FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: Inspection

Attn: CDC

Attn: Internal Investigative Section

Attn: Room 11865

From: General Counsel
National Security Law Branch

Contact:

Approved By: Thomas Julie E

Drafted By:

Case ID #: 278-HQ-C1229736-VIO-188

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

Synopsis: 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.

Derived From: G-3
Declasify On: 10/12/2016

Reference: 278-HQ-C1229736-VIO Serial 1602 (Pending)

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

Details: (S) By electronic communication (EC) dated August 23, 2006 and referenced above, the Division reported to the OGC’s National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter.

OIG/DOJ REVIEW:
OIG/DOJ INVESTIGATION:
BACKGROUND

an 0*3 Security Letter" (NSL) to the provider in order to obtain subscriber information and toll records for the two identified telephone numbers for the period of

Division received the results of the review for the period of coverage. Learned that one of the telephone numbers in question was subscribed by two separate individuals during the requested period of coverage.

did not provide any toll information outside the period requested in the NSL.

ANALYSIS

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.

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.\(^1\)

In this instance, the provider responded by submitting subscriber information outside the scope of the request for one of the telephone numbers. The information provided indicated that the subscriber of one of the telephone numbers was the target of a duly authorized ([S]...[S])

[U] 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.

[U] See id. at 4.

[S] 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) 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.
To: Counterterrorism
From: General Counsel
Re: 278-HQ-C1229736-VIO, 10/20/2006

investigation. A legitimately issued NSL resulted in obtaining information that indicated that the target of the investigation, had indeed been the subscriber of one of the telephone numbers. The information obtained falls within as described in the NSIG and thus, need not be reported to the IOB pursuant to E.O. 12863.
To: Counterterrorism From: General Counsel
Re: 278-HQ-C1229736-VIO, 10/20/2006

LEAD(s):

Set Lead 1: (Discretionary)

(Discretionary)

(U) For review and action deemed appropriate.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT ITOS II

(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.

**
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: General Counsel

From: Inspection Internal Investigations Section, IPU, Room 3041

Contact: CRS

Approved By: Miller David L

Drafted By: kas

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 2751

OGC/IOB# 2006

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1602

278-HQ-C1229736-VIO Serial 1888

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 08/23/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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.

ALL INFORMATION CONTAINED HERIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/BU

BEST COPY AVAILABLE
The FBI provided information regarding a potential IOB matter (2006) issued a NSL to a telecommunications provider to obtain subscriber information and toll records for two telephone numbers.

Upon reviewing the requested information, determined that one of the telephone numbers was subscribed to by two separate individuals during the requested period of coverage.

FBI/OGC determined that this matter does not need to be reported to the IOB.

<table>
<thead>
<tr>
<th>ALLEGATIONS:</th>
<th>689 IOB Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occurrence Date</td>
<td>12/19/2006</td>
</tr>
<tr>
<td>DISPOSITION DATA:</td>
<td>Disposition: N Date: 12/19/2006 Approval: POWELL, GLENN G</td>
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<tr>
<td>Referred to Agency:</td>
<td>FBI</td>
</tr>
<tr>
<td>Date Sent:</td>
<td>01/30/2007</td>
</tr>
<tr>
<td>Component:</td>
<td>FBI</td>
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<td>Patriot Act:</td>
<td>N</td>
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<td>Civil Rights:</td>
<td>N</td>
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<tr>
<td>Component Number:</td>
<td>263-0-U-598</td>
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<tr>
<td>Remarks:</td>
<td>Predicating material contains classified information which will be maintained in a secure container at OIG/INV. (stp) 1/31/07: Sent to Kaiser/FBI. (stp)</td>
</tr>
<tr>
<td>DATE:</td>
<td>06-23-2007</td>
</tr>
<tr>
<td>FBI INFO.</td>
<td></td>
</tr>
<tr>
<td>CLASSIFIED BY 65179/dmh/kjr/cak</td>
<td></td>
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<tr>
<td>REASON:</td>
<td>1.4 (c)</td>
</tr>
<tr>
<td>DECLASSIFY ON:</td>
<td>06-23-2032</td>
</tr>
</tbody>
</table>
Precedence: ROUTINE  

To: Inspection General Counsel  

Attn: IIS, Room 11861  

Attn: NSLB, Room 7975  

Attn: ASAC CDC  

From: CI-1  

Contact: SA  

Approved By  

Drafted By:  

Case ID #: 278-QO-C1229736-VIO  

Title: SA SSA SSA INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR  

Synopsis: To report possible IOB error.  

Details:  

1.  

2.  

3. Possible IOB Error:  

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

SC Miller 12-22-06  

CS Kao 01/04/07  

DATE: 09/22/2006  

CLASSIFIED BY 65179/DMH/KSR/RW  

REASON: 1.4 (c,d)  

DECLASSIFY ON: 05-31-2032  

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
The NST was prepared and approved in accordance with the Attorney General Guidelines. The NSL was served by [redacted] Office and on [redacted] provided the results of the NSL to [redacted] Field Office.

A review of the results of the NSL revealed that [redacted] was not requested by the FBI. This information was not utilized by the case agent in any analysis nor was it documented in the case file.
To: Inspection  From:  
Re: 278-HQ-C1229736-VIO, 09/22/2006

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: Counterintelligence Inspection

From: Office of the General Counsel NSLB/CILU/Room 7947 Contact: AGC

Approved By: Thomas Julia

Drafted By: [Redacted]

Case ID #: 278-HQ-C1229736-VIO (Pending)
62F A89455-I0B (Closed)

Title: INTELLIGENCE OVERSIGHT BOARD MATTER

Synopsis: It is the opinion of the Office of the General Counsel (OGC) that this matter does not merit reporting 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.

Reference: (U) 62F A89455 Serial 4
(U) 278-HQ-C1229736-VIO Serial 1709

Details: The referenced electronic communication (EC) from 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.

OIG/DOJ REVIEW FBI INVESTIGATION

SECRET
To: [Redacted]  
From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/15/2006

The NSL was properly prepared and served in accordance with the Attorney General Guidelines, and I forwarded responsive records to the Field Office.

