacted]

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Privileged Attorney-Client/Attorney Work Product Communication

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

From: [redacted] (DO) (OGA)
Sent: Thursday, February 16, 2006 12:28 PM
To: [redacted] OGC (FBI)
Subject: NSLs

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[redacted] - you provided me with a draft of the 1st & 2nd quarter 2005 numbers for NSLs - in reviewing this though it appears that the only 2005 numbers in that packet were were for toll records, the rest of the memos in the packet -- although dated March 2005 were referencing reports for 2004. Are there any more 2005 numbers beyond the toll records? thanks

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

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DATE 01-09-2008 BY 65179/dmh/ksr/cak

[redacted] RMD) (FBI)

From: [redacted] (OGC) (FBI)
Sent: Monday, March 19, 2007 9:15 AM
To: b6 CAPRONI, VALERIE E. (OGC) (FBI); BEERS, ELIZABETH RAE (OCA) (FBI)
Cc: b7C [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: "Judiciary testimony"(PIOBs in 2006)
Importance: High

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Ms. Caproni --

I posed your question (below) to AGC [redacted] this morning. Here's her response.

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[Large redacted area]

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

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Saturday, March 17, 2007 10:25 AM
To: [redacted] (OGC) (FBI); BEERS, ELIZABETH RAE (OCA) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: Another IMPORTANT CHANGE Re "Judiciary testimony"

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Do we have any idea why we had an uptick in 2006?

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

From: [redacted] (OGC) (FBI)
Sent: Friday, March 16, 2007 1:15 PM
To: BEERS, ELIZABETH RAE (OCA) (FBI)
Cc: CAPRONI, VALERIE E. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Another IMPORTANT CHANGE Re "Judiciary testimony"
Importance: High

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Beth --

AGC [redacted] just drew to my attention an important point [redacted]

[redacted]

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Apologies for the last-minute comment. But, this one could not go unaddressed.

[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Friday, March 16, 2007 10:44 AM
To: BEERS, ELIZABETH RAE (OCA) (FBI)
Cc: CAPRONI, VALERIE E. (OGC) (FBI)
Subject: Follow-up Re IMPORTANT CHANGE Re "Judiciary testimony"
Importance: High

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Beth --

Thanks for making the change.

We've only three more points for your consideration--none so critical as the one you just addressed, but worthy of consideration nonetheless.

AGC [redacted] offered the following:

[redacted]

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I don't foresee any further NSLB comments.

NSL VIO-29825

Thanks again!

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

From: BEERS, ELIZABETH RAE (OCA) (FBI)
Sent: Friday, March 16, 2007 10:00 AM
To: [redacted] (OGC) (FBI); CAPRONI, VALERIE E. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: RE: IMPORTANT CHANGE Re "Judiciary testimony"

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I've made this change.

Beth Beers
Office of Congressional Affairs
202-324-[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Friday, March 16, 2007 9:20 AM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: BEERS, ELIZABETH RAE (OCA) (FBI); [redacted] (OGC) (FBI)
Subject: IMPORTANT CHANGE Re "Judiciary testimony"
Importance: High

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Ms. Caproni --

There's an important correction that needs to be made on page 11 [redacted]



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Recommendation: That page 11 be revised to reflect the above.



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

From: BEERS, ELIZABETH RAE (OCA) (FBI)
Sent: Friday, March 16, 2007 8:45 AM
To: CAPRONI, VALERIE E. (OGC) (FBI); KALISCH, ELENI P. (OCA) (FBI); MONACO, LISA (DO) (OGA)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (DO) (FBI); [redacted] (DO) (FBI)
Subject: RE: Judiciary testimony
Importance: High

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NON-RECORD

Attached are revised drafts of the NSL testimony. I've included a clean version and a redline/strikeout version in the event other are also making edits. These versions include the edits sent forward from NSLB through [redacted] by email yesterday afternoon. It looks like there are a couple of outstanding questions - namely 1 [redacted]

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We'd like to get this to DOJ by noon today so that it can be cleared and sent to OMB by cob. Many of my edits substituted language from previously cleared documents (i.e. rsp to OIG or our press statement) in an effort to expedite the clearance process.

Please provide additional edits/thoughts/comments. Thanks,

<< File: Caproni testimony.oca clean.wpd >> << File: Caproni testimony.oca.wpd >>

Beth Beers
Office of Congressional Affairs
202-324-[redacted]

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

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Thursday, March 15, 2007 8:37 AM
To: BEERS, ELIZABETH RAE (OCA) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); KALISCH, ELENI P. (OCA) (FBI); MONACO, LISA (DO) (OGA); [redacted] (OGC) (FBI)
Subject: Judiciary testimony

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Duplicate Email OGC Employee 12



UNCLASSIFIED

Tracking:

Recipient	Delivery	Read
CAPRONI, VALERIE E. (OGC) (FBI)		Read: 3/19/2007 9:19 AM
BEERS, ELIZABETH RAE (OCA) (FBI)		Read: 3/19/2007 9:20 AM
[redacted] (OGC) (FBI)		
[redacted] (OGC) (FBI)		
THOMAS, JULIE F. (OGC) (FBI)		
[redacted] (OGC) (FBI)	Delivered: 3/19/2007 9:15 AM	Read: 3/19/2007 9:20 AM

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NSL VIO-29827

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From: [redacted] (OGC) (FBI)
Sent: Friday, October 20, 2006 9:05 AM
To: [redacted] (OGC) (FBI)
Subject: RE: NSL Overcollection
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NON-RECORD

Roger that.

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It was, however, especially interesting reading for me in light of the NSL "overcollection" question that I received yesterday from [redacted] (i.e., the question with which you helped me yesterday).

Thanks again.

[redacted]

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, October 20, 2006 9:02 AM
To: [redacted] (OGC) (FBI)
Subject: RE: NSL Overcollection

UNCLASSIFIED
NON-RECORD

b5

No, it's nothing you need to be working on. Someone just sent me that email about [redacted] So I just followed up. [redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, October 20, 2006 8:52 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: Re: NSL Overcollection

UNCLASSIFIED
NON-RECORD

b6
b7C

Thanks, [redacted] Good info.

Regarding the EC that's referenced in the e-mail string, is it something on which you've been working? Or, is it something on which I should be working? Or, is it perhaps something held in abeyance while we determine exactly what we want to do?

[redacted]

b6
b7C
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b7E

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

From: [redacted] (OGC) (FBI)
Sent: Friday, October 20, 2006 7:49 AM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: NSL overcollection

UNCLASSIFIED
NON-RECORD

I am not sure of what overcollection issue you are talking about since I got in late in the food chain. What is the issue that caused the overcollection in your case?

b5

[redacted]
[redacted]
[redacted]
[redacted]

So if I knew of your problem, there may be a way to solve it that way.

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

From: [redacted] (FBI)
Sent: Thursday, October 19, 2006 4:17 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: NSL overcollection

b2
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UNCLASSIFIED
NON-RECORD

Say....I was chatting this up with my boss, and I think [redacted]

[redacted]
[redacted]

b5
b2
b7E
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b7C

Food for thought from the [redacted] peanut gallery...

[redacted]

b2
b7E
b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Thursday, October 19, 2006 3:59 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (FBI)
Subject: RE: NSL overcollection

UNCLASSIFIED
NON-RECORD

We actually discussed [redacted]
[redacted]

b5

But I don't disagree [redacted]
[redacted]

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Thursday, October 19, 2006 3:53 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: NSL overcollection

UNCLASSIFIED
NON-RECORD

FYI

b6
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-----Original Message-----
From: [redacted] (FBI)
Sent: Thursday, October 19, 2006 3:50 PM
To: [redacted] (OGC) (FBI)
Subject: RE: NSL overcollection

UNCLASSIFIED
NON-RECORD

b6
b7C
b5

Thanks [redacted] we will follow the OGA guidance. [redacted]
[redacted]

[Redacted]

b5
b6
b7C

Just something to talk about during the NSLB coffee-breaks.

Thanks for the guidance, [Redacted] I will forward on to my CDC.

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Thursday, October 19, 2006 3:43 PM
To: [Redacted] (FBI)
Subject: FW: NSL overcollection

b6
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b7E

UNCLASSIFIED
NON-RECORD

Hey [Redacted]

You asked a few weeks or months ago about what to do with NSL overcollection materials. [Redacted]

[Redacted]. From now on, follow the guidance below.

The EC will come out shortly recommending that from now on, they should be sequestered with the CDC and return them to the carrier (see below).

b6
b7C
b5

Thanks.

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Thursday, October 19, 2006 3:34 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI)

b6
b7C

[Redacted]

[Redacted] (OGC)

Subject: (FBI) NSL overcollection

UNCLASSIFIED
NON-RECORD

[redacted] an EC was sent to me [redacted]

[redacted]

[redacted] Until a formal EC comes out, we have been recommending (per Julie) that the material be sequestered with the CDC. We will probably be telling the field, in the formal EC, to return the info to the carrier.

b6
b7C
b5

[redacted]

please counsel that overcollections be sequestered with the CDC.

Since I assume this policy is probably not well known, I am forwarding this to [redacted] attorneys.

Thanks. [redacted]

UNCLASSIFIED

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 27, 2007 4:45 PM
To: [redacted] (OGC)(FBI)
Subject: RE: OCA's "Request for Cmnts" Re DOJ's ECPA Legislative Proposal -
Deadline 3/28/07 4pm

UNCLASSIFIED
NON-RECORD

b6
b7C

HOOAH!!!

Thanks, [redacted]

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

From: [redacted] (OGC)(FBI)
Sent: Tuesday, March 27, 2007 4:43 PM
To: [redacted] (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: OCA's "Request for Cmnts" Re DOJ's ECPA Legislative Proposal - Deadline 3/28/07 4pm

b6
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UNCLASSIFIED
NON-RECORD

Reviewed and it fine. We support it.

[redacted]

Assistant General Counsel
National Security Law Branch
Office of General Counsel FBI

b6
b7C
b2

202-324 [redacted] Voice
[redacted] Pager
[redacted] Secure Fax
202-324 [redacted] Fax

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 27, 2007 3:19 PM
To: [redacted] (OGC)(FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: OCA's "Request for Cmnts" Re DOJ's ECPA Legislative Proposal - Deadline 3/28/07 4pm
Importance: High

b6
b7C

UNCLASSIFIED
NON-RECORD

[redacted]

Re 18 U.S.C. 2709, DOJ's **ECPA legislative proposal** is now on the street.

