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  

Drafted By: 

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

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 1794

278-HQ-C1229736-VIO Serial 1987

Details: (U) The Internal Investigations Section (IIS) received dated 10/25/2006, 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:  

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

Approved By: Miller David Ian 

Drafted By:  

Case ID #:  (U) 263-HQ-0-U - 682 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3155
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 1794

Reference: (U) 278-HQ-C1229736-VIO Serial 1794
278-HQ-C1229736-VIO Serial 1987

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/DHH/KSR/RW ON 05-31-2007
To: General Counsel
Inspection Counterintelligence

Attn: NSLB
Attn: IIS
Attn: CD-2A, Room 4133
Attn: CDC

From: [Redacted]
Contact: SA

Approved By: [Redacted]

Drafted By: [Redacted]

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

Title: (U) POTENTIAL JOB MATTER INVOLVING SA

Synopsis: (U) IOB reporting of carrier

Reference: (U) Conversation with CDC on 10/18/2006.

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 the OGC and Inspection Division.
To: General Counsel  From: [redacted]
Re: (U) 278-HQ-C1229736-V10, 10/30/2006

(S) Initially requested NSL subscriber information was received. In addition to information received was incorrectly given by no information was requested. None received have been uploaded into ACS or placed in the file of the substantive case. were returned mistake is being reported within the mandatory 14-day reporting period.
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-2A: Read and clear.

Set Lead 4:  (Action)

(U) Information is being provided to CDC for whatever action is deemed appropriate.
To: Counterintelligence Inspection Division

Attn: SAC CDC SA SSA IIS, CRS

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

Contact: AGC

Approved By: Thomas Julie

Drafted By: [Signature] 1988

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

Title: INTELLIGENCE OVERSIGHT BOARD MATTER 2007

Synopsis: Field Office requested that the 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.

Derived From: 63

Declassify On: 25X1

Administrative: This electronic communication (EC) contains information from the EC dated 10/30/2006 from OIG/DOJ reporting a potential IOB matter.

Reference: 278-HQ-C1229736-VIO-1798

Details: By EC dated 10/30/2006 requested that OGC review an incident and determine whether it warrants reporting to OIG/DOJ.

OIG/DOJ REVIEW: 7-8-07
FBI INVESTIGATION: [Signature]
OIG/DOJ INVESTIGATION: [Signature]
Upon review of the documents provided to

it was learned that the information provided, pursuant to

the NSL, exceeded that which was requested. The error by

was apparently a misunderstanding on its part as to the nature of

the request, since requests for

information and

subscriber information are requested separately by the FBI.

reported that they returned

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 FBI. Once the case agent discovered that he had received information beyond the scope of the NSL request, the case agent immediately sequestered the information, returned said information to and reported the matter to OGC.

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)

[Redacted]

is requested to make sure that appropriate protocols are in place to prevent similar types of disclosures in the future.

cc: 1- Ms. Thomas
1- [Redacted]
1- [Redacted]
1- 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 Ext

Approved By: Miller David Iana Drafted By: 

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3158
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 1798
278-C76104 Serial 450
278-HQ-C1229736-VIO Serial 1988

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 10/30/2006, 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: 

Attn: SAC (Personal Attention)  

Date: 01/17/2007

From: Inspection Internal Investigations Section, IPU, Room 3041

Contact: CRS Ext

Approved By: Miller David Ian

Drafted By: 

Case ID #: (U) 263-HQ-0-U - 683 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER INSD/IIS TRACKING# 3158

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 1798

Reference: (U) 278-HQ-C1229736-VIO Serial 1798

278-C76104 Serial 450

278-HQ-C1229736-VIO Serial 1988

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 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. 2007002584

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).

The National Security Letter (NSL) requested subscriber information, however the reply to the NSL provided toll records. None of the toll records were uploaded into FBI databases and the erroneously provided information was reported within the mandatory 14 day reporting period.

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: 01/25/2007

Dispositional Data: Disposition: M Date: 01/25/2007 Approval: POWELL, GLENN G

Referred to Agency: DATE: 05-31-2007

Component: FBI

Civil Rights: N

Exact Act: N

Sensitive: N

Whistleblower: N

Consolidated Case Number: 263-0-0683, 3158

Component Number: 263-0-0683, 3158
Remarks:

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

01/26/07-Sent to Kaiser/FBI/INSD. (dz)
Synopsis: To report possible IOB error, unauthorized, unintentional collection of information.

Details:

1. 

2. 


4. Description of IOB Error (including any reporting delays). Financial records were furnished, pursuant to a National Security Letter (NSL) for individuals other than the subject of the NSL.
To: Inspection
From: (X) 278-HQ-C1229736-V10, 05/03/2006

(S) A National Security Letter for financial records of captioned subject was requested.

(S) Records were received by writer and held until the analysis of those records was able to be conducted. During the course of the analysis writer found records that were in the names of individuals other than the captioned subject. SSRA (U) was advised of this.

(U) After speaking with ADC and of OGC, the records not pertaining to captioned subject have been separated, segregated and sealed. None of those records have been uploaded into ACS or other FBI record systems. ADC and provided guidance on how to handle this matter.
To: Inspection
From: [Redacted]
Re: 278-HQ-C1229736-V10, 05/03/2006

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.

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Precedence: ROUTINE

To: Counterterrorism Inspection

Attn: SAC CDC
Attn: SSRA
Attn: ITOS II
Attn: IIS, CRS

From: Office of the General Counsel
NSLB/CTLUII/LX1/Room 3S-110
Contact: AGC

Approved By: Thomas Julie F

Drafted By:

Reference: 278-HQ-C1229736-VIO Serial 1970 (Pending)

Synopsis: 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.

Derived From: G-3

Declassify On: 20311226

Details: By EC dated 05/03/2006, 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.
To: [Redacted]  
From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/26/2006


(S) [Redacted]

(S) [Redacted]

(S) [Redacted]

(U) The records not pertaining to captioned subject have been separated, segregated and sealed in none of those records have been uploaded into ACS or other FBI record systems.