Among the responsive records, however, the Field Office found information outside the scope of the information sought by the NSL and triggered this inquiry. Upon discovering the apparent error, the case agent took note that the information was never utilized by the FBI in any way, nor was it included or documented in the case file.

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

Here, an error on the part resulted in the unintentional acquisition of information outside the scope of
To: [Blank]  From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/15/2006

(S) The NSL. It should be noted that the FBI's actions after receiving overbroad response to the NSL were commendable. Upon learning that had provided information beyond the scope of the NSL, the Field Office took steps to ensure that the information was not disseminated and requested legal guidance.

(U) Examination of the record reveals no evidence of unlawful actions by the FBI or actions contrary to Executive Order or Presidential Directive. Accordingly, we opine that this incident is not reportable to the IOB. By this EC, we request that the Field Office sequester and destroy any remaining record of the two email transactions giving rise to this inquiry. Inspection is hereby requested to maintain a copy of this record in the event that it is requested by the Counsel to the IOB.
To: ____ From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/15/2006

LEAD(s):

Set Lead 1: (Info)

AT

(U) For information.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

CC: Ms. Thomas

10B Library

**
To: General Counsel

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: CRS

Subject: INTELLIGENCE OVERSIGHT BOARD MATTER

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2930
OGC/IOB# 2007-

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1709
278-HQ-C1229736-VIO Serial 1913

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 09/22/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS’s opinion the incident described therein is administrative in nature. 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.

Date: 01/11/2007
Precedence: ROUTINE

Date: 01/24/2007

To: 

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS

Approved By: Miller David Ian

Drafted By: 

Case ID #: (U) 263-HQ-0-U - 610 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 2930

OGC/IOB# 2007

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 matter is returned to the field for corrective action as appropriate. Case closed at IIS.

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1709

Reference: (U) 278-HQ-C1229736-VIO Serial 1709

278-HQ-C1229736-VIO Serial 1913

Details: (U) Upon review of Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.
DATE: January 24, 2007

TO: Kenneth W. Kaiser
   Assistant Director
   Inspection Division
   Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007002509
   Subject: Unidentified
   FBI No. 263-0-U-610

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
Details:
The FBI provided information regarding a potential IOB matter (2007 | 2007 | 2007)

Among the responsive records, it was learned that two transaction contained information outside the scope sought by the National Security Letter (NSL). Upon discovering the error, it was noted the information was never utilized by the FBI nor included or documented in the case file.

It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB. (dz)

ALLEGATIONS: 689 IOB Violation

Occurrence Date: TIME: CITY: State: Zip:

DISPOSITION DATA: Disposition: M Date: 01/23/2007 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 01/23/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-610

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
Predicating material contains classified information that will be maintained in a secure container within OIG/INV/HQ.

01/24/07: Sent to Kaiser/FBI/INSD (dz)
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: General Counsel
Attn: NSLB

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: CRS

Approved By: Miller David Iaf
Drafted By: kas

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2930
OGC/IOB# 2007

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1709
278-HQ-C1229736-VIO Serial 1913

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 09/22/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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.

**
Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-V-VOLUME 18

Federal Bureau of Investigation
Precedence: ROUTINE

To: General Counsel

Attn: National Security Law Branch
Counterterrorism Law Unit
Room 7975

Inspection Division
Internal Investigations
Section (IIS)

Counterterrorism

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".

Date: 10/03/2006

DECLASSIFY ON: 05-30-2032

DATE: 05-30-2007

CLASSIFIED BY 65179/DIN/XSR/RW

REASON: 1.4 (c)

SECURITY

SECRET
As directed in the Inspection Division's EC dated 2/10/2005, the following is being reported to the NSLB, CLU, and to the ID, IIS, as a potential IOB matter:

1. Identification of the substantive investigation in which the questionable activity occurred.

2. 

3. Identification of the subject's status.

4. Controlling administrative requirement.
(S) 5. Error believed committed.

identified the fact that the telephone was reassigned to another customer and was ceased immediately and all appropriate actions were taken pursuant to FBI policy.

(U) Synopsis of investigation:

confirmed via National Security Letter results from
To: General Counsel
From: 
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

(U) On 9/27/2006 at approximately 10:30 a.m., [ ] notified [ ] of the above information.

(U) On 9/27/2006 at approximately 10:40 a.m., [ ] discontinued [ ] information [ ] was ever entered [ ].

On 10/3/2006, [ ] and this writer spoke with [ ] over to [ ] on this date.
To: General Counsel  From:  
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

Errors believed committed.

The above error was first identified by the TFO.

Corrective measures

(U) In view of the above, SAC has ensured that corrective measures have been initiated.
To: General Counsel  From:  
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

LEADS:

Set Lead 1: (Action)

GENERAL COUNSEL
AT WASHINGTON DC

(U) It is requested that the above information be reviewed for a potential IOB violation.

Set Lead 2: (Action)

INSPECTION DIVISION
AT WASHINGTON DC

(U) It is requested that the above information be reviewed for a potential IOB violation.

Set Lead 3: (Info)

COUNTERTERRORISM
AT WASHINGTON DC

(U) Read and clear.

••
Precedence: ROUTINE
To: Counterterrorism Inspection
Attn: SAC CDC ITOS 1, CONUS 1, TEAM 3
Attn: IIS

From: Office of the General Counsel
NSLB/CTLU/LX. Room 36350

Approved By: Thomas Julie

Drafted By: 

Case ID #: 278-HQ-C1229736-VIO (Pending)
Title: INTELLIGENCE OVERSIGHT BOARD MATTER 200

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

Reference: 278-HQ-C1229736-VIO serial 1716

Administrative: (S)
To: [Redacted]  From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

Details: (S)

(S)

(S)

(S)

(S//NF)

(S//NF)

(S//NF)

(S//NF)
To: [Redacted]  From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006


[S] discontinued [Redacted] was ever entered [Redacted].

(U) On 10/3/2006, SSA [Redacted] and this writer spoke with SSA [Redacted]. This writer was authorized to turn over to CDC [Redacted].

