Freedom of Information
and
Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263 0-U- VOLUME 8

Federal Bureau of Investigation
Serial Description - COVER SHEET

Total Deleted Page(s) ~ 20
Page 32 ~ Duplicate 9/30/05 EC
Page 33 ~ Duplicate
Page 34 ~ Duplicate
Page 43 ~ b1, b6, b7C, b7D
Page 44 ~ b1, b6, b7C, b7D
Page 45 ~ b1, b6, b7C, b7D
Page 46 ~ b1, b6, b7C, b7D
Page 47 ~ b1, b6, b7C, b7D
Page 61 ~ Duplicate page 2 of 2/25/05 EC
Page 62 ~ Duplicate page 3 of 2/25/05 EC
Page 63 ~ Duplicate page 4 of 2/25/05 EC
Page 64 ~ Duplicate NSL Letter
Page 65 ~ Duplicate
Page 66 ~ Duplicate EC dated 2/4/05
Page 67 ~ Duplicate
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X Deleted Page(s) X
X No Duplication Fee X
X for this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Precedence: ROUTINE

To: Inspection General Counsel

Attn: IIS
Attn: NSLB

Date: 04/20/2005

From: [Blank]

Contact: [Blank]

Approved By: [Blank]

Drafted By: [Blank]

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

Title: (U) REPORT OF POSSIBLE IOB VIOLATION (Pending)

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

(S) Derived From: G-3

Declassify On: X1

Enclosure(s): [S] Enclosed for NSLB are an EC dated 02/21/2005 containing toll records received with all of it’s enclosures, A potential IOB violation occurred during investigation

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

writer prepared a NSL for service requesting subscriber information. A response to the NSL was

Case ID: 278-HQ-C1229736-VIO

Serial: 823

ALL INFORMATION CONTAINED HERIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

CLASSIFIED BY 65179dmh/kxz/prs
REASON: 1.4 (c/d)
DECLASSIFY ON: 06-01-2032

DATE: 06-01-2007
Writer began to review the response from upon reading the subscriber information. Writer realized the name was not identifiable with.

(Note: There is only one digit difference between and which was the number. Writer then checked database for this number.)

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

Writer was unable to determine if the incorrect telephone number was the result of providing incorrect information or a mistaken by the writer.

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

LEAD(s):

Set Lead 1: (Info)

ALL RECEIVING OFFICES

(U) For info only.
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: Inspection
Counterterrorism

Attn: IIS
Attn: AD
Attn: SAC, CDC

From: General Counsel
Counterterrorism Law Unit II

Contact: [Redacted]

Approved By: Thomas Julie F

Drafted By: [Redacted]

Case ID #: 278-HQ-C1229736-VIO - 31471

Title: POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER IOB 2005

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

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

Reference: 278-HQ-C1229736-VIO Serial 823

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

Details: [Redacted]
To: Inspection From: General Counsel
Re: 278-HQ-C1229736-VIO, 05/10/2005

SECRET

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

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

SECRET
To: Inspection From: General Counsel
Re: 278-HQ-C1229736-VIO, 05/10/2005

In the instant matter, SA erroneously issued an NSL for an incorrect phone number. However, he did so in good faith, further, immediately upon reviewing the subscriber information, he discontinued his review of the records and properly sequestered the information.

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

Date: 06/27/2003

To: Counterterrorism

Attn: ITOS I, CONUS II, Team 6

General Counsel

Attn: Unit Chief

Inspection

Attn: National Security Law Unit

From: 

Contact: 

Approved By: 

Drafted By: 

Case ID #: (U) 278-HQ-1229736-VIO (Pending)

(U) 278-0 (Pending)

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

Synopsis: (U) To seek guidance regarding possible IOB violation.

Details: (S)

Case ID: 278-HQ-C1229736-VIO

Serial: 110

208-0-0

SECRET
On June 18, 2003, FBIHQ advised Division to discontinue serving subpoenas because of the statutory provisions requiring authorization by the Attorney General (AG).

Division in turn contacted the United States Attorney's Office, Western District of [redacted] and requested that all pending requests for Grand Jury subpoenas be suspended until further notice. NSLs will be used to identify interim.

Division was unaware that the term "Criminal proceeding" had been interpreted by the AG Guidelines to include Federal Grand Jury (FGJ) subpoenas and proceedings. Division has disseminated this guidance internally and will ensure future compliance with the AG Guidelines regarding this issue.

requests that FBIHQ consider and determine whether the AG authority within itself fulfills the AG approval requirement.

LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

Review information and advise FBI as to any findings on this matter.

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON D.C.

Review information and advise FBI as to any findings on this matter.

Set Lead 3: (Info)

COUNTERTERRORISM

AT ITOSI\CONUSII

For information.
Precedence: ROUTINE
To: Counterterrorism
       Director's Office
Attn: SAC
       ITOS I/CONUS III
       Office of Professional Responsibility

From: General Counsel
       National Security Law Branch/BM 7974

Approved By: Curran John F

Drafted By: 

Case ID #: 278-HQ-1229736-VIO

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2003

Synopsis: It is the opinion of the Office of General Counsel (OGC) that the above referenced matter must be reported to the IOB and to the FBI’s Office of Professional Responsibility (OPR). OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.

Reference: 278-HQ-1229736-VIO

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

Details: By electronic communication (EC) dated 06/27/03 (cited below)II Division reported a possible IOB error in conjunction with
(U) Pursuant to Sections 1806(b), 1825(c), and 1845(b) of the FISA, FISA-derived information may not be disclosed for law enforcement purposes or used in a criminal proceeding without prior authorization of the Attorney General. Pursuant to a memorandum of the Attorney General dated March 6, 2002, the issuance of a grand jury subpoena falls within the definition of a "criminal proceeding" as that term is used in the FISA. Thus, a subpoena containing FISA-derived information requires prior authorization of the Attorney General before it is disclosed or used in a criminal proceeding.