The e-mail (below) is OCA's formal "Request for Comments" regarding the proposal. How does it look to you? Do you have any comments regarding the actual amendments or the accompanying analysis?

If it's not what we expected or wanted, we have only until tomorrow afternoon to submit our comments.

NOTE: [redacted] should get this via Elaine Lammert. (She's on OCA's distro list, below.)

b6
b7C

Thanks!

[redacted]

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

From: [redacted] (DO) (FBI)
Sent: Tuesday, March 27, 2007 4:03 PM
To: [redacted] (CD) (CON); [redacted]

b6
b7C

[redacted]

[redacted] (CTD) (FBI); HARRINGTON, T. J. (CTD) (FBI); HEIMBACH, MICHAEL J. (FBI);

[redacted]

[redacted] (OGC) (FBI); CAPRONI, VALERIE E. (OGC) (FBI);
[redacted] (OGC) (FBI); LAMMERT, ELAINE N. (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (DO) (FBI); [redacted] (OCA) (FBI); [redacted] (DO) (FBI);
[redacted] (DO) (FBI)

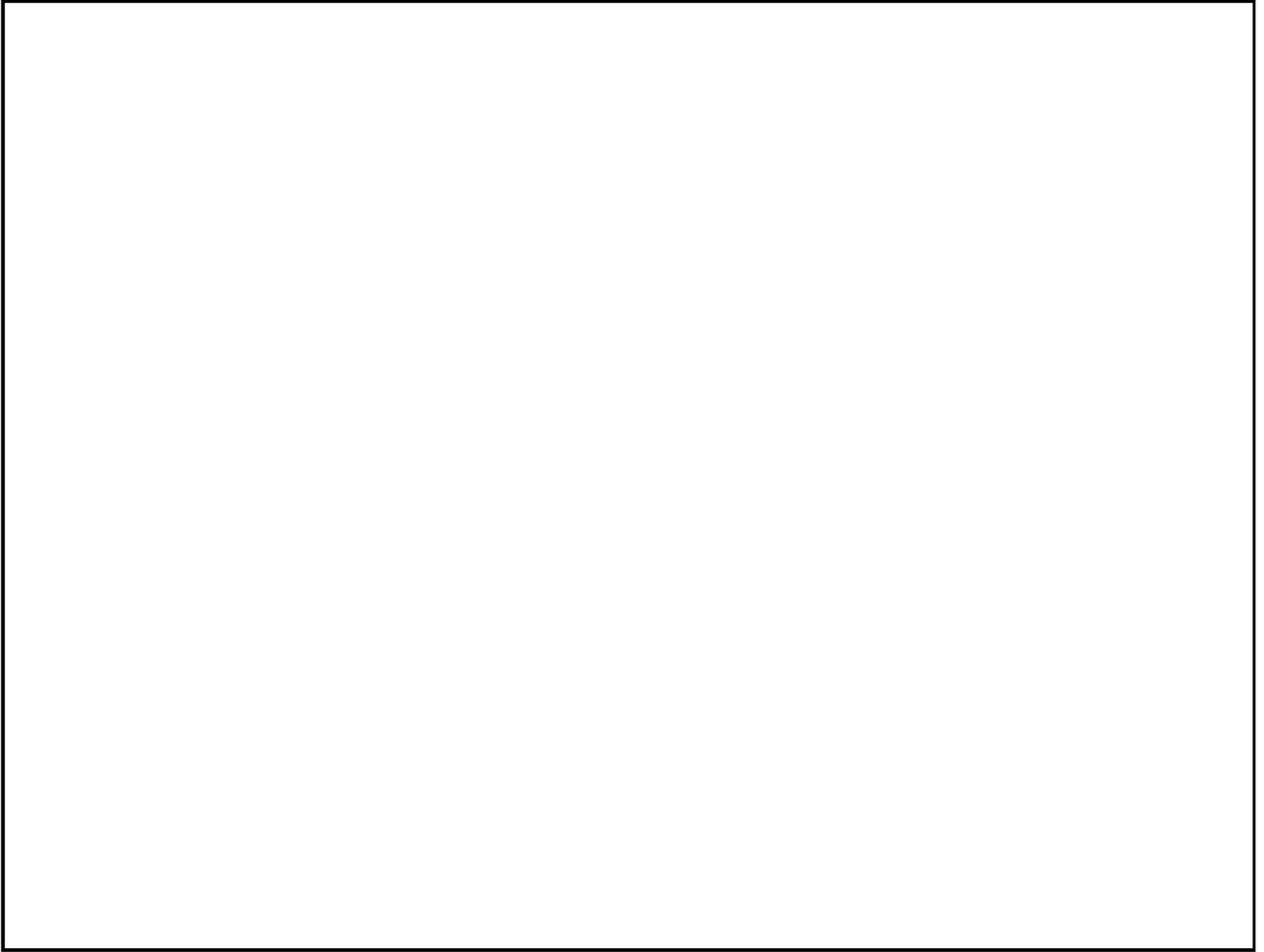
Subject: Draft legislative proposal re: Counterterrorism and Counterintelligence Access to Electronic Communication Service; Deadline 3/28/07 4pm; RFC
Importance: High

UNCLASSIFIED
NON-REC'D

Duplicate email volume 2 of this file

[Large redacted area]

Duplicate



UNCLASSIFIED

NSL VIO-29840

b6
b7C

From: [redacted] (DO) (FBI)
Sent: Friday, December 08, 2006 9:23 AM
To: [redacted] (OGC) (FBI)
Subject: RE: OGC's 2 LEGISLATIVE PROPOSALS Re NSLs

UNCLASSIFIED
NON-RECORD

Duplicate 12/8/06 email volume 2 Email OGC Employee

[redacted]

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

b6
b7C

From: [redacted] (OGC) (FBI)
Sent: Friday, December 08, 2006 9:18 AM
To: [redacted] (OCA) (FBI)
Cc: BEERS, ELIZABETH RAE (OCA) (FBI)
Subject: OGC's 2 LEGISLATIVE PROPOSALS Re NSLs
Importance: High

UNCLASSIFIED
NON-RECORD

Duplicate 12/8/06 email volume 2 Email OGC Employee

[redacted]

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

b6
b7C

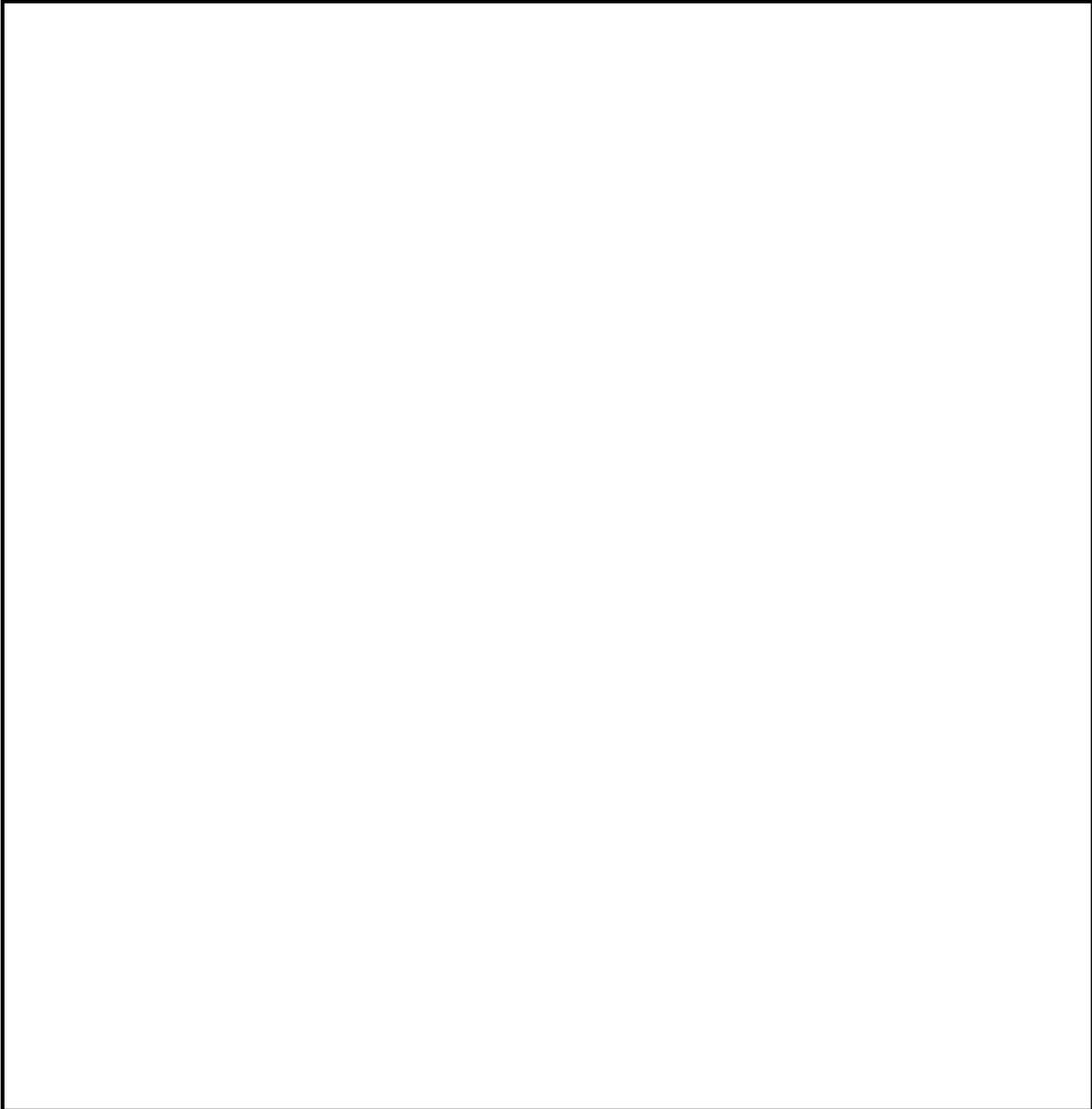
From: [redacted] (OGC) (FBI)
Sent: Friday, December 08, 2006 8:47 AM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: LEGISLATIVE PROPOSALS Re NSLs [OCA's Deadline: Today at 1:00]
Importance: High

UNCLASSIFIED
NON-RECORD

Duplicate 12/8/06 email volume 2 Email OGC Employee

[redacted]