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director,
To: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

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

(S) In this situation

Consequently, although unintentional, unauthorized interception of presumed U.S. persons occurred. This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.
To: [Redacted]  From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

LEAD(s):

Set Lead 1: (Info)

(U) should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to OIPR for appropriate disposition.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) The FBIHQ substantive unit should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to OIPR for appropriate disposition.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

CC: Ms. Thomas

TOB Library

***
December 13, 2006

BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled “Intelligence Oversight Board Matter 2007 |” (U)

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

(U)

Enclosure

b2 278-HQ-C1229736-VIO

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

Derived From: G-3
Declassify On: 20311213

SECRET
Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

1 - Mr. James Baker
   Counsel, Office of Intelligence Policy and Review
   U.S. Department of Justice
   Room 6150
(S) The overcollection was a violation of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection. Thus, the matter is being reported to the IOB.
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS

Approved By: Miller David Ian

Drafted By:

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 3128

OGC/IOB# 2007

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1716

278-HQ-76104 Serial 428

278-HQ-C1229736-VIO Serial 1931

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 10/03/2006, 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.
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 matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.
DATE: January 25, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007002556

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
The FBI provided information regarding a potential IOB matter. FBI/OGC determined that this matter must be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 09/27/2006

FBI/OGC determined that this matter must be reported to the IOB.

Remarks:
Predicating material contains classified information which will be maintained in a secure container at OIG/INV. (stp)

1/25/07: Sent to Kaiser/FBI. (stp)
Precedence: ROUTINE

To: Inspection General Counsel
    Attn: IIS, Room 11861
    Attn: NSLB, Room 7975
    Attn: CDC

From: Contact: SA

Approved By:

Drafted By:

Case ID #: 278-HQ-C1229736-VIO

Title: (U) SA
       SSA
       INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: (S) To report possible IOB error.

Details:

(S) 1.

(S) 2.

(S) 3. Possible IOB Error:

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

Date: 09/07/2006

Approved By:

Copy Distribution:

Date: 05-31-2007

Derived From: G-3

Declassify On: X1

DECLASSIFY ON: 05-31-2032

CLASSIFIED BY 65179/DHR/KSR/RW

REASON: 1.4 (c,d)
To: Inspection
From: ____________________________
Re: 278-HQ-C1229736-VIO, 09/07/2006

This NSL was served on [insert name] which subsequently provided toll records for this telephone number to [insert name]. This NSL Division, which then forwarded the results of the NSL to [insert name].

[Redacted text]

In review of both the NSL requesting EC and the NSL Letter, it was determined that the correct number was listed within the body of the requesting EC, but had been incorrectly annotated in the 'Enclosure' paragraph of the requesting EC, and on the NSL Letter [insert name].

This FD-962 serves as a record that the information contained within the NSL toll records provided were not reviewed nor analyzed, no information from these records was recorded or indexed in any database, and that the toll record information was not uploaded to a database.

Per instruction from the CDC, [insert name] Division, on 09/07/2006, [insert name] destroyed all the original NSL toll records provided. This process was witnessed by [insert name]. This EC also certifies that no other copies of these records were produced nor maintained.
To: Inspection From: [Name]
Re: [Case Number] 278-HQ-C1229736-VIO, 09/07/2006

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                           Date: 12/11/2006

To:                                                tn: SAC  
                                                ASAC 
                                                SSA  
                                                SA  
                                                Counterterrorism  
                                                Inspection  

Attn: Internal Investigative Section  
Attn: Room 11865

From: Office of the General Counsel  
NSLB/CTLU II/1/LX-1 3S-100/  
Contact: AGC

Approved By: Thomas Julie F ( )  
Drafted By:  

Case ID #: 278-HQ-C1229736-VIO—1914 (Pending)

Title: INTELLIGENCE OVERSIGHT BOARD MATTER 2007

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

Reference: Derived From: G-3  
Declassify On: 25X1

Details: By electronic communication (EC) dated 09/07/2006, 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. Our analysis follows.

Approved By: Thomas Julie F ( )  
Drafted By:  

Reference: Derived From: G-3  
Declassify On: 25X1

Details: By electronic communication (EC) dated 09/07/2006, 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. Our analysis follows.

Reference: Derived From: G-3  
Declassify On: 25X1

Details: By electronic communication (EC) dated 09/07/2006, 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. Our analysis follows.
(U) information and telephone toll records of a certain telephone number. Due to a typographical error, the telephone number on the NSL was erroneously transcribed.¹ On 08/31/2006, the telephone records were opened and it was determined that they were not the target's records. The correct telephone number was listed within the body of the requesting EC, but it had been incorrectly annotated in the "Enclosure" paragraph of the requesting EC, and on the NSL letter to the provider. Did not review or analyze the records submitted by in response to the NSL, and no information from those records was recorded or indexed in any database.

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally

¹ (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document.
not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

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

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

Here, the target's rights were not violated because he was not the subject of the improperly collected information. It is unknown whether the erroneous information received pertained to a United States Person, inasmuch as there has been no review of the information. Nonetheless, based upon the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.
To: [Redacted]  From: Office of the General Counsel

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Information)

Office should contact [Redacted] and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

cc: Ms. Thomas

TOB Library

**

SECRET
December 11, 2006

BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2007" (U).

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

Enclosure

1 - 278-HQ-C1229736-VIO

UNCLASSIFIED WHEN DERIVED FROM CLASSIFIED ENCLOSURE

DECLASSIFIED BY 65179/DHH/KSR/RW ON 05-31-2007

SECRET
Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

1 - Mr. James Baker
Counsel, Office of Intelligence Policy and Review
National Security Division
U.S. Department of Justice
Room 6150
The Federal Bureau of Investigation ("FBI") has determined that in conducting a
National Security Letter (NSL) to obtain subscriber information and telephone toll
billing records on a telephone number which was not related to the investigation. The overcollection was due to a mistake in
the NSL in identifying the telephone number.