(U) Section 2.4 of Executive Order (EO) 12863, dated September 13, 1993, requires the General Counsel for the Intelligence Community, including FBI/OGC, to report to the IOB intelligence activities that they have reason to believe are unlawful or contrary to executive order or presidential directive.

Pursuant to the FISA, a grand jury subpoena containing FISA-derived information may not be disclosed without prior authorization of the Attorney General. The Division served a federal grand jury subpoena containing FISA-derived information on a third party without obtaining the Attorney General's prior authorization. It is the opinion of Office of General Counsel that this constitutes a violation of the FISA that must be reported to the IOB.

(U) Based upon the above analysis, and consistent the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an LHM to report this matter to the IOB. That correspondence will also advise the IOB that this matter will be referred to the FBI's Office of Professional Responsibility.

Lead(s):

Set Lead 1: (Action)

COUNTERTERRORISM DIVISION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Action)
DIRECTOR'S OFFICE

AT OPR FO, DC

(U) For action deemed appropriate.

Set Lead 3: (Action)

(U) For action deemed appropriate.

1 - Mr. Curran
1 - NSLB IOB Library

**FOOTNOTES**

(U) See EC from Division to the General Counsel, dated 06/27/03, Case ID# 278-HQ-1229736-VIO, titled "Intelligence Oversight Board Matter (IOB) Division," hereinafter cited as EC."
Precedence: ROUTINE

To: General Counsel

From:

Contact: SA

Approved By:

Drafted By:

Case ID #: 278-HQ-C1229736-VIO - 820

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

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

Enclosures: Telephone records requested by General Counsel.

Details:

1. 

2. 

3. Possible IOB Error.

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

Drafted an NSL which contained an incorrect telephone number. Responded to the NSL and delivered the records that corresponded to the incorrect number on the NSL.
To: General Counsel  
From:  

Re: 278-HQ-C1229736-VIO, 04/22/2005  

Per instructions from CDC in her e-mail dated 04/21/2005 the acquired telephone records are enclosed along with copies of the original NSL and cover EC to be forwarded to OIPR. All the communications that contain the incorrect number were permanently charged out and removed from ACS. I contacted the office and requested the removal from ACS.
To: General Counsel From: [Blank]
Re: 278-HQ-C1229736-VIO, 04/22/2005

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) General Counsel to take action requested above.

♦♦
Precedence: ROUTINE

To: Inspection

Attn: Internal Investigation Section

From: General Counsel
National Security Law Branch/CTLU I/LX1 55-200

Approved By: Thomas Julie F

Drafted By: 

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

(U) Title: INTELLIGENCE OVERSIGHT BOARD

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

(U) Derived From: G-3

Declassify On: XI

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

Details: (S) As reported by the Division in the April 22, 2005 electronic communication, on December 6, 2004, a National Security letter (NSL) Special Agent (SA) drafted which contained an incorrect telephone number.

Date: 05/06/2005

FBI INVEST);

OPR UG INITIALS: 

DATE: 06-04-2007

DECLASSIFY ON: 06-04-2032

CLASSIFIED BY 55179dh/kzs/prs
REASON: 1.4 ((c))
responded to the NSL and delivered the telephone records that corresponded to the incorrect number listed in the NSL. Upon review of the telephone records, it was discovered that they belonged to a different U.S. Person.

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

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

The Electronic Communications Privacy Act (ECPA), 18 U.S.C. § 2709 authorizes the issuance of a National Security Letter for telephone subscriber information, telephone toll billing records and electronic communication transactional records for telephone numbers used by the subject of the investigation. The USA PATRIOT Act, P.L. 107-56, authorizes the issuance of an NSL for a subject upon a certification of relevance to an authorized investigation to protect against international terrorism or clandestine intelligence activities.

Section 2.4 of the Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectfully) report to the IOB all information "concerning the intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive."
In the instant matter, while the error in combining the two telephone numbers appears to be inadvertent, it resulted in obtaining another U.S. Person's telephone records without authorization. Even though the production of the wrong telephone records resulted from a typographical error, the delivery of the telephone records was contrary to 18 USC § 2709. Consequently, based on the above analysis, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB.

LEAD(s):

Set Lead 1: (Action)

(U) Read and clear

Set Lead 2: (Action)

INSPECTION (IIS)

AT WASHINGTON, DC

(U) For action deemed appropriate

1 - Ms. Thomas
1 - SSA
1 - IOB File
May 6, 2005

BY COURIER

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

Dear Chairman Langdon:

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

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

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

Enclosure

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

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

SECRET
of the Federal Bureau of Investigation (FBI) has reported that a National Security Letter (NSL) contained an incorrect telephone number.

a National Security letter (NSL) which contained an incorrect telephone number.

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

When the error was discovered, the telephone records were sealed along with the original NSL and forwarded to FBI Headquarters together with a report of the incident. All communications that contained the incorrect telephone number were permanently charged out and removed from FBI Automated Case Support system (ACS). In addition, the matter has been referred to the FBI's Internal Inspection Section for any action that is deemed appropriate.
Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 4/22/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.
To: 

Attn: SAC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 11102
Contact: CRS

Approved By: Fogle Toni Mari

Drafted By: 

Case ID #: 263-HQ-0-U-319 (Pending)

Title: INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1156

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This incident is remanded back to the field for whatever action deemed necessary and appropriate. Case closed at IIS.