(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
To: Office of the General Counsel  
From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 12/26/2006

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 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 a financial institution.
response to the properly served NSL, the FBI obtained information regarding other individuals that were not relevant to the investigation.\(^1\) It appears that this information, although lawfully obtained, is not relevant to the investigation and was properly segregated to protect the potential privacy interests of United States persons. Once information not relevant to an authorized investigation is received, the field should contact the carrier and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

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

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

Set Lead 1: (Action)

**INSPECTION**

**AT WASHINGTON, DC**

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

Set Lead 2: (Info)

**COUNTERINTELLIGENCE**

**AT WASHINGTON, DC**

(U) For information.

Set Lead 3: (Action)

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

cc: Ms. Thomas

IOB Library

◆◆◆
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/10/2007

To: General Counsel

Attn: NSLB/CTLUII

Attn: ITOS II

Attn: IIS

Attn: Associate Division Counsel

Attn: SSA

Counterterrorism Inspection

From: [Redacted]

Contact: SA

Approved By: [Redacted]

Drafted By: [Redacted]

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

Title: INTELLIGENCE OVERSIGHT BOARD

MATTER 2006-

Synopsis: Destruction of records which were inadvertently provided

Details: Referenced EC requested FBI to determine if the unintentionally acquired information which was obtained via a National Security Letter (NSL), should be returned or destroyed with appropriate documentation to the file.

Those specific documents which were unintentionally acquired by FBI were previously segregated, sealed and maintained by FBI Chief Division Counsel. On January 10, 2007, Associate Division Counsel (ADC) opened the sealed package to review the documents, not for its content, but to determine if the documents were originals or copies. A review of the documents revealed they

SECRET
To: General Counsel
From: 3B6ET b2
Re: (U) 278-HQ-C1229736-VIO, 01/10/2007

Based upon ADC shredded those documents which were unintentionally acquired.

As the unintentionally acquired documents have been destroyed, I considers the lead covered.
To: General Counsel From: [Redacted]

(U) Re: 278-HQ-C1229736-VIO, 01/10/2007

LEAD(s):

Set Lead 1: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

**
To: General Counsel
Attn: NSLB

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

Approved By: Miller David Ian

Drafted By: Miller David Ian

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2176
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 1353
278-HQ-C1229736-VIO Serial 1970

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 05/03/2006, 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  
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 - 684 (Pending)  
Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER  
INSD/IIS TRACKING# 2176  
OGC/IOB# 2006- b2  

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 1353  
Reference: (U) 278-HQ-C1229736-VIO Serial 1353  
278-HQ-C1229736-VIO Serial 1970  

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 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. 2007002639

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.

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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U. volume 22

Federal Bureau of Investigation
To: Inspection General Counsel

From: 

Contact: ISS

Approved By: 

Drafted By: ksh

Case ID #: (U) 278-HQ-C1229736-V10 (Pending) - 30-3'7
(U) 278-C26391 (Pending) - 28
(S) 278-C26392 (Pending) - 33

Title: (U) INTELLIGENCE OVERSIGHT BOARD (IOB);

SUPERVISORY SPECIAL AGENT

SPECIAL AGENT

REPORT OF A POTENTIAL IOB MATTER

Synopsis: (X) To report a possible IOB violation involving receipt of unsolicited telephone toll records

(X) Derived From: G-3

Declasify On: X1

Reference: (S)(X) Serial 11

(U) 278-HQ-C1229736 Serial 2570

Details: (S) In accordance with reporting requirements relating to known or suspected Intelligence Oversight Board (IOB) violations, per reference 2, notification is being made to the Office of General Counsel regarding unsolicited telephone toll

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To: Inspection From: 
Re: (U) 278-HQ-C1229736-VIO, 01/04/2007

Records

Send a National Security Letter (NSL) to requesting subscriber information

Received the requested subscriber information or telephone toll records. These toll records were not requested in the NSL.

Records

Records, less National

CDC (A/CDC) have been turned over to pending a response from the National Security Law Branch regarding this matter. A/CDC secured the toll records within his office safe.
To: Inspection  
From: 
Re: (U) 278-HQ-C1229736-VIO, 01/04/2007

LEAD(s):

Set Lead 1: (Action)

        INSPECTION

        AT WASHINGTON, DC

        (U) Request IIS take appropriate action as necessary in response to this potential IOB matter.

Set Lead 2: (Action)

        GENERAL COUNSEL

        AT WASHINGTON, DC

        (U) At NSLU, review information provided herein and act as deemed appropriate.

        **
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. 

This electronic communication (EC) contains information from the EC dated 01/04/2007 from the Field Office to OGC reporting a potential IOB matter.

By EC dated 01/04/2007, OGC requested that the FBI 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.
To: Office of the General Counsel
Re: 278-HQ-C122973 VIO, 02/05/2007

(S)

Drafted an NSL pursuant to 18 U.S.C. § 2709 seeking subscriber information for a telephone number that was believed to be used by subject. The NSL was sent to the Office of the VIO.

Received the requested subscriber information along with toll records pertaining to the requested number. The toll records was immediately turned over to the Acting Chief Division Counsel for sequestration.

(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 12857, 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 intelligence collection.

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

(U) 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.

(U) In the instant case the collection of toll record information was not the fault of [REDACTED]. Once it was discovered that the information was beyond the scope of the NSL request, the information was immediately sequestered and the matter was reported to OGC.

(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 contact file for future review by the Counsel to the IOB.
To: [Redacted]  From: Office of the General Counsel
Re: 278-HQ-C1229736-VIC, 02/05/2007

LEAD(s):

Set Lead 1: (Action)

INSP ECTION

AT WASHINGTON, DC

(U) INS 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.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

(X) If deemed relevant [Redacted] should submit the appropriate NSL requesting the toll records or return [Redacted] If the information is not relevant or [Redacted] does not seek their return, [Redacted] should be destroyed with appropriate documentation placed in the file.

cc: Ms. Thomas

IOB Library

**
Precedence: ROUTINE

Date: 03/28/2007

To: General Counsel

Attn: NSLB

From: Inspection Internal Investigations Section, IPU, Room 3041

Contact: CRS Ext. 

Approved By: Miller David Ian

Drafted By: 

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER INSD/IIS TRACKING # 3443 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 2037

278-HQ-C1229736-VIO Serial 2199

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 01/04/2007, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS’s opinion the incident described therein is an administrative 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.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

DATE 05-25-2007 BY 65179 DMH/KSR/JU
To: 

Attn: SAC (Personal Attention)

From: Inspection Internal Investigations Section, IPU, Room 3041

Contact: CRS Ext. 