Issued a National Security Letter (NSL) pursuant to
the Electronic Communications Privacy Act, 18 U.S.C. § 2709, to a
telephone carrier for the telephone subscriber and toll billing
records of a telephone number intended to be identified as that of the target. Instead, one of the numbers within the telephone
number was incorrectly written; thus, the information returned
from the carrier was subscriber information and the telephone
toll billing records of a wholly unrelated telephone number. The
error was discovered upon receipt of the information, and the
records were not reviewed.

nor used for any investigative purpose. Despite the inadvertent
nature of the mistake, the fact remains that information was
improperly collected on a telephone number unrelated to an
investigation. Thus, the matter is being reported to the IOB.
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 01/11/2007

To: General Counsel Attn: NSLB

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: CRS

Approved By: Miller David Ian

Drafted By: 

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3135
OGC/IOB# 2007

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1757
278-HQ-C1229736-VIO Serial 1914

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 09/07/2006, 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.

♦♦
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 matter is returned to the field for corrective action as appropriate. Case closed at IIS.

Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

**

DECLASSIFIED BY 65179/DMH/KSR/RW ON 05-30-2007
Details:
The FBI provided information regarding a potential IOB matter (2007) on 7/31/06.

On 7/31/06, I prepared an NSL seeking subscriber information and telephone toll records. Due to a typographical error, the telephone number on the NSL was erroneously transcribed; therefore, the telecommunications carrier provided records not associated with the subject of the investigation.

FBI/OGC determined that this matter does not have to be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 2006
CITY:

DISPOSITION DATA: Disposition: M Date: 12/21/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 01/29/2007 Component: 263-0-U-637

Patriot Act: N Civil Rights: N Component Number: 263-0-U-637
Sensitive: N Whistleblower: N Consolidated Case Number:

ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

DATE 06-24-2007 BY 65179/iah/kst/cak
Remarks:

1/29/07: Predicating material contains classified information which will be maintained in a secure container at OIG/INV. (stp)

1/30/07: Sent to Kaiser/FBI. (stp)
Precedence: ROUTINE
Date: 10/17/2006

To: Inspection
General Counsel

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

From: SA
Contact: SA

Approved By

Drafted By:

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

Title: (U) SAI
A/SSA INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: (S) To report possible IOB error.

Details:

(S) 1.

(S) 2.

(S) 3. Possible IOB Error:

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

The IOB error falls under "Improper NSL Collection". Division had requested via an approved NSL (serial 438) from the following information:

Division received one packet of results

Upon loading of the information for one target number into telephone applications as tasked, FA noticed

information pertaining to an additional number. FA only loaded
the information for the requested telephone number. FA advised SA of the additional information. SA completed an electronic communication (EC) on 09/07/2006, stating additional records were received that were beyond the scope of the request. The unrelated records were not uploaded and were destroyed. It should be noted the additional number information was within the time period requested.

On 10/17/2006, SA contacted and spoke with [redacted] and stated the two records were not related in any way and it was simply a mistake on part to send the additional information to [redacted] Division. Further advised [redacted]
To: Inspection  From: 
Re: 278-HQ-C1229736-VIO, 10/17/2006

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.

**
To: [Blank]  
From: General Counsel  

[S] received one package of results loaded the records and discovered information pertaining to an additional telephone number. The NSL did not request the toll billing records for this additional telephone number.

[S] did not load these additional records and [C] notified SA who documented the incident in an electronic communication dated September 7, 2006. The unrelated telephone records were not uploaded and have been destroyed.

[S] A/SSA contacted on October 17, 2006 and advised them of the additional telephone records. [S] advised A/SSA that the additional records were not related to the request and that they made a mistake when they provided that information.

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.

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

1(LES) In the future, possible overcollections under NSLs should be sequestered with the CDC until adjudication of the potential IOB.
To: Rer
From: General Counsel

278-HQ-C1229736-VIO, 11/28/2006

violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters. For the FBI, OGC submits reports to the IOB.

For the FBI, OGC submits reports to the IOB.

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.

In this instance, sought information relating to one telephone number associated with the and obtained information beyond the scope of the request due to an error. The NSL was property

(U) 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.

(U) See id. at 4.

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) 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.

In a letter from the Intelligence Oversight Board to the FBI's Office of General Counsel, Deputy General Counsel Julie Thomas, dated November 13, 2006, the IOB "agreed that third party
Thus, the investigative technique was authorized for purposes of E.O. 12333 and this need not be reported to the IOB pursuant to E.O. 12863.

errors should be reported to the FBI's Office of General Counsel, but as a matter of practice would not be reportable to the IOB.
To: General Counsel
From: Genera

LEAD(s):

Set Lead 1: (Info)

(U) Read and clear.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT LIBERTY CROSSING ONE

(U) For review and action deemed appropriate.

Set Lead 3: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

**

SECRET
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 matter is returned to the field for corrective action as appropriate. Case closed at IIS.

Details: (U) Upon review of Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

**

SECRET//20320117
Precedence: ROUTINE                      Date: 01/11/2007
To: General Counsel                     Atttn: NSLB
From: Inspection
      Internal Investigations Section, IPU, Room 3041
      Contact: CRS
Approved By: Miller David Ian

Drafted By: ____________________________

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)
Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
        INSD/IIS TRACKING# 3137
        OGC/IOB# 2007
Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).
Reference: (U) 278-HQ-C1229736-VIO Serial 1763
            278-HQ-C1229736-VIO Serial 1890
Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 10/17/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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.

++
DATE: January 26, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007002603
Subject: Unidentified
FBI No. 263-0-U-638
CMS No. 3137

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 - Complaint Form

Received By: [Blank] Date Received: 12/20/2006 How Received: A

SUBJECT: Unidentified, FBI
Title: UNID Pay Plan: [Blank] SSNO: [Blank]
Component: FBI EOD Date: [Blank] D.O.B.: [Blank]
Misc: [Blank] Alien No.: b6
Home: [Blank] F.B.I. No.: b7C
Phone: [Blank] B.O.P. No.: b2
Work: ZIP: [Blank]
Phone: ZIP: [Blank]

COMPLAINANT:
Title: ATTY Pay Plan: [Blank] SSNO: [Blank]
Component: FBI EOD Date: [Blank] D.O.B.: [Blank]
Misc: [Blank] Alien No.: [Blank]
Home: [Blank] F.B.I. No.: [Blank]
Phone: (202) ZIP: [Blank]
Work: , , D/L No.: [Blank]
Phone: (202) ZIP: [Blank]
Confidential: Authority: none

Details:
The FBI provided information regarding a potential IOB matter (2007) and on 8/26/06, issued an NSL to a telecommunications provider for records relating to the subject of the investigation. However, the telecommunications provider inadvertently provided the FBI with records pertaining to an additional telephone number not requested.