Enclosure(s): (U) EC from Reference:

Details: (U) Upon review of Division's captioned report of a potential IOB violation, it is IIS's opinion the incident is not indicative of willful misconduct. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

(U) IIS does, however, suggest this incident be potentially considered a possible performance related issue with respect to the employee and respective supervisor, and relegates any future action relative to this incident to the discretion of the Division. IIS recognizes and appreciates this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

DECLASSIFIED BY 65179 dmh/kst/prs
ON 06-08-2007
Precedence: ROUTINE

To: Counterterrorism General Counsel

Attn: ITOS I\CONUS 2\Team 7 UCI

Attn: NSL

From: Inspection Internal Investigations Section, IPU, Room 11102

Contact: CRS

Approved By: 

Drafted By: 

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

263-HQ-C1229736-VIO (Pending)

Title: INTELLIGENCE OVERSIGHT BOARD DIVISION

Synopsis: (U) Forwarding material to Counterterrorism Division for appropriate handling.

Reference: 278-HQ-C1229736-VIO Serial 688

Enclosure(s): Enclosed for Counterterrorism Division (CTD), ITOS I, CONUS 2, Team 7 are the following:

A copy of 278-HQ-C1229736-VIO, serial 688

 ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
To: Counterterrorism  
From: Inspection  
Re: 263-HQ-0-U, 09/30/2005

enclosing:  
A copy of 278-HQ-C1229736-VIO, serial 754

A CD containing material inadvertently gathered

Details: By way of 278-HQ-C1229736-VIO serials 688 and 754, Division forwarded to Inspection Division (INSD), Internal Investigations Section (IIS) the enclosed unauthorized collected material inadvertently obtained pursuant to: 1) an NSL material should have been provided by Division to CTD\ITOS I\CONUS 2\Team 7, the substantive unit supervising the investigations in which the material was collected. In turn, that unit SSA should turn it over to the Office of Intelligence Policy and Review (OIPR).

Accordingly, INSD, IIS is forwarding the enclosed material to CTD\ITOS I\CONUS 2\Team 7 for appropriate handling.
To: Counterterrorism
From: Inspection
Re: 263-HQ-0-U, 09/30/2005

LEAD(s):

Set Lead 1: (Action)

COUNTERTERRORISM
AT WASHINGTON, DC

(U) For ITOS I\CONUS 2\Team 7 to review EC and provide enclosed material to OIPR.

Set Lead 2: (Info)

GENERAL COUNSEL
AT WASHINGTON, DC

(U) Provided to NSLB for information only.

++
SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/25/2005

To: Inspection Attn: Internal Investigations Sect.
General Counsel Attn: Natl. Sec. Law Branch
Attn: Asst. Genl. Counsel

From: Legal Unit
Contact: CDC

Approved By:

Drafted By:

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

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

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

(U) Derived From: G-3
(U) Declassify On: XI

Enclosure(s): X Enclosed for the Inspection Division, Internal Investigations Section are the following:

1. A CD containing material pursuant to a National Security Letter (NSL).

WARNING: This CD may contain a virus and should not be placed in any computer until a virus scan is performed.

(S) 2.
To: Inspection  
From:  

Re: (U) 278-HQ-C1229736-VIO, 02/25/2005

3. An EC dated 02/04/2005 transmitting the results by SAC.

A NSL was signed by SAC. The NSL sought information returned to the NSL.

Upon receiving the CD the case agent in this matter, TFO, examined the CD and determined that it contained information retrieved from the CD should not be used for any purpose even though the NSL did not request any such information. On 2/23/2005 CDC e-mailed AGC.
To: Inspection
From:
Re: (U) 278-HQ-C1229736-VIO, 02/25/2005

The putpuli should be reported to determine if this matter should be reported as a potential IOB violation. On 2/24/2005 she responded that it should be reported.

(U) believes the following should be considered by the Inspection Division and the General Counsel in determining if this matter should be reported to the IOB. First the NSL specifically stated that e-mail content information was not requested. Any violation of Title 18, U.S. Code Section 2711 was committed by the internet service provider, not by the FBI. The statute does not specifically prohibit the FBI from viewing e-mail content information provided pursuant to a NSL and it does not specifically prohibit the use of such information by the FBI. The statute prohibits the FBI from requesting the content information and prohibits the provider from releasing such information. Second, any violation of the "intent" of the statute was inadvertent. The case agent sought guidance from his supervisor shortly after viewing the information and the supervisor immediately contacted the CDC. Guidance was then sought from OGC.
LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

**
Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended, October 26, 2001), you are hereby directed to provide to the Federal Bureau of Investigation (FBI).

In accordance with Title 18, U.S.C., Section 2709(b), I certify that all records being sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, and that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States.

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

You are requested to provide the records in an electronic format, specifically in comma separated value format, and then provide them personally to a representative of the Division of the FBI. Any questions you have regarding this request should be directed only to the Division. Due to security considerations, you should neither send the records through the mail nor disclose the substance of this request in any telephone conversation.
Your cooperation in this matter is greatly appreciated.

Sincerely yours,

Special Agent in Charge

b6
b7c
b2
b7e
Precedence: ROUTINE  Date: 02/04/2005

To:  Attn:  Ra

From:  Contact: ISS

Approved By:  

Drafted By:  

Case ID #:  

Title:  

Synopsis:  To provide results of National Security Letter (NSL)

Derived From:  G-3

Declassify On:  XI

Enclosure(s):  Enclosed for records, listed in the originating NSL.

Details:  

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
To:  
Re:  
From:  
(S)  
(SECRET)

(S) All leads set for have been completed.