Duplicate



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

From: [redacted] (DO) (FBI)
Sent: Wednesday, November 29, 2006 11:22 AM
To: [redacted]

b6
b7C



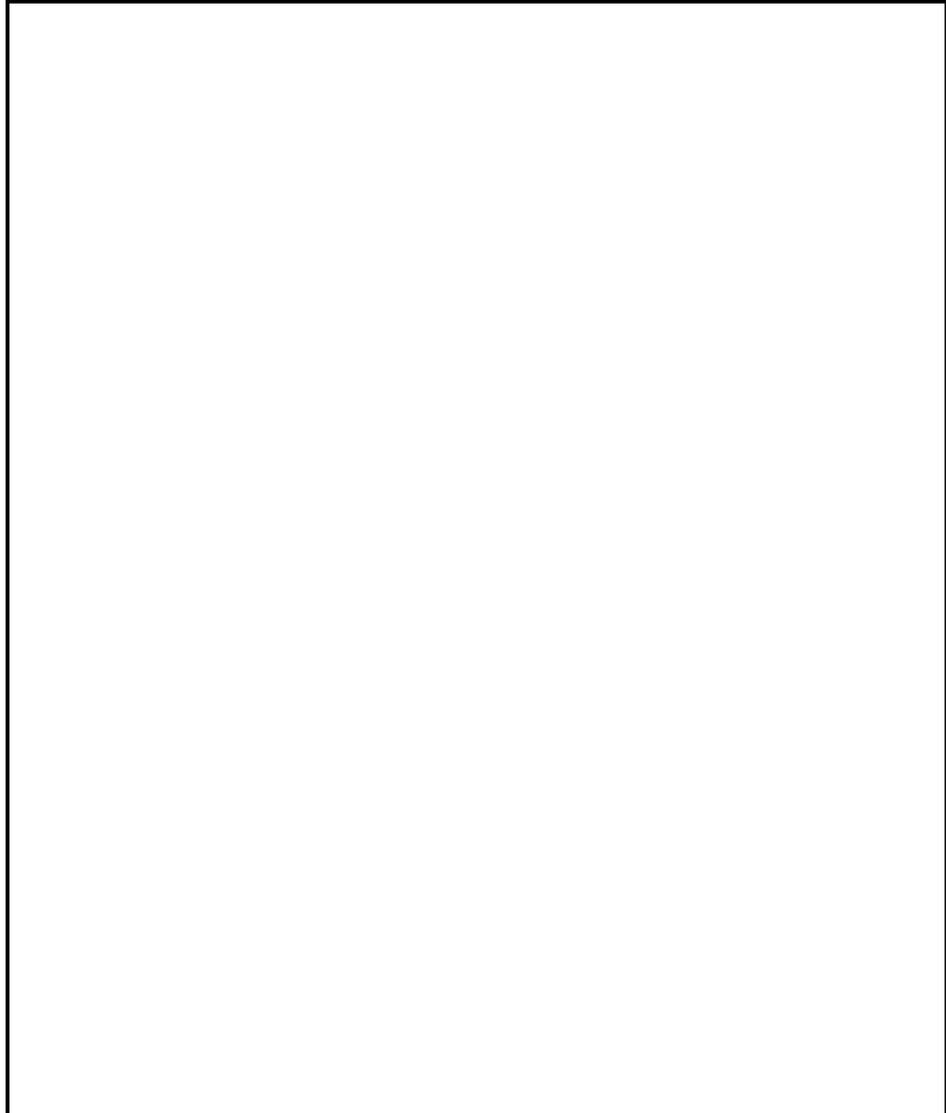
NSL VIO-29842

b6
b7C

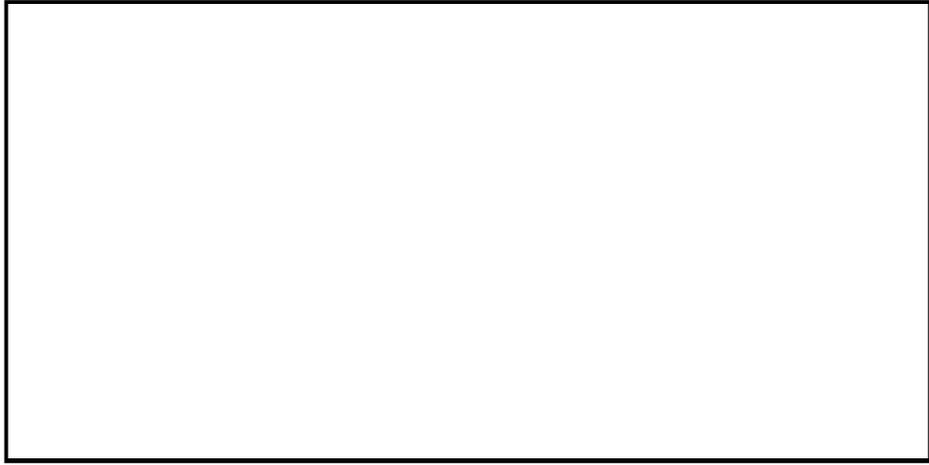


Cc:
Subject: DOJ Request for Legislative Proposals for the 110th Congress
Importance: High

UNCLASSIFIED
NON-REC Duplicate 11/29/06 email volume 2 Email OGC Em



Duplicate



UNCLASSIFIED

UNCLASSIFIED

NSL VIO-29844

From: [redacted] E (OGC) (FBI)
Sent: Tuesday, February 20, 2007 10:15 AM
To: [redacted] (DO) (FBI)
Cc: [redacted] (OCA) (FBI);
BEERS, ELIZABETH RAE (OCA) (FBI) [redacted] (OGC)
(FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI) [redacted] (OGC) (FBI)
Subject: REQUEST Re ECPA Legislative Proposals
Importance: High
UNCLASSIFIED
NON-RECORD

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[redacted]

Several NSLB attorneys are feverishly working to assist the Director in his response to the forthcoming IG Report on NSLs. (As I understand it, the Director wants it completed by Thursday.) In that regard, there is a question as to the FBI's history of legislative proposals regarding the **Electronic Communications Privacy Act (ECPA)**--particularly as it relates to the **clarification of "toll billing."**

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I'm attaching (below) an excerpt from OGC's legislative proposals that GC Caproni forwarded to you on 23 October 2006. As its first paragraph indicates, it was not the first time that such a proposal was submitted.

REQUEST: [redacted]

b5

[redacted] Our corporate knowledge indicates that there have been several proposals over the years. However, our records don't reflect exactly how many times or when.)

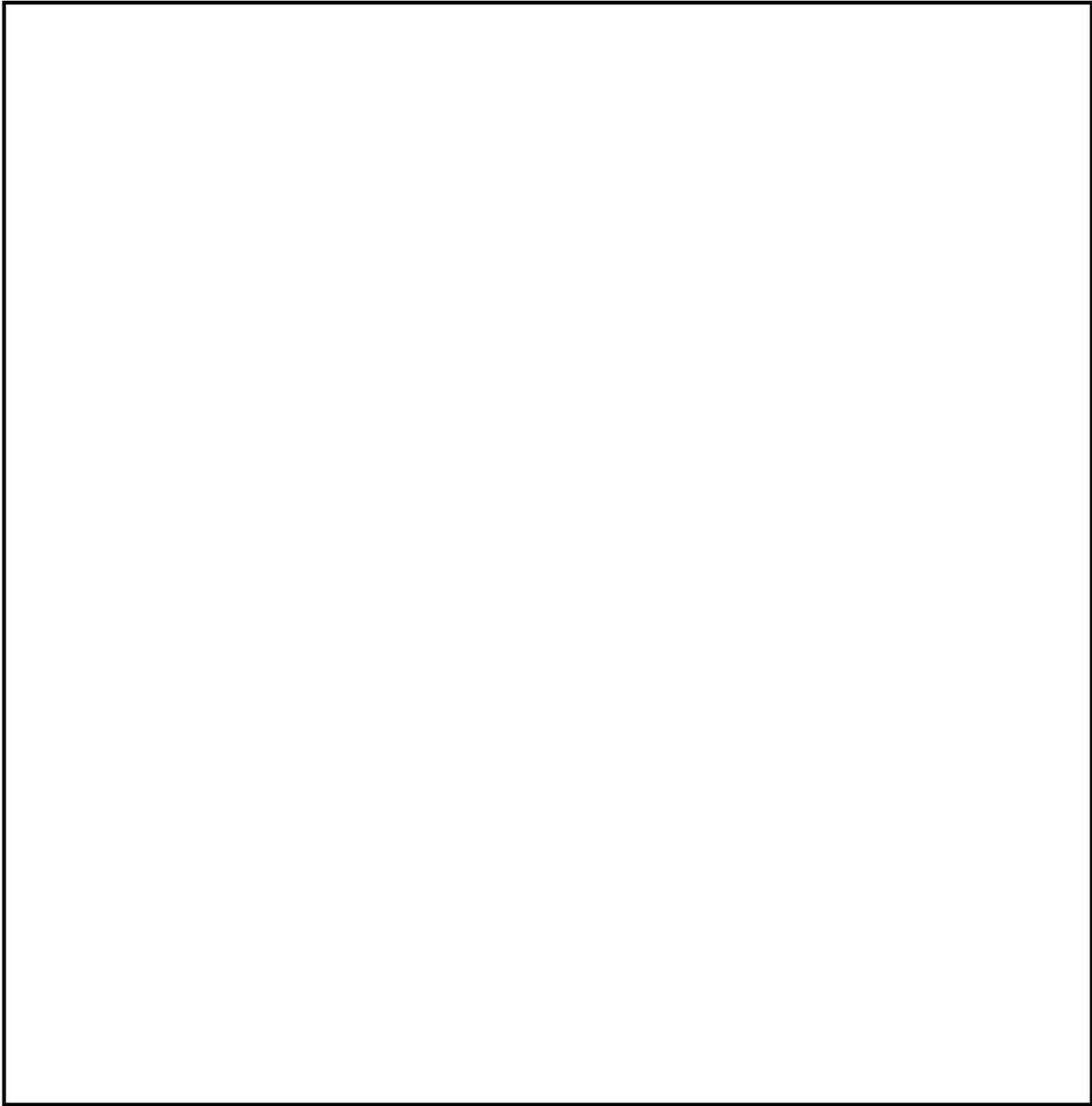
As always, sincere thanks for your help.