Approved By: Miller David Ian

Drafted By: 

Case ID #: (U) 263-HQ-0-U - 738 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 3443 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.

(U) Derived From G-3

Declassify On: 20320328

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 2037

Reference: (U) 278-HQ-C1229736-VIO Serial 2037 278-HQ-C1229736-VIO Serial 2199

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.
Precedence: ROUTINE  Date: 02/12/2007

To: Inspection
   General Counsel

From: Contact: SA

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

(U) Synopsis: To report possible IOB error.

(U) Derived From: G-3

Declassify On: 02/12/2032

Details:

1. 

2. 

3. Possible IOB Error:

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

(S) A National Security Letter (NSL) for records.
To: Inspection  From:  
(U)  Re: [X]  278-HQ-C1229736-VIO, 02/12/2007

I reviewed the records and found

(U) The original documents reflecting the information which was not requested have been forwarded to ADC for sequestering. Redacted copies only reflecting the requested information will be retained for the case file.
To: Inspection
From: 
Re: 278-HQ-C1229736-VIO, 02/12/2007

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

Attn: SAC, CDC, ADC
Attn: AD
Attn: IIS, CRS

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

Approved By: Thomas Julie

Drafted By: 

Case ID #: 278-HQ-C1229736-VIO—2234

Title: 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—2154

Details: 

DATE: 3/2/07

CLASSIFIED BY 65179 DMH/KSR/JU
REASON: 1.4 (C)
DECLASSIFY ON: 05-25-2032
To: [Redacted]  From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/02/07

(S) The records received were reviewed two
which was prior to the time period requested in
the NSL.

(U) The original documents reflecting the information
which was not requested have been forwarded to [Redacted] and
sequestered. Redacted copies which only reflect information
requested by the NSL will be retained for the case file.

(U) The President, by Executive Order 12334, dated
12/04/1981, established the President's Intelligence Oversight
Board (PIOB). On 9/13/1993, 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 (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
conthry 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
E.O. 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
To: Office of the General Counsel
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/02/07

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.

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 communications record 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. § 168v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709.

(S) Here, during an authorized investigation, the FBI properly served an NSL In response to the properly served NSL, the FBI obtained containing information beyond what it is legally authorized to receive. The FBI, having ascertained were beyond the scope of the NSL, forwarded the unasked for information to the ADC for sequestering and redacted their files to reflect only information responsive to the NSL.

(U) By agreement with the Counsel to the IOB, 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.
To: [Redacted]          From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/02/07

Set Lead 1: (Read and Clear)

(%) Return original documents which reflect information beyond the scope of the 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.

1-Ms. Thomas
1-
1-ICOB Library

**

SECRET
Precedence: ROUTINE

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS Ext.

Approved By: Miller David Ian

Drafted By:

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 3618

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 2154

278-HQ-C1229736-VIO Serial 2234

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 02/12/2007, 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.

**
To: \[Blank\]  
Attn: SAC (Personal Attention)  

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

Approved By: Miller David Ian  

Drafted By: \[Blank\]  

Case ID #: (U) 263-HQ-0-U - 754 (Pending)  

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER  
INSD/IIS TRACKING# 3618  
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.  

Details: (U) Upon review of the 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.
Precedence: ROUTINE  Date: 02/01/2007

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

From:  Attn: ASAC

Contact: SA

Approved By:

Drafted By: jgcy

Case ID #: 278-HQ-C1229736-VIO 219
62F-A89455-IOB 17

Title: (U) SA
SS1
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: (U) To report possible IOB error.

(U) Derived From: G-3
Declasify On: 02/01/2032

Details:

1.

2. b2

3. Possible IOB Error b1 b2 b7E

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

(U) (X)

Signed: DAM 3/20/07

Secret//20320201
To: Inspection  
Re: 278-HQ-C1229/36-VIO, 02/01/2007

that 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.

The case agent first reviewed Division Counsel and it was determined that a possible IOB error occurred. Case agent contacted Division Investigative Support Specialist (ISS) regarding this matter. He was contacted regarding this error. He explained that he error and he requested that the file be destroyed. Additionally,
To: Inspection  
Re: 278-HQ-C1229736-VIO, 02/01/2007

destroyed the original
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:                              Date: 2/21/2007

Attn: SSA
     SA
     CDC

Counterintelligence Attn: CD-4

Inspection Attn: IIS, CRS

From: Office of the General Counsel
      NSLB/CILU/Room 947
      Contact: AGC

Approved By: Thomas Julie

Drafted By: 202-324

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

Title: (X) INTELLIGENCE OVERSIGHT. FUSARD
         MATTER 2007

Synopsis: The Field Office requested that the 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.

Derived From: G-3
Declassify On: 2/21/2032

Administrative: This electronic communication (EC) contains information from the EC dated 2/01/2007 from to OGC reporting a potential IOB matter.

Reference: 278-HQ-C1229736-VIO Serial 2119

DATE: 05-30-2007
CLASSIFIED BY: 65179 DHH/KSR/JW
REASON: 1-4 (C)
DECLASSIFIED: 05-30-2032

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE.
To: [Redacted]  From: Office of General Counsel
Re: 278-HQ-C1229736-VIO, 2/21/07

Details: By EC dated 2/01/2007, [Redacted] requested that OGC review an incident and determine whether it warrants reporting to the IOB.

(S) A National Security Letter (NSL) was prepared and served. The NSL requested only information for... The NSL results were provided to... case agent reviewed...

(S) discovered that in addition to the requested... had provided information that...

(S) appeared to be... The case agent immediately ceased the review and reported the... Division Counsel. On 1/17/2007 the case agent contacted... The POC then contacted the appropriate... and... provided the information in error.

Subsequently, [Redacted]...

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

(U) 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.