LEAD(s):

Set Lead 1: (Info)

(U) Read and clear.

**
To: Counterterrorism

Attn: SAC CDC

Attn: ITOSI/CONUSII

Attn: Internal Investigation Section

From: General Counsel

National Security Law Branch/LX Crossing Room 5S200

Contact:

Approved By: Thomas Julie F.

Drafted By: 

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

Title: Intelligence Oversight Board (IOB)

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

Reference: 278-HQ-C1229736-VIO Serial 580

Administrative: This communication contains one or more footnotes. To read the footnotes, download and print the document in Corel WordPerfect.
To: From: General Counsel
Re: 278-HQ-C1229736-VIO, 04/21/2005

Details: By electronic communication (EC) dated February 25, 2005 (cited below), reported a potential IOB error.

A NSL was signed by SAC to provide all subscriber information pertaining to provide all subscriber information pursuant to 18 U.S.C. Section 2709. The NSL specifically stated...

Pursuant to the NSL, a CD returned to the NSL.

Case agent determined that the CD contained information to his supervisor SSA telephonically contacted CDC regarding the content information. CDC advised that the CD should be sealed in an envelope and sent to him. He then consulted with NSLPTU. On 02/16/05 Assistant General Counsel advised that the e-mail content information should not be used for any purpose, even though the content information was not requested and sent inadvertently by the service provider. On 02/24/05 NSLB advised that the matter should be reported as a potential IOB violation.

---

1 (U) See EC from Division, dated 02/25/05, Case ID# 278-HQ-C1229736-VIO, titled "TFO SSA Potential Intelligence Oversight Board (IOB) Matter," hereinafter cited as EC.

2 (S) 

3 (U) Id.

4 (U) Id.

5 (U) Id.
As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the surveillance errors described here are matters which must be reported to the IOB. They must.

Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." The USA Patriot Act revised existing law governing

At the same time, the Act made several changes to emphasize that may not be used for the purpose. Consequently, any viewing of the content of electronically transmitted communications must be obtained pursuant to a court order.

In the present case, it is clear that the service provider erroneously provided and that the FBI unintentionally received that content information not contemplated by the NSL. However, under these circumstances, it is OGC's opinion that the error, although inadvertent, must be reported to IOB.

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

There are certain enumerated exceptions to this prohibition. See 50 U.S.C. Section 1802.
To: [Blank]  From: General Counsel  
Re: 278-HQ-C1229736-VIO, 04/21/2005

LEAD(s):

Set Lead 1: (Adm) 

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

Set Lead 2: (Action) 

INSPECTION

INTERNAL INSPECTIONS SECTION, WASHINGTON, DC

(U) For action deemed appropriate

1 - Ms. Thomas
1 - IOB File
April 21, 2005

BY COURIER

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

Dear Mr. Langdon:

Enclosed for your information is a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB) Matter, Division, 2005-..." This enclosure sets forth details of investigative activity which the FBI has determined was conducted contrary to the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. (U)

Enclosure

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

ALL INFORMATION CONTAINED HERIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

Derived from: G-3
Declassify on: XL
Should you or any member of your staff require additional information concerning this matter, an oral briefing will be arranged for you at your convenience.

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

1 - Mr. James Baker
   Counsel, Office of Intelligence Policy and Review
   U.S. Department of Justice
   Room 6150
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Investigation of this IOB matter has determined that, SAC signed a NSL.

The NSL specifically stated not to include content.

I received a CD

The CD contained non-requested

The CDC was contacted the same day and the CD was sealed in an envelope and delivered to the CDC. On February 16, 2005, contacted OGC. NSLPTU. NSLPTU advised not to use information for any purpose. The matter was then reported as a potential IOB violation (S).

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

DATE: 06-08-2007
CLASSIFIED BY 55179 dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

 Derived from: G-3
DECLASSIFY ON: X25-1

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
Precedence: ROUTINE

To: General Counsel

Attn: NSLB

From: Inspection
Internal Investigations Section, IPU, Room 11102
Contact: CRS

Approved By: Fogle Toni Marie

Drafted By: 

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

(U) Title: INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1200
OGC/IOB# 2005

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

(U) Derived From: G-3
Declassify On: XI

Reference: 278-HQ-C1229736-VIO Serial 688
278-HQ-C1229736-VIO Serial 824

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 2/25/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is an error attributed to the Internet Company in providing unauthorized information relative to an NSL request and not the FBI or its personnel. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

DECLASSIFIED BY 65179 dmh/prs
ON 06-08-2007
Precedence: ROUTINE

To:       Date: 09/28/2005

Attn: SAC (Personal Attention)

From: Inspection  
Internal Investigations Section, IPU, Room 11102  
Contact: CRS

Approved By: Rosenthal Russell H

Synopsis: (U) To advise the captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This incident is remanded back to the field for whatever action deemed necessary and appropriate. Case closed at IIS.

Enclosure(s): (U) EC from dated 02/25/2005

Reference: (U) 278-HQ-C1229736-VIO Serial 688  
278-HQ-C1229736-VIO Serial 824

Details: (U) Upon review of Division's captioned report of a potential IOB violation, it is IIS's opinion the incident described therein was an error attributed to the Internet Company in providing unauthorized information relative to an NSL request and not the FBI or its personnel. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

(U) IIS does, however, recognize this matter was brought to our attention as required by the revisions.