FBI/OGC determined that this matter does not need to be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 11/2006
CITY: [Blank] Zip: b2

DISPOSITION DATA: Disposition: M Date: 12/20/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 01/26/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-638
Sensitive: N Whistleblower: N Consolidated Case Number: [Blank]

Remarks:
Predicating material contains classified information which will be stored in a secure container at OIG/INV. (stp)

1/29/07: Sent to Kaiser/FBI. (stp)
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 10/03/2006

To: General Counsel
    Inspection
    Counterintelligence

Attn: NSLB
     IIS
     CD-2F, Room 8672
     OS/IA
     CDC

From: [Blank]

Contact: SA

Approved By: [Blank]

Drafted By: [Blank]

Case TD #: (U) 278-HQ-C1229736-VIO (Pending)-1787

Title: (U) POTENTIAL JOB MATTER INVOLVING

Synopsis: (U) IOB reporting of carrier error in regard to an NSL.

Reference: (U) Telcal with CDC on 10/03/2006.

Details: (U) The following information is being provided in response to the quarterly EC from CDC requesting Intelligence Oversight Board reporting be brought to the attention of OGC and Inspection Division.

SECRET

F/C
To: General Counsel  From:  
Re: (S), 10/03/2006

Initially requested NSL subscriber and toll billing information for a telephone number. Based on the information obtained from that NSL, learned that I had included subscriber information for a telephone number that was not asked for. Consequently, this telephone number and associated subscriber information have not been uploaded and no record of them exist within ACS. is maintaining the results of this particular NSL in a LA envelope in the case file. learned of mistake after viewing therefore, it is being reported within the mandatory 14-day reporting period.
To: General Counsel
From: [Redacted]
Re: (S)
10/03/2006

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL
AT WASHINGTON, DC

(U) Information is being provided to NSLB for whatever action is deemed appropriate.

Set Lead 2: (Action)

INSPECTION
AT WASHINGTON, DC

(U) Information is being provided to IIS for whatever action is deemed appropriate.

Set Lead 3: (Info)

COUNTERINTELLIGENCE
AT WASHINGTON, DC

(U) At CD-2F: Read and clear.

Set Lead 4: (Action)

(U) Information is being provided to CDC for whatever action is deemed appropriate.
Precedence: ROUTINE

To: Counterintelligence Inspection

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

approved By: Thomas Julie R

Drafted By: 

Case ID #: (U) 278-HQ-C1229736-VIO-1892
(U) 278C76104-452

Title: x POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER 2007

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

Derived from: G-3

Declassify On: X1

Reference: 278-HQ-C1229736-VIO-1787

Details: 

OIG/DOJ REVIEW
FBI INVESTIGATION
OIG/DOJ INVESTIGATION:
To: [Redacted]
From: General Counsel

Re: [Redacted]

278-HQ-C1229736-VIO, 12/05/06

initially requested NSL subscriber and toll billing information for a telephone number

Based upon the information obtained from that NSL:

After viewing [Redacted] learned that [Redacted] included subscriber information for a telephone number that was not asked for. Consequently, this telephone number and associated subscriber information have not been uploaded and no record of them exists within ACS. [Redacted] is maintaining the results of this particular NSL (including the incorrectly provided subscriber information) in a 1A envelope in the case file.

This NSL was issued during a legitimate

This erroneous telephone number and associated subscriber information have not been uploaded and no record exists within ACS.

Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language was adopted verbatim from E.O. 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB, this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign
To: [Redacted]  From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/05/06

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. On 3/28/2006, NSLB sent a letter to the Counsel for the IOB requesting their concurrence to treat these third party errors as non-reportable, though we will require the field to continue to report any improper collection under an NSL as a potential IOB matter. By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to OGC, but are not reportable to the IOB.

Here, an error on the part resulted in the unintentional acquisition of information. It should be noted that the FBI's response in receiving the unsolicited material was commendable. Upon viewing provided and realizing that subscriber information for a telephone number that was not been asked for had been included, has maintained the results in a 1A envelope in the case file, and no results of this NSL have been uploaded and no record exists in ACS.

Based upon our analysis, the carrier's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive.
To: General Counsel
Re: 278-HQ-C1229736-VIO, 12/05/06

Set Lead 1: (Action)

Return

arrange for delivery of correct information in response to previously issued NSL.

Set Lead 2: (Info)

COUNTERINTELLIGENCE
AT WASHINGTON, DC
(U) Read and clear.

Set Lead 3: (Info)

INSPECTION
AT WASHINGTON, DC
(U) Read and clear.

Ms. Thomas
1-IOB Library

SECRET
Precedence: ROUTINE                                Date: 01/12/2007

To: General Counsel                                Attn: NSLB

From: Inspection                                   Contact: CRS
       Internal Investigations Section, IPU, Room 3041

Approved By: Miller David Ian

Drafted By:                                         

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
        INSD/IIS TRACKING# 3154
        OGC/IOB# 2007

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1787
            278-HQ-C1229736-VIO Serial 1892

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 10/03/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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.

**
Precedence: ROUTINE

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: CRS

Approved By: Miller David Ian

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 643 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3154
OGC/IOB# 2007

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 matter is returned to the field for corrective action as appropriate. Case closed at IIS.

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1787

Reference: (U) 278-HQ-C1229736-VIO Serial 1787
278-C76104 Serial 436
278-HQ-C1229736-VIO Serial 1892

Details: (U) Upon review of the captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.
SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE
Date: 01/09/2007

To: Counterterrorism
Attn: SSA
ITOS I, CONUS I, Team 3

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

From: Legal Unit
Contact: CDC

Approved By: 
Drafted By: 

Case ID #: (U) 278-HQ-C1229736-VIO (None)
(U) 278-HQ-C226104 (None)

Title: INTELLIGENCE OVERSIGHT BOARD
MATTER 2007-

Synopsis: (U) Newark response to and compliance with FBIHQ EC to Newark, dated 12/13/2006.