(U) In the instant case the collection of information by the FBI was not the fault of FBI. Once the case agent discovered that he had received information beyond the scope of the NSL request, the case agent immediately notified the CDC and notified . Thereafter, all copies and emails regarding this request were deleted and or destroyed. As a result, this matter does not need to be reported to the IOB.
To:  
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 2/21/2001

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

(S) ☐ ☐ is requested to coordinate with ☐ ☐ to ensure ☐ ☐ has the appropriate protocols in place to prevent similar types of disclosures in the future.

cc: Ms. Thomas, IOB Library

**
Precedence: ROUTINE

To: General Counsel
Attln: NSLB

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

Approved By: Miller David Ian

Drafted By:

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3555
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 2119
278-HQ-C1229736-VIO Serial 2202

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 02/01/2007, 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.

эм
To: □□□□ Attn: SAC (Personal Attention)

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

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) Derived From: G-3
Declassify On: 20320328

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 2119

Reference: (U) 278-HQ-C1229736-VIO Serial 2119
278-HQ-C1229736-VIO Serial 2202

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.  

DECLASSIFIED BY 65179 DMH/KSR/JW ON 05-26-2007
Precedence: ROUTINE  Date: 02/05/2007

To: Inspection Division  Attn: IIS
Office of the General Counsel  Attn: NSLB

From: [Contact: SA]

Approved By: [Signature]
Drafted By: [Signature]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)
(U) 278 C136372 (Pending)

Title: (U) REPORT OF A POTENTIAL IOB MATTER

Synopsis: (U) To report potential Intelligence Oversight Board (IOB) matter.

Details:

Case Background and Case Agent

Case ID#: [Case ID]

Derived From: G-3
Declassify On: X1

CLASSIFIED BY: DHH/KSR/JTJ
REASON: 1.4 (C)
DECLASSIFY ON: 05-26-2032
DATE: 05-26-2002

(All information contained herein is unclassified except where shown otherwise)
Precedence: ROUTINE

To: Inspection Division

Office of the General Counsel

From:

Contact:

Approved By:

Date: 02/05/2007

Attn: IIS

Attn: NSLB

Drafted By:

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

(U) 278-C136372 (Pending)

Title: (U) REPORT OF A POTENTIAL IOB MATTER

(U) REPORT OF A POTENTIAL IOB MATTER

Synopsis: (U) To report potential Intelligence Oversight Board (IOB) matter.

Derived From: G-3

Declassify On: X1

Details:

Case Background and Case Agent

Case ID#: b1

 права в использовании этой информации, а также о том, как ее можно использовать, можно найти в документации, связанной с данной операцией.
To: Inspection Division  From:                
Re: (U) 278-HQ-C1229736-VIO, 02/05/2007

The records provided

In addition, included records

The NSL served specifically requested financial records for never requested or provided any correspondence requesting records for

Legal guidance provided by OGC and NSLB noted that a potential IOB violation includes "a carrier providing information beyond the scope of a NSL resulting in the unintentional acquisition of data" [278-HQ-C1229736-2570.]

On 02/05/2007, SA contacted Chief Divisional Counsel, and informed her of this matter. At the request of and in accordance with procedure stipulated in 278-HQ-C1229736-2570, the records provided were sequestered and provided to

SECRET

SECRET 3
To: Inspection Division  From: 
Re: (U) 278-HQ-C1229736-VIO, 02/05/2007

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

INSPECTION DIVISION
AT WASHINGTON, DC
(U) For action deemed appropriate.

Set Lead 2: (Action)

OFFICE OF GENERAL COUNSEL
AT WASHINGTON, DC
(U) For action deemed appropriate.
Precedence: ROUTINE  Date: 03/05/2007
To:  Attn: SAC
      CDC

Counterterrorism Attn: ITOS1, CONUS 4,
Inspection Attn: IIS

From: Office of General Counsel
      NSLB/CTLU I
      Contact:

Approved By: Thomas Julie

Drafted By:

Case ID #: b2 278-HQ-C1229736-VIO (Pending)
(S) 278-HQ-C136372-130 (Pending)
(U) Title: INTELLIGENCE OVERSIGHT BOARD
IOB MATTER 2007

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

(U) Derived From: G-3
      Declassify On: 03/05/2032

(U) Reference: 278-HQ-C1229736-VIO Serial 2153

(U) Details: (X) By electronic communication (EC) dated February
5, 2007 and referenced above, the Division reported to the OGC's National Security Law Branch (NSLB) and
the Inspection Division this potential IOB matter.
To: From: Office of General Counsel
Re: 278-HQ-C1229736-VIO, 03/05/2007

pursuant to this authorized investigation, a National Security Letter (NSL) was issued to produce all financial records pertaining to

provided the records and they were received by SA provided the records requested but had also included records for which had not been requested.

SA contacted who advised send the records to be sequestered.

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.

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.
To: [Redacted]  
From: Office of General Counsel  
Re: 278-HQ-C1229736-VIO, 03/05/2007

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.

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.

In this instance, properly served an NSL requesting financial records relevant to the subject of the preliminary investigation. In addition to responsive records, due to an error by the financial institution, also obtained records beyond the scope of the NSL.

Based on our analysis, the financial institution's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive.

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.

Since the additional records in this instance are still relevant to the authorized investigation, the additional records may be maintained by the FBI if an additional NSL is served for those records. Otherwise,
should contact the financial institution and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.
LEAD(s):

Set Lead 1: (Action)
AT Field Office should serve an additional NSL for the relevant records, or in the alternative, contact the financial institution 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) For information.

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

cc: Ms Thomas
IOB Library
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE                  Date: 03/28/2007

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# 3619
       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 2153
            278-HQ-C136372 Serial 124
            278-HQ-C1229736-VIO Serial 2233

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 02/05/2007, 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.

**
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) 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.
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 03/22/2007

To: [Blank] Attn: CDC
Counterterrorism

Attn: ITOS, Conus
Attn: IIS

Inspection

From: [Blank] Contact: SA

Approved By: [Blank]

Drafted By: [Blank]

CASE ID #: (U) 278-HQ-C1229736-VIO (Pending)
(U) 278-HQ-C136372 (Pending)

Title: (U) REPORT OF A POTENTIAL IOB MATTER
(U) REPORT OF A POTENTIAL IOB MATTER

Synopsis: (U) To report resolution of potential Intelligence Oversight Board (IOB) matter.

Reference: (U) 278-HQ-C1229736-VIO-2233 b2
(U) 278-HQ-C136372-130 b7E

Details:

Case Background and Case Agent

SECRET

CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-26-2032
SECRET

To: | | From: .
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

Case ID#; Title:

A National Security Letter (NSL) approved to produce to the Federal Bureau of Investigation.