DECLASSIFIED BY 65179 dhm/kst/prs
ON 06-08-2007
DATE: June 2, 2005

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

FROM: Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: OIG Complaint No. 2005005031

We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment
OIG - INVESTIGATIONS DIVISION - IDMS

Received By: 
Date Received: 04/18/2005 How Received: A

SUBJECT:
Title: SSA Pay Plan: 
Component: FBI EOD Date: 
Misc: 
Home: , 
Phone: 
Work: 
Phone: 
Judicial Action: 

Administrative Action: 

SUBJECT:
Title: SA Pay Plan: 
Component: FBI EOD Date: 
Misc: 
Home: , 
Phone: 
Work: 
Phone: 
Judicial Action: 

Administrative Action: 

COMPLAINANT:
Title: ATTY Pay Plan: GS- / 
Component: FBI EOD Date: / / 
Misc: 
Home: , 
Phone: 
Work: 
Phone: 
Contact: Confidential: N Revealed: 

ALLEGATIONS: Offense: 412 - Job Performance Failure
Occurrence Date: 
Time: 
City: , 
State: 
Details:
The FBI provided information reporting a potential IOB matter.

DISPOSITION DATA: Office: 
Date: 04/18/2005 Disposition: M Approval: GGP
Referred To Agency: FBI INSPECTION DIVISION Component: FBI
Patriot Act: N Civil Rights: N Priority: N
Other Number: 2781229736 Consolidated Case Number:
Remarks:
Predicating material contains information that has been classified and has been returned to the FBI. (yht)

REFERRAL INFORMATION:
Agency Control No.: 2781229736 Date Sent to Component: 06/02/2005
Last contacted on: / / Status: CASE REFERRAL TO THORNTON/FBI (YHT)

ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 06-11-2007 BY 65179 dmh/kse/plt3
Precedence: ROUTINE

To: Inspection
   General Counsel

Date: 02/25/2005

Attn: Internal Investigations Sect.
   Natl. Sec. Law Branch
   Asst. Genl. Counsel

From: Squad 1, Legal Unit
   Contact: CDC

Approved By:

Drafted By:

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

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

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

Separately Enclosed:

1. A CD containing material furnished by pursuant to a National Security Letter (NSL). WARNING: This CD may contain a virus and should not be placed in any computer until a virus scan is performed.

2. 

ALL INFORMATION CONTAINED HERECIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
Freedom of Information
and
Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-0- volume 10

Federal Bureau of Investigation
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: Inspection

General Counsel

Attn: Internal Investigations Sect.

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

Date: 01/04/2006

From: Squad 1, Legal Unit

Contact: CDC

Approved By: 

Drafted By: 

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

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

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

(U) × Derived From C-3

(U) Declassify On: X1

Details: (S) This matter has risen as the result of a NSL issued in an investigation titled:

(S) As part of this investigation SAC issued an NSL

This NSL was transmitted to the results of the NSL received from

SECRET

DATE: 05-25-2007
CLASSIFIED BY 65179dmh/ksrz/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-25-2032
To: Inspection From:
Re: (U) 278-HQ-C1229736-VIO, 01/04/2006

(U)

(S) the case agent in this matter, began reviewing the documents noted that had provided two documents which were unrelated to the subject of the NSL. 

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

(U) notes that there is nothing in the NSL which should have led to produce the two documents detailed above.
To: Inspection  From:  
Re: (U) 278-HQ-C1229736-VIO, 01/04/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

♦♦
Precedence: ROUTINE

To: Inspection
Attn: Internal Investigations Sect.
Attn: Natl. Sec. Law Branch

From: Squad 1, Legal Unit

Date: 01/04/2006

Internal Investigations Sect.
Asst. Genl. Counsel

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

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

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

Details: (U) As part of this investigation a NSL was signed by SAC . The NSL sought subscriber and toll records for telephone number . The NSL served the NSL and, via an EC dated , returned to a package of material provided by the telecommunications company. EC includes the name and address of the subscriber to this telephone number.
Upon receiving the material the case agent, SA noted that the telephone number subscriber was unknown to him. He then checked the telephone number and noted that the NSL should have requested subscriber/toll information for telephone number. The CDC prepares NSLs upon the request from case agents. Apparently CDC improperly typed the telephone number when preparing it. The number was correctly stated on the transmittal EC. The package of material has not been opened and will be stored in a secure location in the office pursuant to an email of AGC to all CDCs dated 11/22/2005.
LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

◆◆
To: General Counsel
Attn: National Security Law Branch
Room 7975

From: Chief Division Counsel (CDC)
Contact: CDC

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

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

Details:
(U) 1. Personnel and case background


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

SECRET

CLASSIFIED BY 65179 dah/kst/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-25-2032 # 1073946
To: General Counsel  
From:  
Re: (U) 278-HQ-C1229736-VIO, 12/14/2005

(U) 2. Discovery and immediate corrective action

Upon receipt of the records, SAC discovered that he mistakenly provided the wrong phone number in his NSL request.

After discovery, the records received from the Division were destroyed.

By EC dated 07/01/2005, this matter was reported to the National Security Law Branch and Division. But it was not officially reported as a possible IOB violation.

(U) 3. Possible violation and SAC recommendation

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

This matter appears to be a minor administrative oversight. It is certainly mitigated by SAC immediate discovery of the error, and his immediate corrective action. Accordingly, the SAC recommends no administrative action.
To: General Counsel
From: [Redacted]
Re: (U) 278-HQ-C1229736-VIO, 12/14/2005

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

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

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-0 - Volume 14

Federal Bureau of Investigation
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: General Counsel
Attn: NSLB
        Julie F. Thomas
Attn: IIS
Attn: ERF
Attn: EOPS
        SSA
        UC

From: C-5
Contact: SA

Approved By: 

Drafted By: dnv

Case ID #: 278-HO-C1228736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTERS

Synopsis: (U) Pursuant to NFIPM, Section 2-56, the following is a report of an error in a FISA matter.