[redacted]

(U) NSLB's legislative proposals for the FY08 Intelligence Authorization Act are as follows:

[redacted]

b5



b5

UNCLASSIFIED

NSL VIO-29848

From: [redacted] OGC) (FBI)
Sent: Tuesday, March 14, 2006 4:13 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (DI) (FBI); [redacted] OGC) (FBI);
[redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] OGC) (FBI)
Subject: REQUEST Re SSCI Questions (Following GC Caproni's 8 Mar Hrg)

b6
b7C

Importance: High

~~SECRET~~
~~RECORD NSLs~~

[redacted]

Below, you'll see an e-mail exchange between Ms. Caproni and me regarding our tasking to provide written NSL-related responses to the SSCI.

Attached, you'll also see the current DRAFT of those answers. That DRAFT now includes, per Ms. Caproni's request, our DRAFT answer to Sen. Levin's question (i.e., Question No. 18).

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Our previous answers were fine for purposes of preparing Ms. Caproni for her 8 March SSCI Hearing. However, as expressed in her e-mail, she now wants us to "beef up" those answers before we submit them in writing to the SSCI.

REQUEST: At your earliest convenience, please look at the attached DRAFT. Any help you can provide as we "beef up" the attached would be most appreciated. To the extent that you've any thoughts on the matter, just shoot them to me in an e-mail (referencing the Question to which they apply). I'll be glad to incorporate them in the DRAFT.

[By copy of this e-mail, I'm likewise soliciting input from [redacted]
[redacted] Any help that you folks wish to
provide would be most welcome!]

As always, sincere thanks!

[redacted]



SSCI's 17+1 Ques
(Post-8 Mar 0...

b6
b7C

-----Original Message-----
From: [redacted] OGC) (FBI)
Sent: Tuesday, March 14, 2006 1:13 PM

To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: SSCI Questions (Following GC Caproni's 8 Mar Hrg)

~~SECRET~~
~~RECORD NSLs~~

b6
b7C

Yes, Ma'am, we'll get right on it.

Thanks.

[redacted]

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

From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Tuesday, March 14, 2006 12:03 PM
To: [redacted] (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: SSCI Questions (Following GC Caproni's 8 Mar Hrg)

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~~SECRET~~
~~RECORD NSLs~~

Please beef up the answers so they will be more informative and helpful to the senator [redacted] You should see these as an opportunity to tell the senate what we want them to know about what we do it and the tools they have given us. [redacted]

b5

[redacted] Also, please add Levin's q and the proposed a to the word perfect document so we will have one readily editable document.

Thanks.

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 14, 2006 11:03 AM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: SSCI Questions (Following GC Caproni's 8 Mar Hrg)

b6
b7C

~~SECRET~~
~~RECORD NSLs~~

Ms. Caproni --

OCA advised me that, as a result of your 8 March SSCI Hearing, we've

now been asked to submit written responses to the SSCI. Specifically, we should respond in writing to Sen. Rockefeller's 17 written questions and to Sen. Levin's question during the Hearing that remained somewhat unanswered. These are not QFRs as we normally view them. Nevertheless, we're expected to submit written responses.

This e-mail now seeks your approval of two items:

1. Re Sen. Rockefeller's 17 written questions, the REVISED responses (attached). You'll note there have been no substantive changes in those responses. However, I did revise them to reflect our submission of only one statistical chart (*vice* the original two) and to incorporate your comments during the Hearing when Sen. Rockefeller asked you specific questions from his list. (As you'll recall, near the Hearing's conclusion, Sen. Rockefeller asked--verbatim--four questions from his list: Nos. 4, 5, 6 and 12. I've tried to incorporate your oral responses into the attached written responses.) The chart is not attached to this e-mail. However, it's the same one that you used during the Hearing.

<< File: SSCI's 17 Ques PART II (Post-8 Mar 06).wpd >>

2. Re Sen. Levin's oral question, the proposed response (below).

SEN. LEVIN'S QUESTION: Although NSLs do not provide information on the content of telephone calls, does the law authorize collection of information regarding [redacted]

[redacted]

b5

PROPOSED RESPONSE TO SEN. LEVIN: [redacted]

[redacted]

Thank you for your review. If you approve, I'll submit these two items to

OCA.



OGC / NSLB / NSLPTU

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~~DERIVED FROM: Multiple Sources~~
~~DECLASSIFY ON: 20160314~~
~~SECRET~~

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From: [redacted] (OGC) (FBI)
Sent: Friday, March 03, 2006 3:33 PM
To: [redacted] (FBI); [redacted] (FBI); [redacted] (FBI)
Cc: [redacted] (GC) (FBI); [redacted] (OGC) (FBI); [redacted] (FBI)
Subject: RE: Question for GC Caproni's SSCI Bfg
UNCLASSIFIED
NON-RECORD

Sincere thanks to each of the four of you for your quick responses. Extremely helpful and most appreciated!

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[redacted]

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-----Original Message-----
From: [redacted] (CG) (FBI)
Sent: Friday, March 03, 2006 3:30 PM
To: [redacted] (FBI); [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (FBI)
Subject: FW: Question for GC Caproni's SSCI Bfg

UNCLASSIFIED
NON-RECORD

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[redacted] follows the same procedures as [redacted]
[redacted]
Associate Division Counsel
[redacted]

b6
b7C
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b7E

-----Original Message-----
From: [redacted] (FBI)
Sent: Friday, March 03, 2006 1:56 PM
To: [redacted] (FBI)
Subject: FW: Question for GC Caproni's SSCI Bfg

UNCLASSIFIED
NON-RECORD

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-----Original Message-----
From: [redacted] (FBI)
Sent: Friday, March 03, 2006 11:38 AM
To: [redacted] (FBI); [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (FBI)
Subject: RE: Question for GC Caproni's SSCI Bfg

UNCLASSIFIED

NON-RECORD

The same procedure is followed in [redacted] records go to appropriate case file and are maintained there until destroyed pursuant to normal records retention policy. They are destroyed either through shredding or burning.

[redacted]

b6
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-----Original Message-----
From: [redacted] (FBI)
Sent: Friday, March 03, 2006 11:31 AM
To: [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (FBI); [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (FBI)
Subject: RE: Question for GC Caproni's SSCI Bfg

UNCLASSIFIED
NON-RECORD

b2
b7E

[redacted] follows the same policy noted by [redacted]

-----Original Message-----
From: [redacted] (FBI)
Sent: Friday, March 03, 2006 10:52 AM
To: [redacted] (OGC) (FBI); [redacted] (FBI); [redacted] (FBI); [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question for GC Caproni's SSCI Bfg

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UNCLASSIFIED
NON-RECORD

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[redacted] they are retained and stored as part of the investigative case file (which is classified at least at the Secret level). They are retained and destroyed in accordance with FBI records retention policy.

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, March 03, 2006 9:48 AM
To: [redacted] (FBI); [redacted] (FBI); [redacted] (FBI); [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Question for GC Caproni's SSCI Bfg

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UNCLASSIFIED
NON-RECORD

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b7C

[redacted]

I'm one of NSLB's attorneys in [redacted] unit. He provided me your names as good POCs for a question we're addressing.

Specifically, we're drafting proposed answers to a list of 17 questions

that Sen. Rockefeller recently sent to the Director. GC Caproni is now scheduled to respond to those questions--among other things--on Wednesday, 8 March, when she briefs SSCI Members and Staffers on The Hill.

Here's the question, drafted by SSCI Staffers, that [redacted] asked me to pose to you folks:

QUESTION No. 9: Where are records obtained under NSL authority retained and stored? How long are the records retained? When and how are they destroyed?

Sincere thanks to each of you for any light you may be able to shed on this. Most appreciated!

b6
b7C
b2

[redacted]
OGC / NSLB / NSLPTU
(202) 324 [redacted]

UNCLASSIFIED

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 27, 2007 1:17 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI)
Subject: Thx [RE: Question Re Conyers' QFR No. 4 (Caproni, 20 Mar 07)]
UNCLASSIFIED
NON-RECORD

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b7C

Thanks, Julie. No problem. [redacted]

b5

-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Tuesday, March 27, 2007 12:47 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question Re Conyers' QFR No. 4 (Caproni, 20 Mar 07)

b6
b7C

UNCLASSIFIED
NON-RECORD

This requires a response [redacted]

b5

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

b2

[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 27, 2007 10:20 AM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Question Re Conyers' QFR No. 4 (Caproni, 20 Mar 07)

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b7C

UNCLASSIFIED
NON-RECORD

Julie --

I'm working on our DRAFT responses to the QFRs posed by Chmn Conyers following GC Caproni's 20 March testimony.

QFR No 4 (below) really has me stumped:

4. [Please provide] copies of all documents pertaining to the information that the FBI acquired through the use of National Security Letters (NSLs) pertaining to individuals who the FBI concluded were irrelevant to terrorism investigations.

b5

NOTE: I *think*--although I'm not entirely sure--that the above question relates to the same issues subsequently addressed in QFR No. 9 (below):

9. [P]lease detail the FBI's reasons for the retention of data pertaining to individuals who the FBI has concluded are irrelevant to terrorism investigations.

FYI, of PCLU and I are jointly working on the response to No. 9.

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b7C

I'd certainly welcome any suggestions you may have or the opportunity to discuss this QFR with you at your convenience.

UNCLASSIFIED

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

NSL VIO-29870

2-17 (U) National Security Letters (NSL)

A. (U) **National Security Letters (NSL)** - An NSL is an administrative demand for documents or records which can be made by the FBI in support of either a Preliminary or Full National Security Investigation. There are presently eight variations of the three statutorily permitted NSL demands. They include requests permitted by the Right to Financial Privacy Act (RFPA) (Title 12, U.S.C. §§ 3414(a)(5)) for financial institution records. They also include requests permitted by the Fair Credit Reporting Act (FCRA), Title 15, U.S.C. §§1681u and v, for the identity of financial institutions (15 U.S.C. § 1681u(a)); consumer identifying information (15 U.S.C. § 1681u(b)); and full credit reports in international terrorism cases (15 U.S.C. §1681v). Lastly, they include requests permitted by the Electronic Communications Privacy Act (Title 18, U.S.C. § 2709): for telephone subscriber information; toll billing records; electronic communication subscriber information; and electronic communication transactional records. Generally, NSLs are unclassified documents that provide a statutorily authorized government demand for record information from recipient entities (financial institution, communications common carrier, or credit bureau). Thus, an NSL may be presented to a recipient entity by the FBI as an unclassified document. Similarly, the records which are assembled by the recipient entity and then provided to the FBI in response to the NSL are generally unclassified records of the recipient entity and are to be treated as unclassified documents by the FBI upon their receipt. The documents, however, once reviewed, analyzed, and framed in the context of an authorized investigation by the FBI should be assessed for classification as appropriate. This simply means that the documents are not classifiable as raw data, but the information when received, insofar as it pertains to an authorized investigation, should be appropriately considered for classification and marked accordingly.