The NSL personally provided to ISS.

The financial records to be provided for specifically requested records requested in the NSL.
To: [Redacted]  From: [Redacted]

Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

(S) received the results of the NSL. The records provided as requested. In addition, included records specifically requested for only Division at never requested or provided any correspondence requesting records for

Legal guidance provided by OGC and NSLB noted that a potential IOB violation includes "a carrier providing information beyond the scope of a NSL resulting in the unintentional acquisition of data" [278-HQ-C1229736-2570.]

On 02/05/2007, SA contacted Chief Divisional Counsel, and informed her of this matter. At the request of CDC and in accordance with procedure stipulated in 278-HQ-C1229736-2570, the records provided were sequestered and provided to CDC.

On 03/12/2007, SA received referenced ECs via Division's CDC. Referenced ECs were drafted by the Office of General Counsel. The referenced ECs noted the following: "Based on our analysis, the financial institution's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive." Further, Division at was directed to "contact the financial institution and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file".

SECRET

3
To:  
From:  
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

(S) On 03/12/2007, SA contacted CDC to acknowledge receipt of the referenced ECs. CDC directed to contact would desire the "improperly or unintentionally acquired information" returned or destroyed. On 03/12/2007, SA contacted Division, via electronic mail.

(S) On 03/14/2007, requested the "improperly or unintentionally acquired information" to be destroyed by the FBI, Division. would provide a written communication documenting to the captioned cases.

(S) On 03/16/2007, CDC was informed request for Division to destroy the "improperly or unintentionally acquired information" stated that the "improperly or unintentionally acquired information" would be destroyed by the Division. Further, CDC noted that a written communication would be drafted by the Legal Unit to confirm the destruction of the aforementioned files to the captioned cases.
To: [Blank]  From: [Blank]
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

LEAD(s):

Set Lead 1: (Info)

INSPECTION DIVISION
AT WASHINGTON, DC
(U) For information.

Set Lead 2: (Info)

COUNTERTERRORISM
AT WASHINGTON, DC
(U) For information.

Set Lead 3: (Info)

AT [Blank]
(U) For information.

♦♦
SECRETS20320201
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/01/2007
To: Inspection Attn: IIS, Room 11861
General Counsel Attn: NSLB, Room 7975
Attn: ASAC, CDC
From:

Contact: SA

Approved By: Drafted By:

Case ID #: 278-HQ-C1229736-VIO
62E-A89455-IOB

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

Synopsis: (U) To report possible IOB error.

Derived From: G-3
Declassify On: 02/01/2032

Details:

1. 

2. 

3. Possible IOB Error

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

Date: 05-26-2007
CLASSIFIED BY 65179 DMH/KS/JU
REASON: 1.4 (C)
DECLASSIFY ON: 05-26-2032
To: Inspection
From: [Redacted]
Re: 278-HQ-C1229736-VIO, 02/01/2007

The NSL was served in accordance with the Attorney General Guidelines. The NSL was provided the results of the NSL to Field Office via e-mail as a courtesy, noting that a hard copy of the information was in transit to [Redacted].

A review of the results of the NSL revealed that supplied what the case agent determined to be information was not utilized by the case agent in any analysis nor was it documented in the case file.

The case agent was contacted on [Redacted] to advised of the problem. Case agent requested that explain why the information was provided, or to identify that an error was made. Case agent requested that [Redacted] was contacted regarding this error. Noted that he could not explain why this error occurred, yet, he aimed to correct the problem.

[Redacted] destroyed per the request of
provided a new CD-R which contained the appropriate information that was originally requested by the NSL served

Case agent permanently deleted the e-mail message received which contained information.

(Note: This was the second possible IOB error that resulted from the same request. Both errors were identified as separate incidences. These comments are provided to clarify any confusion associated with the two extremely similar incidences occurring in an extremely close time period.)
To: Inspection  
From:  
Re: (Vf 278-HQ-C1229736-VIO, 02/01/2007

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

Attn: SSA

SSA

CDC

Counterintelligence Inspection

Attn: CD-4

Attn: IIS,

From: Office of the General Counsel

NSLB/CILU/Room 7947

Contact: AGC

Approved By: Thomas J. Sullivan

Drafted By: 

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

Title: INTELLIGENCE OVERSIGHT BOARD MATTER 2007

Synopsis: The Field Office requested that the 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.

Derived From: G-3

Declassify On: 2/21/2032

Administrative: This electronic communication (EC) contains information from: the EC dated 2/01/2007 from to OGC reporting a potential IOB matter.

Reference: 278-HQ-C1229736-VIO

Details: By EC dated 2/01/2007, requested that OGC review an incident and determine whether it warrants reporting to
To: Office of the General Counsel
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 2/21/2007

A National Security Letter (NSL) was served. The NSL requested only transactional information. The NSL results were provided.

The case agent discovered that in addition to the requested information, the case agent had provided information that incident to Division Counsel contacted the case agent. In the meantime, the POC contacted the appropriate Division Counsel to ensure that the information is correct and deleted the information from the NSL request.

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

(U) 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.

(U) In the instant case the collection of information by the FBI was not the fault of FBI. Once the case agent discovered that he had received information beyond the scope of the NSL request, the case agent immediately notified the CDC and notified regarding this request were deleted and or destroyed. As a result, this matter does not need to be reported to the IOB.
To: [Blank]  From: Office of the General Counsel  
Re: 278-HQ-C1229736-V10, 2/21/20__

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

(U) [Redacted] is requested to coordinate with [Redacted] to ensure that [Redacted] has the appropriate protocols in place to prevent similar types of disclosures in the future.

cc: 1- Ms. Thomas  
1- [Redacted]  
1- [Redacted]  
1- IOB Library
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE   Date: 03/28/2007

To: General Counsel    Attn: NSLB

From: Inspection
Internal Investigations Section, IPU, Room 3041

Contact: 

Approved By: Miller David Ian

Drafted By: 

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3556  
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 2120
278-HQ-C1229736-VIO Serial 2203

Details: (U) The Internal Investigations Section (IIS) received an EC from Division dated 02/01/2007, 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: 03/28/2007

To: Inspection
Attn: SAC (Personal Attention)

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

Approved By: Miller David Ian
Drafted By: 

Case ID #: (U) 263-HQ-0-U - 756 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3556
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 2120

Reference: (U) 278-HQ-C1229736-VIO Serial 2120
278-HQ-C1229736-VIO Serial 2203

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 BC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.
Precedence: ROUTINE
Date: 01/03/2007

To: INSD
Attn: IIS

To: OGC
Attn: NSLB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

Case ID #: 278-H0-C1229736-VTO (Pending)-090

Title: REPORT OF A POTENTIAL IOB MATTER;

Synopsis: To report a potential IOB matter.