(U) Derived From: G-3
Declasify On: X1

Administrative: (S) Reference contact between SA Division and UC Electronic Surveillance Operations & Sharing Unit (EOPS); contact between SA and EE Data Intercept Technology Unit (DITU); contact between SA and SSA International Terrorism Operations Section (ITOS);

Details: (U) SA of the Division was participating in a 60-day TDY assignment (02/26/2006 - 04/26/2006) to the Counterterrorism Division, EOPS Unit, when an alleged error in FISA collection occurred.
To: General Counsel  From:  
Re: 278-HQ-C1229736-VIO, 05/17/2006

(SECRET/ORCON/NOFORN)

(SECRET/ORCON/NOFORN)
LEAD(s):

Set Lead 1: (Action)

OPERATIONAL TECHNOLOGY

AT ERF - DITU, QUANTICO, VA

**
FEDERAL BUREAU OF INVESTIGATION

Precedence: DEADLINE 05/12/2006

To: General Counsel Inspection

From: RA

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

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) VIOLATION DIVISION


Reference: 278-HQ-C1229736-VIO Serial 355
278-HQ-C1229736 Serial 1347
66F-HQ-A1247863 Serial 149
66F-HQ-A1247863 Serial 172

Details:

Contact has been made between writer and Counterterrorism ITOS 1/ CONUS 2 to take corrective measures to
To: General Coun.
From: [Redacted]
Re: 278-HQ-C1229736-VIO, 05/09/2006

Include an additional extension from FBIHQ and assurance that future IOB violations will not occur.

To avoid future conflicts with pending paperwork between [Redacted] and FBIHQ all future requests will be submitted with a deadline and a tickler will be set for follow-up. A tickler will be set 30 days prior to expiration of any PIs for submission of extension EC. A follow-up tickler will then be set for 15 days prior to expiration, and a final tickler will be set for five days prior to extension if no approval has been received from FBIHQ.
LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

For information and action deemed appropriate.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

For information and action deemed appropriate.

++
Precedence: ROUTINE

To: Counterterrorism
Attn: SAC, CDC

To: Inspection
Attn: AD, LTSO J. CONUS
Attn: IIS

From: Office of the General Counsel
NSLB/CTLU I/LX-1 38100
Contact: 1536

Approved By: Thomas Julie

Drafted By: 

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

Title: INTELLIGENCE OVERSIGHT BOARD MATTER, IOB 2006

Synopsis: It is the opinion of the Office of the General Counsel (OGC) that this matter need not be reported to the Intelligence Oversight Board (IOB). Our analysis follows.

Reference: 278-HQ-C1229736-VIO-1357

Details: By electronic communication (EC) from dated May 9, 2006, the Field Office reported possible IOB error in conjunction with a counterterrorism investigation.
As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described herein are matters that should be reported to the IOB. We believe that the reported activity does not require IOB notification.

Section II.C.4. of the October 31, 2003 AG Guidelines states in pertinent part:
The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (NSIG) provision regarding the duration of Preliminary Investigations is primarily administrative in nature. It was designed in part to protect the rights of United States persons by limiting the length of time that the FBI can conduct a PI without periodic oversight by the proper authorities.

In this instance, OGC is not required to report the potential IOB error because the only investigative activity which undertook with respect to the non-USPER subject was to have the results of previously served NSLs analyzed.

Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that any error which may have been committed by Atlanta need not be reported to the IOB.

OGC requests that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.
To: [Field Office]
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 07/17/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

AT [Redacted]

(U) For action deemed appropriate.

1 - Ms. Thomas
1 - 
1 - 
1 - IOB Library

SECRET
Precedence: ROUTINE

To: Inspection General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From: Sq 8
Contact: SSA

Approved By: SSA

Drafted By: SQ 8

Case ID #: 278-HO-C1229736-VIO-1456

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: To report possible IOB error.

Details:

1. (S)

2. (S)

3. (S) Possible IOB Error:

4. Description of IOB Error (including any reporting delays).
To: Inspection
From: [Redacted]
Re: (S) 278-HQ-C1229736-VIO, 06/07/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

**
Precedence: ROUTINE

To:                           Attn: CDC
                               Attn: SSA

Counterintelligence Inspection Attn: CD-3D
                               Attn: IIS
                               Attn: CRS

From: Office of the General Counsel
      National Security Law Branch/CILU/Room 7947
      Contact: AGC

Approved By: Thomas Julie F

Drafted By: mjg

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

(U) Title: INTELLIGENCE OVERSIGHT BOARD
          MATTER 2006

Synopsis: It is the opinion of the Office of the General
          Counsel ("OGC") that the referenced matter need not be
          reported to the Intelligence Oversight Board ("IOB"). A copy
          of this opinion should be retained in the control file for
          review by counsel to the IOB.

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

Reference: (S)

Details: By way of Electronic Communication dated 06/07/2006
         (the "EC"), the field office requested that OGC review the facts of the
         captioned matter and determine whether it warrants reporting to
         the IOB. In our opinion, it does not. Our analysis follows.
timely brought this matter to the attention of the FBI OGC, National Security Law Branch, and the FBI Inspection Division. OGC and the Inspection Division received the matter for review and handling on 6/28/2006.

Section 2-56 of the National Foreign Intelligence Policy Manual (NFIPM) requires the OGC to determine whether the facts discussed above must be reported to the IOB.

Section 2.4 of Executive Order (EO) 12863, dated September 13, 1993, mandates that Inspectors General and the General Counsel of Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and OGC respectively), report to the IOB all information "concerning intelligence activities that they have reason to believe may be
unlawful or contrary to Executive Order or Presidential
Directive".