1. The newly enacted USA PATRIOT Improvement and Reauthorization Act (Pub.L. 109-177 and the amendments of Pub.L. 109-178 (March 09, 2006) has provided procedural modification to the NSL process in five significant areas. 1, Congress has imposed a requirement that any "non-disclosure" provision within an NSL be supported by a separate certification from the Director of the FBI or his designee, not lower in official rank than an SAC. (By EC, dated 03/09/2006, the Director has designated the following positions as certifying officials for purposes of the provisions of the Reauthorization Act of 2005: Deputy Director, EAD-NSB, Assistant EAD NSB, AD of the CT, CD, and Cyber Divisions, DAD of the CT, CD, and Cyber Divisions, Field Division AD and SACs, the General Counsel and Deputy General Counsel NSB of the Office of General Counsel.) The certification must affirmatively assert that disclosure may result in:

- a. a danger to the national security of the U.S.,
- b. interference with a criminal, counterterrorism, or counterintelligence investigation,

c. interference with diplomatic relations, or

d. danger to the life or physical safety of any person.

2. Congress has provided a method for judicial review and challenge of both the issuance and non-disclosure provisions of NSLs. Review is provided through access to the United States District Courts.

3. Congress has provided a method for judicial enforcement of NSL requests submitted by the FBI. Congress has granted jurisdiction to U.S. District Courts to rule on petitions to enforce the requirements of an issued NSL.

4. Congress has required enhanced reporting to Congress on a semi-annual basis of all NSL requests.

5. Congress has imposed a requirement that the Inspector General of the Department of Justice conduct an audit of the use by the FBI of NSL requests for the time frame 2003 through 2006. The audit is to determine the effectiveness and use of NSL requests and to identify any improper or illegal use of NSLs by the Department of Justice and its components. (U)

B. (U) Financial Account Records NSL pursuant to Title 12, U.S.C. § 3414(a)(5)

(See *recommended model RFPA NSL and approving EC*

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([http://\[redacted\]](http://[redacted]))

1. In accordance with provisions of the Right to Financial Privacy Act (RFPA), a financial institution shall provide the FBI with financial information pursuant to a written request from the Director of the FBI or the Director's designee upon certification to the financial institution that the records are sought for foreign counterintelligence purposes to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States Person is not conducted solely upon the basis of activities protected by the First Amendment to the Constitution.
2. The RFPA applies only if the entity from which the government is seeking financial records is a "financial institution," as defined by statute. For purposes of the RFPA, "financial institution" includes an insured bank; commercial bank or trust company; private banker; credit union; thrift institution; broker or dealer registered with the SEC; investment banker or investment company; currency exchange; issuer, redeemer or cashier of travelers' checks, checks, money orders; operator of a credit card system; insurance company; pawnbroker; loan or finance company; travel agency; licensed sender of money; telegraph company; persons involved in real estate closings and settlements; U.S. Postal Service, agency of U.S./state/local government carrying out any of the foregoing; a casino; any business

similar to the above list; and any business whose cash transactions have a high degree of usefulness in criminal, tax or regulatory matters.

3. The RFPA defines a "[F]inancial record" as an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution.

4. The Director has designated approval authority to the following Bureau officials: (1) the Deputy Director; (2) the EAD for the National Security Branch which includes the Directorate of Intelligence); (3) The Assistant EAD for the National Security Branch (4) the Assistant Directors (AD) and all Deputy Assistant Directors (DAD) of the Counterterrorism Division (CTD), the Counterintelligence Division (CD) and the Cyber Division (CyD); (5) the General Counsel and Deputy General Counsel for National Security Law Branch; (6) the Assistant Director in Charge and SACs of the New York, Los Angeles, and Washington field offices; and (7) the SACs of all other field offices. Approval authority is not delegable below the SAC level, and an acting SAC does not have approval authority.

5. Congress has imposed reporting requirements for the FBI's use of NSLs to obtain financial records under the Right to Financial Privacy Act. The National Security Law Branch (NSLB) of the Office of General Counsel is responsible for compiling the necessary information and submitting the requisite reports to Congress. To ensure that NSLB can accurately report to Congress on RFPA NSLs, all communications documenting the approval and issuance of national security letters from the field or FBIHQ Divisions must include General Counsel, Attention NSLB in the "To" section and must include NSLB in the lead section.

C. (U) Identity of Financial Institutions NSL pursuant to Title 15, U.S.C. § 1681u(a). See Recommended Model Communications ([http://\[REDACTED\]](http://[REDACTED]))

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1. In accordance with provisions of the Fair Credit Reporting Act, a consumer credit bureau (Experian, Equifax, TransUnion) shall provide the FBI with information about the financial institutions with which the consumer maintains an account or has maintained an account, pursuant to a written request from the Director of the FBI or the Director's designee upon certification that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the First Amendment to the Constitution of the United States.

2. The Director has designated approval authority to the following Bureau officials: (1) the Deputy Director; (2) the EAD for the National Security Branch (which includes the Directorate of Intelligence); (3) The Assistant

EAD for the National Security Branch; (4) the Assistant Directors (AD) and all Deputy Assistant Directors (DAD) of the Counterterrorism Division (CTD), the Counterintelligence Division (CD) and the Cyber Division (CyD); (5) the General Counsel and Deputy General Counsel for National Security Law Branch; (6) the Assistant Director in Charge and SACs of the New York, Los Angeles, and Washington field offices; and (7) the SACs of all other field offices. Approval authority is not delegable below the SAC level, and an acting SAC does not have approval authority.

3. Congress has imposed reporting requirements for the FBI's use of NSLs to obtain financial institution listings under the Fair Credit Reporting Act. NSLB is responsible for compiling the necessary information and submitting the requisite reports to Congress. To ensure that NSLB can accurately report to Congress on FCRA §1681u(a) NSLs, all communications documenting the approval and issuance of national security letters from the field or FBIHQ Divisions must include General Counsel, Attention NSLB in the "To" section and must include NSLB in the lead section.

b2 D. (U) **Consumer Identifying Information NSL** pursuant to Title 15, U.S.C. § 1681u(b) (See Recommended Model Communications ([http://\[redacted\]](http://[redacted]))

1. In accordance with provisions of the Fair Credit Reporting Act, a consumer credit bureau (Experian, Equifax, TransUnion) shall provide the FBI with consumer account identification information pursuant to a written request from the Director of the FBI or the Director's designee upon certification that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the First Amendment to the Constitution of the United States.
2. Consumer Identifying Information includes the name, address, former address, place of employment and former places of employment of the consumer.
3. The Director has designated approval authority to the following Bureau officials: (1) the Deputy Director; (2) the EAD for the National Security Branch which includes the Directorate of Intelligence; (3) The Assistant EAD for the National Security Branch (4) the Assistant Directors (AD) and all Deputy Assistant Directors (DAD) of the Counterterrorism Division (CTD), the Counterintelligence Division (CD) and the Cyber Division (CyD); (5) the General Counsel and Deputy General Counsel for National Security Law Branch; (6) the Assistant Director in Charge and SACs of the New York, Los Angeles, and Washington field offices; and (7) the SACs of all other

field offices. Approval authority is not delegable below the SAC level, and an acting SAC does not have approval authority.

4. Congress has imposed reporting requirements for the FBI's use of NSLs to obtain consumer identifying information under the Fair Credit Reporting Act. NSLB is responsible for compiling the necessary information and submitting the requisite reports to Congress. To ensure that NSLB can accurately report to Congress on FCRA §1681u(b) NSLs, all communications documenting the approval and issuance of national security letters from the field or FBIHQ Divisions must include General Counsel, Attention NSLB in the "To" section and must include NSLB in the lead section.

E. (U) **Full Consumer Credit Reports for Counterterrorism Matters NSL** pursuant to Title 15, U.S.C. § 1681(v) (See Recommended Model Communications ([http://\[redacted\]](http://[redacted])))

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1. In accordance with provisions of the Fair Credit Reporting Act, a consumer credit bureau (Experian, Equifax, TransUnion) shall provide the FBI with a full consumer credit report and all other information in a consumer's file pursuant to a written request from the Director of the FBI or the Director's designee upon certification that such information is necessary for the conduct of an authorized investigation, activity, or analysis related to international terrorism.
2. The Director designated approval authority to the following Bureau officials: (1) the Deputy Director; (2) the EAD for the National Security Branch; (3) The Assistant EAD for the National Security Branch (4) the Assistant Directors (AD) and all Deputy Assistant Directors (DAD) of the Counterterrorism Division (CTD), the Counterintelligence Division (CD) and the Cyber Division (CyD); (5) the General Counsel and Deputy General Counsel for National Security Law Branch; (6) the Assistant Director in Charge and SACs of the New York, Los Angeles, and Washington field offices; and (7) the SACs of all other field offices. Approval authority is not delegable below the SAC level, and an acting SAC does not have approval authority. *This access is exclusive to counterterrorism investigative matters and is not available for other national security investigations without a counterterrorism nexus.*
3. While Congress has not imposed reporting requirements for the FBI's use of NSLs to obtain full credit reports under the Fair Credit Reporting Act, nonetheless, NSLB does compile this information in the event that it is asked to provide such information to Congress. To ensure that NSLB can accurately report to Congress on FCRA §1681v NSLs, if asked, all communications documenting the approval and issuance of national security letters from the field or FBIHQ

Divisions must include General Counsel, Attention NSLB in the "To" section and must include NSLB in the lead section.