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

Details: (X) an ECPA National Security Letter (NSL) was served

The NSL specifically requested subscriber information for

SECRETS

SC Miller 01/30/07

CR 02/07
To: INSD  From: 
(U) 278-HQ-C1229736-VIO, 01/03/2007

The NSL was executed on the date of execution, and not for the dates specified on the NSL. The subscriber information provided was consistent with the request of the FBI. Furthermore, the time period the subject is listed as the active subscriber covers the dates requested in the NSL. Thus, information supplied was not identifiable to the subject or this investigation. Therefore, erroneously provided subscriber information to the FBI on a person who is not relevant to the investigation.

The NSL was drafted by the Case Agent who requested the subscriber information. The erroneous subscriber information was sequestered by the Chief Division Council of Office. Reporting of this matter was delayed pending review by ADC of new procedures outlined in EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS", dated 11/16/2006.
To: Inspection  
Atttn:  

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

Approved By: Thomas Julie F  

Drafted By:  

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

Title: (*) INTELLIGENCE OVERSIGHT BOARD MATTER 2007  

Synopsis: 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.  

Derived From: G-3  
Declassify On: 25X1  

Administrative: This electronic communication (EC) contains information from: (1) the EC dated 01/03/2007 from Field Office [REDACTED] to OGC reporting a potential IOB matter; (2) conversation between [REDACTED] and OGC regarding this potential IOB matter on 02/12/2007; (3) an email from [REDACTED] to OGC dated 02/15/2007; and (4) automated case support (ACS).  

Reference:  

Details: By EC dated 01/03/2007, [REDACTED] requested that OGC review the facts of the captioned matter and determine whether it...
warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

(S) the FBI served a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act (ECPA), 18 U.S.C. § 2709.

(S) provided a response to the NSL. In so doing provided the subscriber information as of the date of the response, and not for the dates specified in the NSLs. provided information was that of the subject of the investigation.

(S) Subscriber information provided was not identifiable to the subject of the investigation.

(S) This information has been sequestered with the Chief Division Counsel.

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

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

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

(U) 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 are 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). In addition to FCRA, 15 U.S.C. §§ 1681u(a) and (b) information (financial institutions and consumer identifying information), under 15 U.S.C. 1681u(c), if certain factors are met, the FBI is able to obtain full consumer reports in both counterintelligence and international terrorism investigations by an ex parte court order.
To: [Redacted]  
From: Office of the General Counsel  
Re: 278-HQ-C1229736-V10, 02/21/2007

(S) The FBI properly served an NSL that requested lawful information.

(S) Subscriber information provided was not identifiable to the subject of the investigation. Although lawfully obtained, because the information obtained through the NSL was not associated with the target, as already accomplished, the information should be sequestered with the CDC to protect the potential privacy interests of United States persons. Further, [Redacted] should contact [Redacted] and ask whether the information unrelated to the target should be returned or destroyed with appropriate documentation to the file.

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB. The carrier's mistake is not reportable to the IOB because the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.
To: [Redacted]  
From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 02/21/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Action)

(S) With respect to the information received that was not associated with the target, [Redacted] should contact [Redacted] and ask whether such information should be returned or destroyed with appropriate documentation to the file.

cc: Ms. Thomas

IOB Library

SECRET
Precedence: ROUTINE
Date: 03/27/2007

To: General Counsel
Attn: NSLB

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

Approved By: Miller David Ian

Drafted By: (C) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3532
OGC/IOB# 2007-b2

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

Details: (U) The Internal Investigations Section (IIS) received an EC from Office dated 01/03/2007, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS’s opinion the incident(s) described therein an administrative issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

**
To: [Redacted]  
Attn: ADIC (Personal Attention)  
From: Inspection  
    Internal Investigations Section, IPU, Room 3041  
Contact: [Redacted]

Precedence: ROUTINE  
Date: 03/28/2007

Approved By: Miller David Ian  
Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U-757 (Pending)  
Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
       INSD/IIS TRACKING# 3532
       OGC/IOB# 2007 [Redacted]

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) [Redacted] Derived From: G-3  
Declasification: 20320328

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 2090

Reference: 278-HQ-C1229736-VIO Serial 2090  
278-HQ-C1229736-VIO Serial 2229

Details: (U) Upon review of Office'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
    (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.
To: General Counsel
Attn: National Security Law Branch, Room 7975

From: Internal Investigations Sect.

Date: 02/07/2006

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Synopsis: Possible IOB error for an unauthorized dissemination of information.

Details:

1. 

2. 

3. Possible IOB Error:

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

An NSL was served and processed through an error in the mail handling of the responding EC and records, the NSL and records were erroneously sent to...
To: General Counsel
From: [Redacted]
Re: 278-HQ-C1229736-VIO, 02/07/2006

A copy of the records were returned [Redacted]. The originals were picked up by an Agent [Redacted]. [Redacted] was informed of the mishap and will ensure corrective action is taken.

Questions concerning this EC or others aspects of the IOB process may be addressed to either CDC [Redacted] and/or OGC, National Security Law Branch.
LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.
It is the opinion of the Office of the General Counsel (OGC) that this matter does not warrant reporting to the Intelligence Oversight Board (IOB). Submission of this matter to the OPR is a matter within the cognizance of the IIS.

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in WordPerfect 6.1.

Details: (U) Referenced communication from the Field Office dated 02/07/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does not. Our analysis follows.
(S) During the course of the investigation, issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." The NSL was addressed to [ ]. The requested records were received from [ ]. The records were supposed to be sent to [ ]. However, clerks who work on the night shift packaged the records and inadvertently sent them to [ ]. An employee who handles its NSLs ultimately obtained possession of the records and realized that they were the records of [ ]. That person contacted [ ] and sent it a copy of the records. [ ] contacted [ ] and learned that the original records and EC that were intended for [ ] were at [ ] and arranged for [ ] field office to physically pick them up and send them back to [ ].