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


Enclosure(s): (S)

Details: Via referenced 10/3/2006 EC, reported a potential IOB violation consisting

SECRET
To: Counterterrorism From: [Redacted]
Re: (U) 278-HQ-C1229736-VIO, 01/09/2007

(S) contacted the carrier and learned that the subject had discontinued service and the number had been reassigned to another customer.

(S) coverage was immediately discontinued. was removed and sequestered with CDC.

(S) forward Via EC dated 12/13/2006, OGC set a lead forward to ITOS1.
LEAD(s):

Set Lead 1: (Action)

COUNTERTERRORISM

AT WASHINGTON D.C.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

♦♦
DATE: February 2, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007002756
Subject: et al.
Division
FBI No. 263-0-U-363
CMS No. 3154 643

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 - Complaint Form.

Received By: 
Date Received: 12/20/2006 How Received: A

SUBJECT:
Title: SSA
Component: FBI
Misc: 
Home: 
Phone: () - Work: , , Phone: (202) ZIP: 

SSNO: D.O.B.: Alien No.: 
F.B.I.No.: B.O.P.No.: D/L No.: Offenses: 689

COMPLAINANT:
Title: SSA
Component: FBI
Misc: 
Home: 
Phone: () - Work: , , Phone: (202) ZIP: 

SSNO: D.O.B.: Alien No.: 
F.B.I.No.: B.O.P.No.: D/L No.: Offenses: 689

Details:
Information received from the FBI/INS/DS reporting a potential IOB matter involving the interception of unauthorized information. IOB 2007-

During an authorized investigation, the FBI, Division properly served a National Security Letter (NSL) on a communication provider for information relating to the target of an FBI investigation. In response, the FBI unintentionally obtained information beyond the scope of the NSL. The FBI, Division sequestered the content information.

It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB.

ALLEGATIONS: 689 IOB Violation Occurrence Date: 1/20/2006 TIME: 
CITY: State: Zip: 

DISPOSITION DATA: Disposition: M Date: 12/20/2006 Approval: POWELL, GLENN G
Referred to Agency: Date Sent: Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-463, 3154
Sensitive: N Whistleblower: N Consolidated Case Number:

ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 06-06-2007 BY 65179/DHH/K3R/RW
Remarks:

A review of the OIG database revealed that [Redacted] is a subject in another potential 10B matter, #2007-002584-M.

Predicating material contains classified information that will be stored in a secure container within OIG/INV/HQ.

2/2/07 - Sent to AD Kaiser, FBI/IND. (yhl)
Precedence: ROUTINE

Date: 10/21/2006

To: Inspection General Counsel
Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From: 
Contact: 

Approved By: 

Drafted By: 
Case ID #: 278-HQ-C1229736-VIO
Title: (U)

INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: (U) To report possible IOB error.

Details:

1. 
2. 
3. Possible IOB Error:
4. Description of IOB Error (including any reporting delays).

DECLASSIFY ON: 05-30-2032

DATE: 05-30-2007
CLASSIFIED BY: 65179/DMH/KSR/PW
REASON: 1.4 (c,d)
To: Inspection From:
Re: 278-HQ-C1229716-VIO, 10/21/2006

(U) On 10/13/2006, determined that the content of the e-mail messages was included with the header and footer information. TFO advised SRA of the situation. Contact was made with Associate Division Counsel who provided details on how to report the incident and handle the material.

(U) There were no reports written or leads set as a result of obtaining these records. Efforts are currently underway to separate the header and footer information from content. The original disk will then be forwarded to Chief Division Counsel or FBIHQ as directed.
To: Inspection  
From: [Redacted]  
Re: 278-HQ-C1229736-VIO, 10/21/2006  

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.

**
SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/13/2006

To: [Blank]

Attn: SAC

CDC

Counterterrorism

Attn: ITOS 1, CONUS 3

Inspection

Attn: IIS

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

From: Office of the General Counsel

NSLB/CTLU1/LX1 Room 3S119

Contact: [Blank]

Approved By: Thomas Julie [Blank]

Drafted By: [Blank]

Case ID #: [Blank] 278-HQ-C1229736-V10 (Pending)

Title: [Blank] INTELLIGENCE OVERSIGHT BOARD MATTER 2001

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

Reference: [Blank] 278-HQ-C1229736-V10 serial 1806

Details: [Blank] The referenced serial from [Blank] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

(U) Pursuant to authorized preliminary investigation,

(S) Security Letter (NSL) for [Blank] e-mail account requesting electronic communications transactional information.

OGC/DOD REVIEW

DATE: [Blank]

FBI INVESTIGATION

DATE: [Blank]
To: [Redacted]  From: Office of the General Counsel
Re: 278-HQ-C1229736-V10, 12/13/2006

Upon viewing the information provided in response to the NSL, [Redacted] determined that the content of the e-mail messages was included with the header and footer information. TFO advised SRA [Redacted] of the situation. Contact was made with Associate Division Counsel [Redacted] who provided details on how to report the incident and handle the material.

(U) There were no reports written or leads set as a result of obtaining these records. Efforts are currently underway to separate the header and footer information from content. The original disk will then be forwarded to the [Redacted] Chief Division Counsel or FBIHQ as directed.

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in
To: [Redacted]  From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/13/2006

nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

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

(U) Here, during an authorized investigation, the FBI properly served an NSL on an electronic communications service provider. In response to the properly served NSL, the FBI obtained information beyond the scope of the NSL (email content information). FBI identified the problem, and properly sequestered the email content information. There were no reports written or leads set as a result of the email content information.

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

(U) should contact the carrier and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. should not view any content information but should request the carrier to provide only that information authorized by law.
To: [Redacted]  From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

LEAD(s):

Set Lead 1: (Info)

(U) [Redacted] should contact the carrier and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

CC: Ms. Thomas
    IOB Library

++
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE  Date: 01/12/2007

To: General Counsel  Attn: NSLB

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: CRS

Approved By: Miller David Ian

Drafted By: 

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IS TRACKING# 3159

Approved By: Miller David Ian

Details: (U) The Internal Investigations Section (IIS) received
an EC from Division dated 10/21/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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.