F. (U) Telephone Toll Billing, and Subscriber Identification, Electronic Subscriber Information and Electronic Communication Transactional Records Information NSL pursuant to Title 18, U.S.C. § 2709. (See Recommended Model Communications ([http://\[redacted\]](http://[redacted])))

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1. In accordance with provisions of the Electronic Communications Privacy Act (ECPA), a wire or electronic communications service provider shall comply with a written request for subscriber, toll billing, or electronic communications transaction records maintained by the service provider when the Director of the FBI or the Director's designee certifies in writing to the service provider that the records are sought for foreign counterintelligence purposes to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States Person is not conducted solely upon the basis of activities protected by the First Amendment to the Constitution.
2. The Director has designated approval authority to the following Bureau officials: (1) the Deputy Director; (2) the EAD for the National Security Branch which includes the Directorate of Intelligence; (3) The Assistant EAD for the National Security Branch ; (4) the Assistant Directors (AD) and all Deputy Assistant Directors (DAD) of the Counterterrorism Division (CTD), the Counterintelligence Division (CD) and the Cyber Division (CyD); (5) the General Counsel and Deputy General Counsel for National Security Law Branch; (6) the Assistant Director in Charge and SACs of the New York, Los Angeles, and Washington field offices; and (7) the SACs of all other field offices. Approval authority is not delegable below the SAC level, and an acting SAC does not have approval authority.
3. Congress has imposed reporting requirements for the FBI's use of NSLs to obtain wire and electronic communications service provider records pursuant to the Electronic Communications Privacy Act (ECPA). NSLB is responsible for compiling the necessary information and submitting the requisite reports to Congress. To ensure that NSLB can accurately report to Congress on ECPA §2709 NSLs, all communications documenting the approval and issuance of national security letters from the field or FBIHQ Divisions must include General Counsel, Attention NSLB in the "To" section and must include NSLB in the lead section.
 - a. LIBRARIES which provide access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally by patrons for their use, review, examination, or circulation are not a wire or electronic communications service

provider for purposes of an ECPA NSL unless the library is providing the services defined in 18 U.S.C. § 2510. (See 20 U.S.C. § 9122(1) for definition of a Library). When considering serving an NSL on a library, consultation with NSLB is necessary to assure a consistent FBI policy that is appropriate under ECPA.

G. (U) Features that respective NSLs share in common

Note - there are model NSLs and approving ECs for each type of NSL on the NSLB/OGC website. Please follow these models.

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1. All NSLs must be addressed to an appropriate company point of contact. The responsibility for ensuring that the company point of contact is up-to-date belongs to the drafting field division. Many Points of Contact (POCs) are listed on the NSLB website. (http:)

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2. The first paragraph of an NSL provides the appropriate statutory authority for the request, identifies the types of records requested, and provides available identifying information so that the company can process the NSL request. It is this first paragraph that contains the differences that warrant the eight NSL varieties.

a. Telephone subscriber and electronic subscriber NSLs should have a specific date for each of the phone numbers/e-mail addresses requested or a range of dates. The date range may be from inception to present, or some other specified date range relevant to the investigation. Any phone numbers identified in a subscriber request should contain all ten digits of the phone number, including the area code. A date range that states "to the present" should also have the standard paragraph that states that "to the present" means the point in time at which the request is being filled.

b. Toll billing record and electronic communication transactional record requests should have a range of dates for each of the phone numbers/e-mail addresses requested. The date range may be from inception to present, or some other specified date range relevant to the investigation. Any phone numbers identified in a toll billing record request should contain all ten digits of the phone number, including the area code. A date range that states "to the present" should also have the standard paragraph that states that "to the present" means the point in time at which the request is being filled.

c. Financial record requests should include all available identifying information to facilitate the financial institution's records search. Typically, such identifying information includes: name, account numbers, social security number, and date of birth. The time period for financial record requests is typically from inception of account(s) to present, although a more specific date range may be used. A date range that states "to the present" should also have the standard paragraph that states that "to the present" means the point in time at which the request is being filled.

d. Credit bureau record requests are similar to financial requests in that they should include available identifying information to facilitate the credit bureau's records search. Typically, such identifying information includes: name, social security number, and date of birth. There is no need to specify a date range for credit record requests because these requests seek either a full credit report, or specified information from a full credit report, as the credit report is currently constituted in the files of the credit bureau. So it is unnecessary to specify a time frame .

e. The description of the information sought in an NSL should mirror the NSL statute, as is found in the model NSLs. Changes from the statutory language within the body of the NSL are discouraged, and should have the approval of the field office CDC and/or OGC/NSLB. Attachments to the NSLs are more flexible, as they simply suggest what a recipient may consider to fall within the parameters of the statute and do not demand the production of such records. Therefore, the attachment may be used to suggest the type of records the production of which is needed for an investigation and for which we have a good faith belief that it is covered by the statute; again, however, CDC and/or OGC/NSLB approval is appropriate for changes from the model attachment.

3. After the prefatory paragraph(s), the NSL contains the statutorily required certification language. The certification language is virtually identical for every NSL (except the certification for FCRA §1681v full credit report NSLs reference only international terrorist activities since these NSLs are not available in counterintelligence cases, and FCRA §1681u limited credit report information NSLs reference a counterintelligence case since, as a practical matter, §1681u NSLs are generally only used for counterintelligence cases), asserting that the information is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a U. S. Person is not conducted solely upon the basis of activities protected by the First Amendment of the Constitution. Financial records also contain an additional certification that

the FBI has complied with all applicable provisions of the RFPA. Use of the model NSLs will ensure that the proper certifications are made.

4. The following paragraphs of the NSL, for those with respect to which the requesting party is seeking to have a non-disclosure provision included, include a certification that the disclosure of the request may endanger national security, interfere with a criminal, counter terrorism, or counterintelligence investigation, or interfere with diplomatic relations or endanger a life. Based on that certification, the NSL provides that the recipient is under an obligation not to disclose the fact of the request to anyone except those in the company that have a need to know and to legal counsel, if necessary. Further, as to those NSLs which contain a non-disclosure provision, the NSL recipient is informed that he must convey the non-disclosure requirement to persons who have such a need to know, and that, if asked, he must inform the FBI of the names of those persons, except attorneys to whom disclosure is made. In addition, the NSL recipient is informed that he may challenge that non-disclosure provision. In all NSLs, the recipient is informed of his right to challenge the NSL itself if compliance would be unreasonable, oppressive or otherwise unlawful, as well as the right of the FBI to enforce the NSL, including the non-disclosure provision, if there is one.
5. The last substantive paragraph instructs the company point of contact to provide the records personally to a representative of the delivering field division or to use a delivery service such as Federal Express or United States Post Office controlled delivery service or secure fax to return the records to the requesting field office. (Information may not be returned through routine U.S. mail.) As a matter of practice, an entity will not incur such costs on its own so if a field office wants the records returned via a delivery service, it needs to provide the entity with either a Federal Express office account number or a prepaid package or something of that kind. Otherwise, the entity can be expected to contact the local field office to pick up the records. The NSL also states that any questions should be directed to the delivering field division or, if the delivery has been made by Federal Express, to the requesting field office.
6. The model NSLs for financial records, telephone toll billing records, and electronic communication transactional records each have a separate attachment. These attachments provide examples of information which the company might consider to be financial, toll billing, or electronic communication transactional records. As a general matter, the NSL itself should only request information in the form of the standard language found in the statute. If there is a particular type of information that you are seeking that is not found in the attachment and that you believe is within the parameters of the statute, please consult with your chief division counsel or NSLB concerning amending the attachment.

7. The disseminated NSL is an unclassified document because it does not detail the specific relevance of the requested records to an authorized FBI investigation. There is no need to classify the NSL when attaching it to the cover EC.

H. (U) Features that respective NSL ECs share in common

1. The Cover EC serves five essential functions in the NSL process: (1) it documents the predication for the NSL by recording why the information sought is relevant to an investigation; (2) it documents the approval of the NSL by relevant supervisors and the legal review of the document; (3) It documents certification of the necessity for non-disclosure, when applicable; (4) it contains the information needed to fulfill the Congressional reporting requirements for each type of NSL; and (5) when the NSL package is being personally delivered, it transmits the NSL to the delivering field office for delivery to the appropriate telecommunications carrier, ISP, financial institution, or credit bureau. As stated above, there are eight varieties of model ECs drafted by NSLB and available on its website: Those are (1) financial records from financial institutions; (2) credit bureau list of financial institutions at which a customer maintains/has maintained an account; (3) consumer identifying information from credit bureaus; (4) full credit report in international terrorism cases from credit bureaus; (5) telephone subscriber information (6) toll billing records (7) electronic communication subscriber information; and (8) electronic communication transactional records. When preparing an NSL request, the field should use one of these model ECs. If a change to the model EC is thought necessary in a particular situation, please consult with your chief division counsel or NSLB.
2. Field Descriptors – This section will generally explain how most of the EC field descriptors should be completed. The "**Precedence**" descriptor will typically be "ROUTINE." The "**Date**" descriptor should reflect the date the NSL and the EC were approved. The "**To**" descriptor will always include "General Counsel" and the requesting squad's field division. It may also include the name of the delivering field division and the office of origin, if applicable. The "**Attn**" descriptor should include the National Security Law Branch (NSLB), and the squad supervisors and case agents from the requesting squad, delivering field division, and office of origin, if applicable and if known. The "**From**" descriptor should identify the certifying official's field division, and include the title of the certifying official. The "**Contact**" descriptor should reflect the name and phone number of the requesting squad case agent. The "**Drafted By**" descriptor should reflect the name of the person who prepared the NSL package. The "**Case ID #**" descriptor must contain the case file number relevant to the request, and the control file number maintained by the field. There is no HQ NSL control file number that needs to be referenced. The "**Title**" descriptor should list the subject's name, any known aliases, whether the

investigation is an FCI or IT investigation directed at a particular foreign power, and identify the office of origin, e.g., WILLIAM BAD GUY, aka BILL BAD GUY, FCI-IRAQ, OO: NEW YORK. The "Synopsis" descriptor should use the standard boilerplate contained in the appropriate model EC. The "Derived From" descriptor should be "G-3" in bold typeface. The "Declassify On" descriptor should be "X-1" in bold typeface. The "Preliminary Investigation Instituted " or "Full Investigation Instituted" descriptor should contain the date the national security investigation was opened on the subject. The remaining descriptors can be filled in accordance with the model EC being used.