1 [ ] See 278-HQ-C1229736-VIO, Serial 1155, dated 02/07/2006 and titled "Intelligence Oversight Board (IOB) Matter"
undated the paperwork and forwarded the originals to By EC dated 02/07/2006, reported this matter as a possible IOB violation. (See footnote 1, above.)

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

(U) Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG)

however, the improper dissemination was not of a nature of which the NSIG are concerned. The NSIG focus upon assuring that information disseminated to other government
agencies or to foreign governments is proper since those entities have the ability to adversely impact a person's constitutional rights if they misuse information. Since this activity involved improper dissemination to another private wire communications service provider, which does not have the same apparent ability to adversely impact the rights of the telephone subscriber, we have determined that this event need not be reported to the IOB. This was simply an administrative error by night clerical staff in sending unclassified telephone records to a service provider other than the service provider who owned the records. An employee of the other wire communications service provider, a person familiar with the NSL process and thus, presumably familiar with the non-disclosure aspect of it, immediately recognized the mistake and reported it to the records' owner, and the mistake was rectified. There does not appear to be any potential damage to national security. There was no impact upon the rights of a United States person, nor, apparently, the non-USP subscriber. There was no improper collection of information.

CONCLUSION

(U) OGC concludes that this matter does not warrant being reported to the IOB.
To: 

From: General Counsel

Re: 278-HQ-C1229736-VIO-1155-5, 03/24/2006

LEAD(s):

Set Lead 1: (INFO)

FIELD OFFICE

(U) Read and Clear.

Set Lead 2: (INFO)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.
Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-0- Volume 23

Federal Bureau of Investigation
Serial Description - COVER SHEET

Total Deleted Page(s) ~ 8
Page 32 ~ Duplicate EC dated 12/18/06
Page 33 ~ Duplicate
Page 34 ~ Duplicate
Page 35 ~ Duplicate EC dated 3/22/06
Page 71 ~ Duplicate EC dated 2/26/07
Page 72 ~ Duplicate
Page 73 ~ Duplicate
Page 74 ~ Duplicate

X Deleted Page(s) X
X No Duplication Fee X
X for this Page X

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE
Date: 12/19/2006

To: Inspection
General Counsel

From: 

To: IIS, Room 7825
Attn: NSLB, Room 7947

Precedence: ROUTINE
Date: 12/19/2006

To: Inspection
General Counsel

From: 

Approved By: 

Drafted By: L:plp

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

Title: (U) REPORT OF A POTENTIAL IOB MATTER;

Reference: (S)

Details: The substantive investigation and serials of the potential IOB matter is referenced above. The relevant personnel involved is SA______ Her supervisor is SSA______

The potential IOB matter was discovered on 12/18/2006 when SA______ was conducting a thorough review of results from a National Security Letter (NSL)______. She received the results on or before 12/18/2006, but did not conduct a thorough review of the material until______. She prepared a NSL which was accompanied by an electronic communication (EC)______.
To: Inspection
From: 
Re: (U) 278-HQ-C1229736-VIO, 12/19/2006

[Redacted]

Therefore, the NSL contained a substantive typographical error. Although the NSL was reviewed for errors, SA did not discover the incorrect number.

[Redacted]

The NSL was forwarded with the incorrect number which resulted in the acquisition of data that is not relevant to an authorized investigation. SA received a compact disc (CD) with results from the NSL. A thorough review of the material on the CD was conducted which alerted SA to a problem. This potential IOB violation was immediately reported to her supervisor and ADC.

[Redacted]

This NSL did glean pertinent information towards the substantive case. Only the relevant material from the CD has been printed and placed in the substantive file. The material inadvertently obtained that is not relevant to the investigation has not been utilized in any manner. The CD has been sealed in an envelope which is stored in SSA safe. It will remain there until FBIHQ advises on the disposition of the CD.
LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) Proceed as mandated.

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Proceed as mandated.

**
Precedence: ROUTINE

Date: 02/01/2007

To: 

Attn: SA
SSA
CDC

Inspection

Attn: IIS
CRS

From: Office of the General Counsel
NSLB/CILU/Room 7947
Contact: (202) 324-278-HQ-C1229736-VIO

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD

MATTER 2007-

Synopsis: (U) 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.

Approved By: Thomas Julie

Drafted By: 

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1933

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

Details: (U) The referenced electronic communication (EC) from dated 12/19/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

Letter (NSL) requesting 

preparing National Security
To: [Redacted]  From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 02/01/2007

Due to an administrative error in drafting the NSL and the accompanying EC, the case agent requested information for the wrong telephone number. Therefore, the NSL contained a substantive typographical error when it was sent to the provider.

On 12/18/2006, upon a thorough review of the material the case agent realized the error.

(U) The case agent received a the NSL results. The pertinent material did contain some pertinent information relevant to an authorized investigation. The pertinent material was printed and placed in the substantive case file. However, the non-pertinent material was not printed, itself has been sequestered.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsels of the Intelligence Community (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 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. Violations of provisions that are merely administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of

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1 A "United States person" is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. § 1801, et seq., as "a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act) ..." See also Section I.C fo the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) (2003).
To: Office of the General Counsel
From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-V1O, 02/01/2007

such administrative violations so that the Counsel to the IOB may review them upon request.

(U) Under the Electronic Communications Privacy Act (ECPA), the FBI may seek telephone and email communication records from telephone companies and internet service providers when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. § 2709. Moreover, under the NSIG, NSLs are an authorized technique and may be issued in conformity with statutory requirements during a preliminary or full investigation.