In this case, failure to extend or close the Investigation prior to the date that the Investigation expired constitutes an administrative oversight and was not an attempt to circumvent the preliminary investigation process. Support for this position lies in the fact that the reason for this oversight appears to be the original agent's retirement combined with the subsequently assigned agent's review of the Investigation's file in order to become familiar with the facts therein. Once SA was familiar with the Investigation, she was able to determine whether to resume the Investigation or close it.

Moreover, the late extension request was de minimus. No investigation took place during the time that the Investigation had expired. SA commenced a timely review of the File and discovered that an NSL was outstanding in the Investigation. SA then waited until the requested extension of the Investigation was granted before collecting the documents pursuant to the authority under the NSL.

Based upon the foregoing, this matter will not be reported to the IOB, but will be placed in the control file for a period of three (3) years for review by the Counsel to the IOB.
SECRET

LEAD(s):

Set Lead 1: (Info)

AT

(U) Read and clear.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) INSD should retain a record of the report of the potential IOB matter, as well as a copy of the OGC opinion concluding that IOB notification is not required, for three (3) years, for possible review by the Counsel to the IOB.

CC: Ms. Thomas

IOB Library

**
FEDERAL BUREAU OF INVESTIGATION

Precedence: LEADLINE 06/14/2006
Date: 06/30/2006

To: General Counsel
Attn: NSLB

Inspection Division
Attn: Internal Investigations Section

From: SAC Squad
Contact: ASAC

Approved By: [Blank]

Drafted By: WC

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) - 1474
(U) 278-AT-C71404-93

Title: (U) INTELLIGENCE OVERSIGHT BOARD (IOB) VIOLATION
ATLANTA DIVISION

Synopsis: (U) Report of IOB violation for Atlanta Division.

Reference: (U) 278-HQ-C1229736 Serial 355
278-HQ-C1229736 Serial 1347
66F-HQ-A1247863 Serial 149
66F-HQ-A1247863 Serial 172

Details: (S)
(U) This report is made past deadline due to administrative oversight.
LEAD(s):

Set Lead 1:  (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

For information and action deemed appropriate.

Set Lead 2:  (Discretionary)

INSPECTION

AT WASHINGTON, DC

For information and action deemed appropriate.

♦♦181wc01.ec
FEDERAL BUREAU OF INVESTIGATION

Precedence: DEADLINE 06/14/2006
Date: 07/06/2006

To: General Counsel
Attn: NSLB

Inspection Division
Attn: Internal Investigations Section

From: IT-1/JTTF
Contact: SA

Approved By: [Signature]

Drafted By: WC

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)
(U) 278-AT-C71404 (Pending)

Title: (U) SSA

INTELLIGENCE OVERSIGHT BOARD (IOB) VIOLATION DIVISION

Synopsis: (U) Correction of telephone number included in report of IOB violation for Division.

Reference: (U) 278-HQ-C1229736-VIO Serial 1474
278-AT-C71404 Serial 93

Details: (S)
To: General Counsel From: [Redacted]
Re: 278-HQ-C1229736-VIO, 07/06/2006

LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL
AT WASHINGTON, DC
For information and action deemed appropriate.

Set Lead 2: (Discretionary)

INSPECTION
AT WASHINGTON, DC
For information and action deemed appropriate.

++187wc01.ec
Secret

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE  Date: 7/11/2006

To:  Attn:  SAC Squad

Internal Investigative Section
Attn: Room 11865

From: General Counsel
National Security Law Branch/CTLU 1/LX-1 3S-100
Contact: ____________________________

Approved By: Thomas Julie F
Drafted By: jkf

Case ID #: 278-HQ-C1229736-VIO - 1500

Title: (U) Intelligence Oversight Board (IOB) Matter 2006

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

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

Reference: (S) 278-HQ-C1229736-VIO Serial 1474 (Pending)
(S) 278-AT-C71404 Serial 93 (Pending)

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

(U) Details: (S) By electronic communication (EC) dated June 30, 2006 and referenced above, the Division reported to the OGC’s National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter.
To: Counterterrorism From: General Counsel

(U) re: (S) 278-HQ-CL229736-V10, 7/11/2006

BACKGROUND

ANALYSIS

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

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

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

See id. at 4.
of permitted activities, and failing to adhere to minimization requirements.

In this instance, the FBI sought telephone records for a telephone number believed to be used by the investigative subject based on current information, and obtained electronic data on a telephone number via an NSL that was properly authorized. Thus, the investigative method was authorized for purposes of E.O. 12333. See National Foreign Intelligence Program Manual (NFIPM) Section 2-56.G.5. Accordingly, this need not be reported to the IOB pursuant to Section 2.4 of E.O. 12863.

5 See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3)

(5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.

6 See
Precedence: ROUTINE

To: Inspection Counterterrorism

Attn: IIS
Attn: ITOS 1/CONUS 4/Team 15
Attn: SSA
Attn: IA
Attn: SSA
Attn: SA

From: General Counsel
National Security Law Branch/CTLU I/LX-1 3S-123

Contact:

Approved By: Thomas Julie
Drafted By: Kdm

Date: 07/10/2006

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

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2006

Synopsis: It is the opinion of the Office of General Counsel (OGC) that this matter need not be reported to the Intelligence Oversight Board (IOB). Our analysis follows.

Reference: 278-HQ-C1229736-VIO Serial 1453
To: Inspection  From: General Counsel
Re:  278-HQ-C1229736-VIO, 07/10/2006

Details: By Electronic Communications (EC) dated June 15, 2006 and referenced above, the Division reported this potential IOB matter.