3. Predication and Relevance - NSLs may be issued upon a certification of relevance to an authorized national security investigation. Accordingly, the first paragraph in the "Details" section of the EC should contain the predication for opening and maintaining the national security investigation, including whether the subject is a U.S. Person, and identify the relevance of the requested records to the investigation. Both the predication and relevance should be stated clearly and concisely.
4. Reporting – The EC must set forth the number of requests for information that are being sought by the NSL, including the number of different persons/account holders that are the subject of requests to the NSL recipient (or to each of the recipients, if there are multiple recipients) as well as their U.S. Person status.
5. Return of NSL information - The next paragraph requests that the NSL instruct the NSL recipient to return the information to the FBI within a certain period of time by using secure fax, *via* Federal Express, United States Post Office controlled delivery service, or some other controlled delivery service that provides for delivery directly to a named individual, or through a pick-up by the local field office. Many companies and field offices have an established relationship such that both prefer that the NSL is served personally by the local field office and that the information is picked up by the local field office. These companies are noted on the NSLB website. ([http://\[redacted\]](http://[redacted])) Information may not be returned by regular mail or by non-secure fax.
6. Non-Disclosure – The next paragraphs set forth the basis of a request for non-disclosure, if sought by the requesting party. It must assert that disclosure may endanger national security, interfere with a criminal, counterterrorism or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. The EC should include not only this assertion, but the basis upon which the assertion is made. On the NSLB website, there is a list of underlying factors that may support the assertion. (also, see below) The certification may be made by the same officials who have the authority to approve the NSL. If the

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requesting party is not seeking a non-disclosure provision, the EC must contain an assertion to such effect.

7. Dissemination – The EC also sets forth guidance as to the dissemination of the information returned from the NSL recipient. (see below)

I. (U) Payment for NSLs

1. **ECPA** does not provide for reimbursement of costs; thus, there is no legal obligation to pay for telephone and email subscriber records, toll billing records, or electronic communication transactional records.
2. **RFPA** requires reimbursement of costs; Title 12, CRF Part 219, and the appendix, provide a reimbursement cost schedule.
3. **FCRA**, §1681u requires reimbursement of costs but no reimbursement schedule has been promulgated. However, **FCRA** §1681v does not provide for reimbursement of costs.
4. It is **FBI** policy that if the statute does not require reimbursement, the **FBI** will not pay unless compliance with the request is unusually burdensome.

J. (U) Dissemination of NSL Information

1. Information obtained through the use of an NSL may be disseminated in accordance with general standards set forth in The Attorney General's Guidelines for FBI National Security Investigation and Foreign Intelligence Collection (NSIG). Dissemination is further subject to specific statutory limitations (e.g., **ECPA**, 18 U.S.C. §2709, and **RFPA**, 12 U.S.C. §3414(a)(5)(B), which permit dissemination if per NSIG and information disseminated is clearly relevant to the responsibilities of the recipient agency; **FCRA**, 15 U.S.C. §1681u, permits dissemination to other federal agencies as may be necessary for the approval or conduct of an FCI investigation; there are no special statutory rules for dissemination under **FCRA**, 15 U.S.C. §1681v).
2. Since the information obtained through an NSL is not classified, the information itself, in raw form, may be disseminated in accordance with the NSIG and specific statutory provisions without regard to classification issues. However, if information obtained from an NSL is discussed and disseminated in the context of a national security investigation, it should be assessed for appropriate classification prior to any dissemination. If such information is to be used in a criminal proceeding, then steps to declassify are in order (See CIPA, Title 18 USC Appendix). If such information is to be disseminated to a foreign government, a determination by a Designated Intelligence Disclosure Official (DIDO) will be required. Again, neither of those

steps is necessary if only disseminating the information in raw form, without any context; however, due consideration should be given dissemination of non-publicly available information concerning USPERs in accordance with Privacy Act limitations.

I. (U) Approval Standards for NSLs

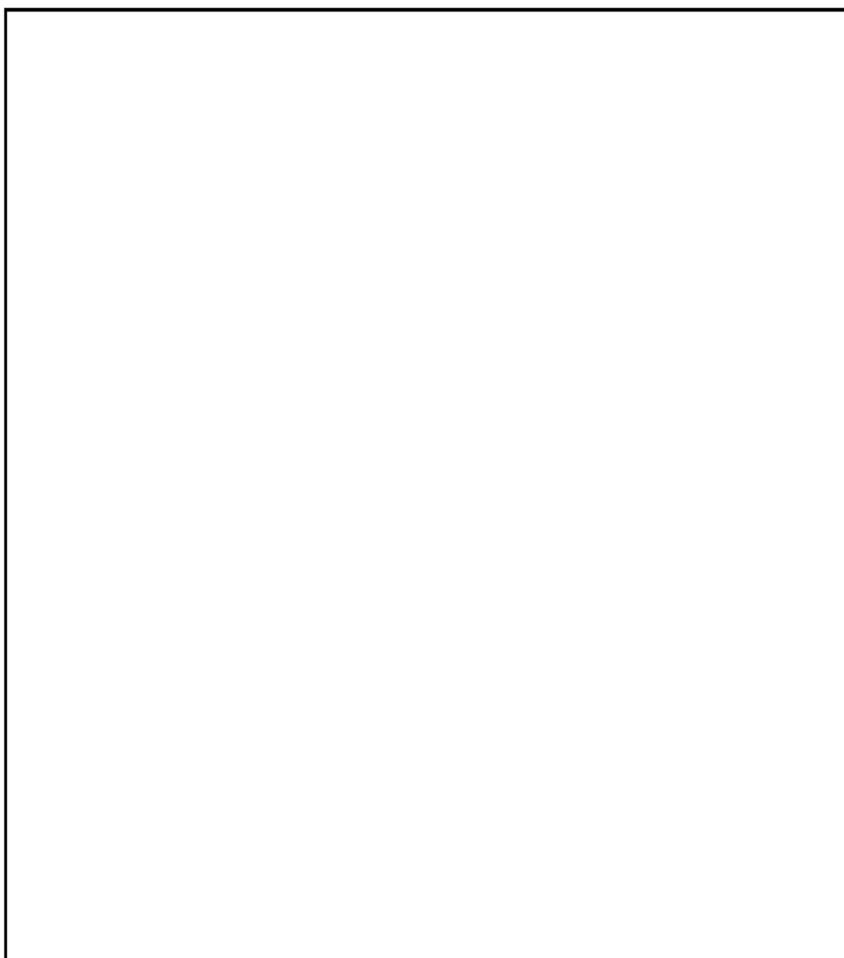
1. NSLs are reviewed by CDCs at the field office level. At headquarters, they are reviewed by NSLB. At all levels, they must meet the legal standards set forth above, namely relevance to an authorized national security investigation. A perfunctory recitation that (1) the subject is the target of an investigation, (2) he has a telephone, and (3) therefore it follows that an NSL for his telephone records is relevant to the authorized investigation will not suffice. The model EC now states that a full recitation of the reason for initiating and maintaining the investigation is necessary in order to justify an NSL. The reason is commonsensical - there can be no reason to issue an NSL if the subject matter or issue to which it supposedly relates is not worthy of investigation or if the investigation is based solely on the exercise of First Amendment rights. Conversely, if the subject matter is worthy of investigation, then it is likely that the subject's telephone records or bank account records are relevant to the investigation. In other words, in order for an NSL to meet the legal standard set forth in the statutes, the reviewing party has to assure that there is a proper reason for investigating the target and not an improper reason, for instance, the exercise of First Amendment rights.
2. The legal review that is performed by the CDCs should be consistent with the factual review that should be performed by SACs when certifying that the NSL is relevant to an authorized national security investigation and that the investigation is not based on the exercise of First Amendment rights by an USPER.. The recitation of facts about the reason for initiating and maintaining an investigation serves to support both the SAC certification and the CDC legal review.

J. (U) Issuance of Non-disclosure Provision of NSLs and Judicial Challenge.

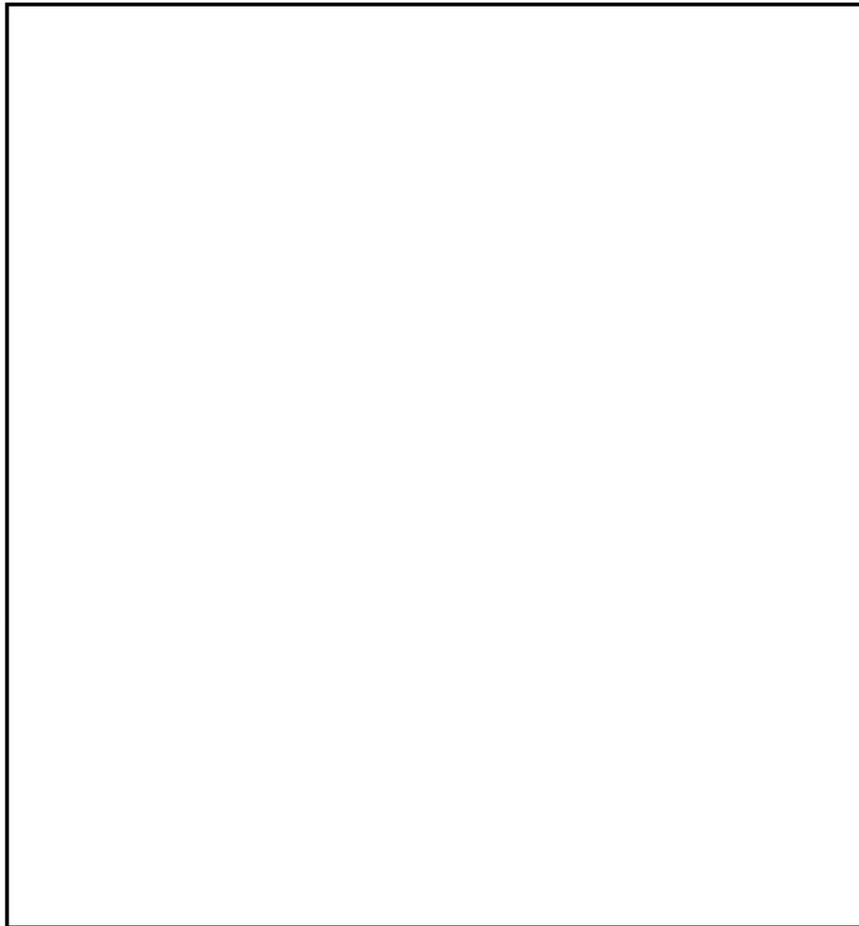
1. If the Director or his delegee certifies the need to require non-disclosure, then the issued NSL will require non-disclosure. The Director has delegated such certification authority to the same persons who have authority to approve NSLs, namely (1) the Deputy Director; (2) the EAD for the National Security Branch which includes the Directorate of Intelligence; (3) The Assistant EAD for the National Security Branch ; (4) the Assistant Directors (AD) and all Deputy Assistant Directors (DAD) of the Counterterrorism Division (CTD), the Counterintelligence Division (CD) and the Cyber Division (CyD); (5) the General Counsel and Deputy General Counsel for National

Security Law Branch; (6) the Assistant Director in Charge and SACs of the New York, Los Angeles, and Washington field offices; and (7) the SACs of all other field offices. Acting SACs do not have such authority.