**
Precedence: ROUTINE

Date: 01/17/2007

To: 

Attn: SAC (Personal Attention)

From: Inspection Internal Investigations Section, IPU, Room 3041

Contact: CRS

Approved By: Miller David Ian

Drafted By: 

Case ID #: (U) 263-HQ-0-U - 644 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 3159

OGC/IOB# 2007

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 matter is returned to the field for corrective action as appropriate. Case closed at IIS.

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1806

Reference: (U) 278-HQ-C1229736-VIO Serial 1806 278-HQ-C1229736-VIO Serial 1899

Details: (U) Upon review of Division’s captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

SECRET//20320117
DATE: January 30, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007002647

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
The FBI provided information regarding a potential IOB matter (2007). On 10/3/06, the OIG/INV. Division issued an NSL requesting electronic communication transactional information for the subject of its investigation. A review of the information provided revealed that the content of the email messages was included with the header and footer information.

FBI/OGC determined that this matter does not need to be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 2006
CITY: 
TIME: 
Zip: 

DISPOSITION DATA: Disposition: M Date: 12/20/2006 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 01/29/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-644
Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
Predicating material contains classified information which will be maintained within OIG/INV.

1/30/07: Sent to Kaiser/FBI. (stp)
Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U-VOLUME 20

Federal Bureau of Investigation
Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 3
Page 54 ~ Duplicate EC dated 1/10/07
Page 55 ~ Duplicate
Page 56 ~ Duplicate

X Deleted Page(s)   X
X No Duplication Fee   X
X for this Page   X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Precedence: ROUTINE  
Date: 07/03/2006

To: Inspection Attn: IIS, Room 11861
General Counsel Attn: NSLB, Room 7975

From: 
Contact: SA

Approved By: ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Drafted By: DATE: 05-31-2007

Case ID #: 278-HQ-C1229736-VIO

Title: (U) SSRA INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) Synopsis: To report possible IOB error.

(U) Derived From: G-3

Declassify On: 07/02/2031

(U) (S) 1. Possible IOB Error:

(S) NFIPM Section Reference: Section 2-02.

(U) (S) 4. Description of IOB Error (including any reporting delays).
To: Inspection  
From: J  
Re: 278-HQ-C1229736-VIO, 07/03/2006

in the NSL for the time period requested, but indicated also in the materials returned that prior to the time period requested. Therefore, the toll records provided

After opening the results to begin analysis a few days after receiving the toll records noticed the error and promptly notified the CDC via email. Due to trainings and conferences out of state during the month of June, CDC was not able to respond until 06/30/2006 to inquiries regarding an opinion on the need to report error. The toll records have not been analyzed or added to any databases, and have been sequestered with the CDC.
To: Inspection
From: [redacted]
Re: 278-HQ-C1229736-VIO, 07/03/2006

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.

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

By electronic communication (EC) dated July 3, 2006 (278-HQ-C1229736 Serial1517), Field Office reported to the Office of the General Counsel (OGC) this potential IOB matter.
To: General Counsel

From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/28/2006

Chief Division Counsel (CDC) was promptly notified that the toll records were not analyzed or added to any databases, and the records have been sequestered with the CDC.

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 error described herein is a matter that should be reported to the IOB. The reported activity does not require IOB notification.

In this case, an error on resulted in the unintentional acquisition of information. Upon learning provided information beyond the scope of the NSL, the FBI sealed and sequestered the excess information with the CDC.

Based upon our analysis, the carrier's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive. Pursuant to the Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Reports of potential IOB matters determined by OGC not to require notification to the IOB will be retained by INSD for three years for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Accordingly, OGC will request that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

---

See 66F-HQ-A1247863 Serial 172 at 6 (2/10/2005).
To: Re: From: General Counsel

LEAD(s):

Set Lead 1: (Action)

(U) The field should contact the carrier and ask whether the improperly or unintentionally acquired information should be returned or destroyed, with appropriate documentation to the file.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

***
**FEDERAL BUREAU OF INVESTIGATION**

**Precedence:** ROUTINE  
**Date:** 01/12/2007

**To:** General Counsel  
**Attn:** NSLB

**From:** Inspection  
Internal Investigations Section, IPU, Room 3041

**Contact:** CRS Ext

**Approved By:** Miller David Ian

**Drafted By:** kas

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

**Title:** (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2569
OGC/IOB# 2006

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

**Reference:** (U) 278-HQ-C1229736-VIO Serial 1517  
278-HQ-C1229736-VIO Serial 1986

**Details:** (U) The Internal Investigations Section (IIS) received an EC from dated 07/03/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. 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.

��
Precedence: ROUTINE

To: Inspection

From: Internal Investigations Section, IPU, Room 3041

Date: 01/17/2007

Attn: SAC (Personal Attention)

Contact: CRS Ext

Approval By: Miller David Ian

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 matter is returned to the field for corrective action as appropriate. Case closed at IIS.

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1517

Reference: (U) 278-HQ-C1229736-VIO Serial 1517

Details: (U) Upon review of captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

DECLASSIFIED BY 65179/DMH/KSFU'Rt'I ON 05-30-2007
DATE: January 29, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2007002618

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 - Complaint Form

Received By: [Redacted]  Date Received: 01/08/2007  How Received: A

SUBJECT: [Redacted]
Title: SA  Pay Plan: [Redacted]  SSNO: [Redacted]
Component: FBI  EOD Date: [Redacted]  D.O.B.: [Redacted]
Misc: [Redacted]  Alien No.: [Redacted]
Home: [Redacted]  F.B.I.No.: [Redacted]
Phone: [Redacted]  B.O.P.No.: [Redacted]
Work: [Redacted]  D/L No.: [Redacted]
Phone: (202) [Redacted]  Offenses: 689
ZIP: [Redacted]

SUBJECT: [Redacted]
Title: SSA  Pay Plan: [Redacted]  SSNO: [Redacted]
Component: FBI  EOD Date: [Redacted]  D.O.B.: [Redacted]
Misc: [Redacted]  Alien No.: [Redacted]
Home: [Redacted]  F.B.I.No.: [Redacted]
Phone: [Redacted]  B.O.P.No.: [Redacted]
Work: [Redacted]  D/L No.: [Redacted]
Phone: (202) [Redacted]  Offenses: 689
ZIP: [Redacted]