Safeguards are now in place to prevent such problems in the future. has disseminated a revised "sample" EC, to ensure that the correct items will be placed in the lead and attention blocks. Furthermore, FBI HQ (CTD) instructed the field to forebear all investigative activity prior to the receipt of written authorization granting extensions.
To: Inspection
From: General Counsel
Re: 278-HQ-C1229736-VIO, 07/10/2006

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsels of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General Guidelines for National Security Investigations and Foreign Intelligence Collection (NSIG) or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(W) With regard to the continuation of an FBI PI, Section II.C.4 of the NSIG provides in pertinent part that:

(S) Although this provision of the NSIG is primarily administrative in nature, it was designed in part to protect the rights of U.S. persons by limiting the length of time that the FBI can conduct a PI without periodic oversight.
To: Inspection  From: General Counsel
Re: 278-HQ-C1229736-VIO, 07/10/2006

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

(U) Section II.A.1 of the NSIG, which is about Threat Assessments, provides in pertinent part that:

The FBI may, without opening a preliminary or full investigation, engage in the following activities to investigate or collect information relating to threats to the national security, including information on individuals.

In the NSIG, Section VIII, the definition of publicly available includes "information that ....... is obtained by visiting any place or attending any event that is open to the public." (U)
SE£$ET

(У) To: Inspection From: General Counsel
Re: 278-HQ-C1229736-VIO, 07/10/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(У) OGC requests that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(У) Read and clear.

Set Lead 3: (Discretionary)

AT

(У) For action deemed appropriate.

**
To: Counterterrorism  From: General Counsel  

LEAD(s):

Set Lead 1:  (Discretionary)

AT (U) For review and action deemed appropriate.

Set Lead 2:  (Discretionary)

COUNTERTERRORISM

AT ITOS1/CONUS 2, WASHINGTON, DC (U) For review and action deemed appropriate.

Set Lead 3:  (Action)

INSPECTION

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

&
Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U- Volume 17

Federal Bureau of Investigation
FEDERAL BUREAU OF INVESTIGATION

FOIPA

DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 10
Page 28 ~ Duplicate EC dated 9/22/06
Page 29 ~ Duplicate
Page 30 ~ Duplicate
Page 31 ~ Duplicate EC dated 12/15/06
Page 32 ~ Duplicate
Page 33 ~ Duplicate
Page 34 ~ Duplicate
Page 36 ~ Duplicate EC dated 1/24/06
Page 37 ~ Duplicate
Page 38 ~ Duplicate

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X  Deleted Page(s)  X
X  No Duplication Fee  X
X  for this Page  X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Precedence: ROUTINE

To: General Counsel

Attn: National Security Law Branch
Counterterrorism Law Unit
Room 7975

Precedence: ROUTINE

To: General Counsel

Attn: National Security Law Branch
Counterterrorism Law Unit
Room 7975

Precedence: ROUTINE

To: General Counsel

Attn: National Security Law Branch
Counterterrorism Law Unit
Room 7975

Precedence: ROUTINE

To: General Counsel

Attn: National Security Law Branch
Counterterrorism Law Unit
Room 7975

Date: 10/03/2006

From:

Contact:

Approved By:

Drafted By:

Case ID #: (U) 278-HQ-C1229736-VIO-1716

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

Synopsis: (U) Report of a potential IOB matter to the National
Security Law Branch (NSLB), Counterterrorism Law Unit (CLU), and
the Inspection Division (ID) Internal Investigations Section
(IIS), as required in the 2/10/2005, Inspection Division's EC to
All Divisions entitled "Revised Procedures for the Submission of
Reports of Potential Intelligence Oversight Board (IOB) Matters".

SECRET

OWNER: 01/08/07

b6 b7C
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE
Date: 08/23/2006

To: Inspection
General Counsel

From: Chief Division Counsel
Contact: CDC

Approved By:

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

Title: Possible Intelligence Oversight Board Matter

Synopsis: Provides notification of potential IOB matter for reporting as necessary.

Details: is assigned to the
is the case
To: Inspection
From: 
Re: (S) 08/23/2006

(S)
(S/OC/NF)
(S/OC/NF)
(S/OC/NF)
(S/OC/NF)
To: Inspection  From:  
Re: (S)  08/23/2006

(S)

(U) The name, __________, was queried through on-line commercial databases with positive results.

(U) On 04/10/2006 learned that the previous residence of __________ had been vacated.

(S) An NSL for subscriber information and toll billing records was issued to the communications provider of the above telephone numbers.

(S) 1) __________

(S) 2) The telephone number was also subscribed to by a party other than __________.
To: Inspection
Re: (S) 08/23/2006

(S) Overall.

(S) 4) The telephone number was also subscribed to by a party other than

The toll records provided by the communications carrier with regard to the other parties have not been utilized or uploaded by

(U) On 08/22/2006, it was brought to the attention of that the above incident may constitute an Intelligence Oversight Board violation. On the same day brought this matter to the attention of

(U) Remedial action, if deemed appropriate, will include the permanent ACS charge-out of the communication identifying the other party, as well providing all hard-copy toll records related to the other party to CDC for whatever action deemed appropriate.

(U) The National Foreign Intelligence Program Manual, Section 2-02, states that there are certain investigative activities which are permitted in the absence of formally authorized inquiries and investigations. The collection of information pertaining to the other party as described above is not one of those activities. Nonetheless, it was never the intent of the captioned employees to capture information concerning an individual who is not under investigation.
To: Inspection
From: (S) 08/23/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) The Internal Investigation Section is requested to determine if the matter described in this communication constitutes a reportable IOB issue.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLB is requested to determine if the matter described in this communication constitutes a reportable IOB issue.

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