2. The requirement for certification for the need for a non-disclosure provision is the major change in the format of the EC. It derives from the USA PATRIOT Improvement and Reauthorization Act of 2005 in that the requesting party must affirmatively take steps to have a non-disclosure provision included in the NSL; it is not automatic anymore. If a non-disclosure provision is sought, the EC must set forth a factual predicate to require such a provision. As a general matter, the certification must assert that disclosure may endanger national security, interfere with a criminal, counter terrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. More specifically, the manner in which those dangers may arise from disclosure of the issuance of an NSL could include:



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This is not an exclusive list. Therefore, if there are other reasons for requesting a non-disclosure provision, those reasons should be set forth in the EC.

3. The Certification for non-disclosure imposes on the recipient of the NSL the obligation to convey the non-disclosure requirement to persons who have such a need to know, and, if asked, to inform the FBI of the names of those persons to whom disclosure has been made except with respect to disclosure to an attorney for legal guidance concerning compliance with the NSL. For those NSLs which contain a non-disclosure provision, the NSL recipient is informed that he may challenge that non-disclosure provision. (In all NSLs, the recipient is informed of his right to challenge the NSL itself if compliance would be unreasonable, oppressive or otherwise unlawful, as well as the right of the FBI to enforce the NSL, including the non-disclosure provision, if there is one. See below.)
4. Judicial Review of Non-Disclosure provisions
 - a. A recipient of an NSL request may file a petition before a U.S. District Court in a location where the recipient resides or performs his

business and seek an order to modify or set aside the non-disclosure provision.

b. If a petition to set aside or modify the non-disclosure provision is filed within one year of issuance of the NSL, the court may modify/set aside the non-disclosure if there is no reason to believe that disclosure may endanger the national security of the U.S., interfere with criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. The court will treat as conclusive a certification by the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the FBI that disclosure may endanger the national security of the United States or interfere with diplomatic relations (unless made in bad faith).

c. If a petition to set aside or modify the non-disclosure provision is filed one year or more after the issuance of the NSL request, the Agency issuing the NSL must:

- i. within 90 days terminate the non-disclosure provision, or
- ii. re-certify that a disclosure may harm the national security, interfere with a criminal, counterterrorism, or counterintelligence investigation; interfere with diplomatic relations, or endanger life or physical safety of any person.
- iii. re-certification for non-disclosure may be made by the same persons who have authority to approve the NSL itself. The court will treat as conclusive a re-certification by the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the FBI that disclosure may endanger the national security or interfere with diplomatic relations (unless made in bad faith).

5. Criminal Penalty for Unauthorized Disclosure

- a. Knowingly making a disclosure with intent to obstruct an investigation may subject the party to a fine or imprisonment for a term of up to five years, or both.

K. (U) **Judicial Review of NSLs**

1. A recipient of an NSL request may file a petition before a U.S. District Court in a location where the recipient resides or performs his business and seek an order to modify or set aside the request. The Court will grant the recipient's motion if the NSL is unreasonable, oppressive, or otherwise unlawful.
2. The Attorney General may invoke the aid of a U.S. District Court in which the investigation is carried on, or the person or entity resides or

does business or may be found. The court may compel compliance by ordering the person/entity to comply. Failure to obey is punishable by contempt.

L. (U) Required Reporting to Congress

1. NSL authorizing statutes require annual reporting to committees of Congress regarding national security letters under section 18 U.S.C. § 2709(c)(1); 15 U.S.C. §§ 1681u(d) or 1681v(c); 12 U.S.C. §§ 3414(a)(3) or 3414((a)(5)(D); or 50 U.S.C. § 436(b) to include the Committees on the Judiciary of the House and Senate.
2. In general, in April of each year, the Attorney General shall submit to Congress an aggregate report setting forth the total number of requests submitted by the FBI for information concerning different USPERs under the NSL authorizing statutes.
3. The report shall be submitted in Unclassified Format.

M. (U) Office of Inspector General, Department of Justice Audit of NSLs.

1. Under the USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005, the Inspector General (OIG) of the Department of Justice has been instructed to perform an audit of the effectiveness and use, including any improper or illegal use, of national security letters issued by the FBI.
2. The OIG audit is to cover the time span of annual years 2003 through 2006.

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From: [redacted] (OGC) (FBI)
Sent: Thursday, March 23, 2006 11:13 AM
To: CAPRONI, VALERIE E. (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (DI) (FBI); [redacted] (OGC) (FBI)
Subject: SSCI Hrg - REVISED NSL Answers (SSCI's 17+1)
SECRET
RECORD NSLs

Duplicate 3/23/06 email JFT-5

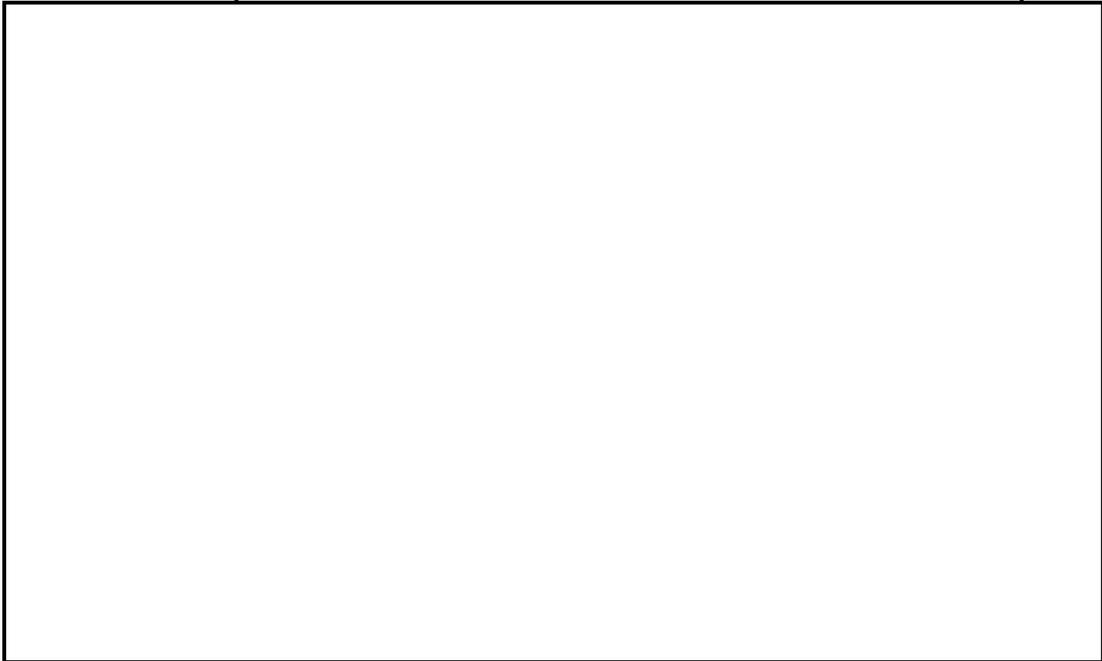


DERIVED FROM: Multiple Sources
DECLASSIFY ON: 20160323
SECRET

NSL VIO-29888

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 01-10-2008 BY 65179/dmh/ksr/cak

Talking Points:



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From: [redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 4:43 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Your Ques Re [redacted] QFR fm GC Caproni's HJC Hrg (20 Mar 07)
UNCLASSIFIED
NON-RECORD

Julie --

The short answer is "no."

I'll defer to [redacted] to add any more detailed comments.

[redacted]

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b5

-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Thursday, March 22, 2007 4:39 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted] - QFR fm GC Caproni's HJC Hrg (20 Mar 07)

UNCLASSIFIED
NON-RECORD

Is that on the drawing board for the future?

Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
202-324-[redacted] b2
202-324-[redacted] (fax)

[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 4:20 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: [redacted] - QFR fm GC Caproni's HJC Hrg (20 Mar 07)

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

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b5

Julie --

This afternoon, in an office conference with [redacted] he advised that

[Redacted]

In a nutshell,

[Redacted]

b5
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b7C

FYI.

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 3:31 PM
To: [Redacted] (OGC) (FBI)
Subject: RE: QFR from GC Caproni's HJC Hrg (20 Mar 07)

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

b6
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[Redacted]

Let's sit down and talk about this.

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Thursday, March 22, 2007 3:24 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI)
Subject: QFR from GC Caproni's HJC Hrg (20 Mar 07)
Importance: High

b6
b7C

[Redacted]

We've already received some QFRs from GC Caproni's 20 March testimony before the House Judiciary Committee.

Julie asked me to contact you regarding one of those QFRs:

[Redacted]

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In other words, [REDACTED]

[REDACTED] Then, having made those points, Julie suggested that

[REDACTED]

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Any help you can offer regarding the above would be most appreciated.

Thanks!

[REDACTED]

SENSITIVE BUT UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

From: [redacted] OGC) (FBI)
Sent: Wednesday, December 27, 2006 10:45 AM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI) [redacted] (OGC)
(FBI)
Subject: Your Question Re Possible NSL Overcollection
~~**SECRET**~~
~~**RECORD 278 HQ-C1229736**~~

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[redacted]

Thanks for your voicemail yesterday regarding the latest OGC policy on NSL overcollection issues. (My apologies for the delayed response. I was on leave yesterday.)

First, it's **important** to confirm that there was, in fact, an overcollection. Frequently, upon further review, it's determined that the records were actually covered by the Attachment or perhaps even the body of the NSL itself.

Beyond that, given the nature of your voicemail, I think the best response is [redacted]

[redacted]

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Let me emphasize again that the above is from a **DRAFT EC**. However, on the particular issue at hand, I believe that the guidance is accurate.

More importantly, you'll note that [redacted] an EC, dated 16 November 2006, regarding IOBs. That IOB EC is alive and well, having been uploaded into ACS on 28 November. On its page 7, within the "Procedures" section, in paragraph 8, subparagraphs L-N, NSL overcollection issues are specifically addressed. For your convenient reference, I'm attaching that IOB EC

here:



IOB External
Guidance.wpd (34 ..

I hope that the above will address your specific questions. However, if I've missed the boat, please don't hesitate to contact me again.



OGC / NSLB / NSLPTU
(202) 324-

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~~**SECRET**~~