COMPLAINANT:
Title: SSA  Pay Plan: [Redacted]  SSNO: [Redacted]
Component: FBI  EOD Date: [Redacted]  D.O.B.: [Redacted]
Misc: [Redacted]  Alien No.: [Redacted]
Home: [Redacted]  F.B.I.No.: [Redacted]
Phone: [Redacted]  B.O.P.No.: [Redacted]
Work: [Redacted]  D/L No.: [Redacted]
Phone: (202) [Redacted]  Offenses: 689
ZIP: [Redacted]
Confidential: [Redacted]  Revealed: [Redacted]  Authority: none

Details:
Information provided by the FBI/INSN reporting a potential IOB matter involving improperly received information. IOB #2006 [Redacted]

During an authorized investigation, the FBI properly served a National Security Letter (NSL) on a communications provider for information respecting the target of the FBI investigation. In response, the FBI obtained information beyond the scope of the NSL. The FBI Division identified the problem and indicated that the unauthorized information has not been analyzed or added to any databases and has been sequestered with CDC.

It is the opinion of the Office of the General Counsel that this matter need not be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 06/08/2006  TIME: [Redacted]
CITY: [Redacted]  State: [Redacted]  Zip: [Redacted]

DISPOSITION DATA: Disposition: M  Date: 01/08/2007  Approval: POWELL, GLENN G
Referral to Agency:  Date Sent:  Component: FBI
Patriot Act: N  Civil Rights: N  Component Number: 263-0 U 678, 2569
Sensitive: N  Whistleblower: N  Consolidated Case Number:

ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 06-06-2007 BY 65179/DMH/KSR/RW
Remarks:

Predicating material contains classified information that will be stored in a secure container within OIG/INV/HQ.

1/29/07 - Sent to AD Kaiser, FBI/INSD. (yht)
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE
Date: 10/25/2006

To: Office of the General Counsel
Attn: NSLB
Room 7947

Inspection
Internal Investigations
Section
Room 3041

Cyber

From: SSA
C3IU-1
Room 5931

Contact: SSA

Approved By:

Drafted By:

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

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Synopsis: To report possible IOB violation.

Derived From: FBI SCG G-3
Declassify On: 10/25/2031

Reference:

Details:

SECRET

(Rev. 01-31-2003)
To: Office of the General Counsel
From:

Re: 278-HQ-C1229736-VIO, 10/25/2006

analysis of the material. SSA then reported the matter to

As per the NSLB guidelines, this communication has been prepared.

(SECRET)
To: Office of the General Counsel  
From: [Redacted]  
Re: 278-HQ-C1229736-VIO, 10/25/2006

LEAD(s):
Set Lead 1: (Info)
OGC (NSLB)
AT WASHINGTON, DC
(U) Please provide guidance as to how to handle overreported information.

Set Lead 2: (Info)
CYBER
AT WASHINGTON, DC
(U) Read and Clear.

Set Lead 3: (Info)
INSPECTION
AT WASHINGTON, DC
(U) Please provide guidance as to how to handle overreported information.

♦♦
Synopsis: The Office of the General Counsel (OGC) requested that OGC review an incident and determine whether it warrants reporting to the Intelligence Oversight Board (IOB). It is the opinion of OGC that the incident does not need to be reported to the IOB. Rather, this EC should be maintained in the control file for periodic review by Counsel to the IOB.

Approved By: Thomas Julie F

Case ID #: 278-HQ-C129316-V10 (Pending)

From: Office of the General Counsel

Contact: AGC

Counterintelligence Inspection Division

Attn: SSA

Attn: IIS, CRS

Title: INTELLIGENCE OVERSIGHT BOARD

Precedence: ROUTINE

To:

Date: 12/12/2006

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

Reported By: Office of the General Counsel

Reference: 278-HQ-C1229736-V10

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

DECLAS:

SECRET

INVESTIGATION:

FOI REVIEW

OIG/DOJ

INVESTIGATION:

C3101-1

SECRET

THESE OFFICE OF THE GENERAL COUNSEL (OGC) REVIEW AN INCIDENT AND DETERMINE WHETHER IT WARRANTS REPORTING TO THE INTELLIGENCE OVERSIGHT BOARD (IOB). IT IS THE OPINION OF OGC THAT THE INCIDENT DOES NOT NEED TO BE REPORTED TO THE IOB. RATHER, THIS EC SHOULD BE MAINTAINED IN THE CONTROL FILE FOR PERIODIC REVIEW BY COUNSEL TO THE IOB.

WARNING: THIS ELECTRONIC COMMUNICATION (EC) CONTAINS INFORMATION FROM THE EC DATED 10/25/2006 FROM OGC REPORTING A POTENTIAL IOB MATTER.
Details: By EC dated 10/25/2006 requested that OGC review an incident and determine whether it warrants reporting to the IOB.
Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsels of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB “concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.” This language was adopted verbatim from E.O. 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General Guidelines for National Security Investigations and Foreign Intelligence Collection (NSIG), or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

On 03/28/2006, the FBI's National Security Law Branch (NSLB) sent a letter to the Counsel for the IOB requesting their concurrence to treat third party errors as non-reportable, though NSLB would still require the field to continue to report any improper collection under an NSL as a potential IOB matter. By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to the FBI OGC, but are not reportable to the IOB.

In the instant case the collection of information by the FBI was not the fault of the case agent. Once the case agent discovered that he had received information beyond the scope of the NSL request, the case agent immediately sequestered the information, placed the information in a secure safe and reported the matter to OGC.
To: [Redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/12/2006

LEAD(s):
Set Lead 1: (Information)

INSPECTION
AT WASHINGTON, DC
(U) For information.

Set Lead 2: (Information)

COUNTERINTELLIGENCE
AT WASHINGTON, DC
(U) For information.

Set Lead 3: (Action)

At [Redacted]
(U) For action deemed appropriate.

cc: 1- Ms. Thomas
1- [Redacted]
1- [Redacted]
1- IOB Library

♦♦♦