(U) Due to inadvertent typographical error, received NSL results on a telephone number that was not associated with the subject of an authorized investigation. Upon realizing the error, the case agent immediately notified her supervisor and took the proper steps to sequester the information. None of the non-relevant information from the original NSL results was uploaded into the FBI computer systems, nor was any investigative action taken based on this information. However, due to the fact that there was an unauthorized collection of presumed U.S. person information, we must report this to the IOB.
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: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

CC: Ms. Thomas

IOB Library
February 1, 2007

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 - 2294
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. Matt Olsen
   Deputy Assistant Attorney General
   National Security Division
   U.S. Department of Justice
   Room 2200 C
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

IOB MATTER 2007-1 (U)

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

prepared an NSL requesting subscriber information

Due to an administrative error in drafting the NSL and the accompanying EC, the case agent requested information for the wrong telephone number. Therefore, the NSL contained a substantive typographical error when it was sent to the provider.

upon a thorough review of the NSL results, the case agent noticed the discrepancy in the telephone number. The case agent immediately notified her supervisor and took the proper steps to sequester the information. None of the non-relevant information from the original NSL results was uploaded into the FBI computer systems, nor was any investigative action taken based on this information.

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

Derived from Multiple Sources
Declassify on: 02/01/2032
PRECEDENCE: ROUTINE

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

From:
Contact: SA

Approved By:

Date: 12/18/2006

From:
Contact: SA

Drafted By:

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

Synopsis: Possible IOB error for non-compliance with a requirement of the Attorney General.

Reference: Derived From: G-3

Enclosure(s): Enclosed for the case files are one copy of the referenced EC.

Details:

Case Agents: SA, b6, b7C

SECRET

TITLE: REPORT OF POTENTIAL IOB MATTER

(U) ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
To: Inspection From:
Re: 278-HQ-C1229736 - VIO, 12/18/2006

Supervisors: SSA
A/SSA

Possible IOB Error:
Collection of toll billing records via National Security Letter (NSL) on a person not related to the investigation.

SA submitted an NSL for the telephone subscriber.

SA was assigned the case and reviewed the records provided by in response to the NSL.

Upon review of the records, SA identified that the incorrect telephone number was requested in the NSL and records provided by were for an unrelated third party. The unrelated third party is presumed to be an USPER.

On 03/15/2006, SA destroyed all documents and documented the destruction of the documents.

An NSL was then submitted to.

On 12/18/2006, SA was advised that the above mentioned actions needed to be reported as an IOB violation.
LEAD(s):
Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLB is requested to record the appropriate information needed to fulfill the Congressional reporting requirements.

◆◆
Documents destruction of incorrect results from
pertaining to National Security Letter (NSL)

On 03/14/2005 SA was assigned the case.

Upon review of the results of the NSL provided by SA determined that the incorrect phone number had been sought in the original NSL.

All such documents provided were destroyed on 03/22/2006.
Precedence: ROUTINE

To: [Redacted]

Attn: SAC

From: Office of the General Counsel

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: 278-HQ-C1229736-VIO Serial 1995

Details: By electronic communication (EC) dated 12/18/2006, 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.

Case agent, submitted a National Security Letter (NSL) seeking...
To: b2
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 01/23/2007

Recall that the telephone records of a certain target. Due to a typographical error, the telephone number on the NSL was erroneously transcribed.1 SA was assigned the case and he reviewed the telephone records and determined that they were not the target's records. Immediately ceased review of the telephone records. On 03/15/2006, SA destroyed all improperly collected documents and records and provided an EC to the case file.2

(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 any 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

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

2 (U) On 12/18/2006, realized that this incident constituted an IOB violation and promptly reported the matter to OGC and the Inspection Division.
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.

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 conformance with statutory requirements, including 18 U.S.C. § 2709.

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
Re: 278-HQ-C1229736-VIO, 01/23/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

AT [Redacted]

(U) Field Office, under normal circumstances, should contact the provider of the information and determine whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. This matter is moot, however, since the information has already been destroyed and an EC has already been placed in the subject's case file.

cc: [Redacted]

ICB Library

**

SECRET

SECRET
January 23, 2007

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 200 (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 - 2244

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

Derived From: G-3
Declassify On: 25X1

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. Matt Olsen
Deputy Assistant Attorney General
National Security Division
U.S. Department of Justice
Room 2200 C
By electronic communication dated December 18, 2006, the Federal Bureau of Investigation (FBI) Field Office reported that the FBI submitted a National Security Letter (NSL) seeking telephone records relating to a certain target. Due to a typographical error, the telephone number on the NSL was erroneously transcribed. On March 14, 2006, the telephone records were opened and it was determined that they were not the target's records. Immediately ceased review of the telephone records.

Due to the incorrect number stated in the NSL, the FBI received records pertaining to a telephone number that was neither under investigation nor related to an investigation. The error was discovered upon receipt of the information, and the records were neither 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. The overcollection was a violation. Thus, the matter is being reported to the IOB.
SECRET/DECON/NOFORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY

Date: 12/18/2006

To: Inspection
General Counsel
Counterterrorism

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

From: Squad 1, TTU
Contact:

Approved By:

Drafted By:

Case ID #: (S) Pending

Title: (S)

Synopsis: (S//OC/NF) To report that excessive data that was not requested was received and provided to document the sequestering and destruction of this data in FBI databases.

(U) Declassify On: 12/18/2031

(U) Enclosure(s): LHM for CTD to disseminate to the Office of Intelligence and Policy Review (OIPR).

Details: (S//OC/NF)

SECRET/DECON/NOFORN
To: Inspection From:

Re: (S) 12/18/2006

(S//OC/NE)

(S//OC/NF) TFO noticed that was received through the issuance of National Security Letters (NSLs). Based upon NSL results it appeared that provided information that was dated prior to contacted about this matter.

(S) TFO and continued to follow up requesting that the excessive data be sequestered. On TFO called [REDACTED], who is a supervisor and explained that previous requests were made since to sequester data. An e-mail was also sent to regarding this matter the same day.

(S) TFO continued to contact regarding this matter.

that information be provided as to what specific records needed to be sequestered. TFO provided the e-mail that was sent to.

(S) TFO noticed that the data was sequestered contacting TFO regarding the request to sequester this data as well.
To: Transport.Inn
From:
Re: (S)

12/18/2006

(Sequestered data were not received as of yet for the address of where to mail.

Advised that she had the disks, I asked for the address of where to mail.

Advised that the request was being assigned to an analyst and would be completed shortly.

Received confirmation that the request was being assigned to an analyst and would be completed shortly.

The disks were recovered and contained the sequestered data for the request.

The appropriate data was removed.

The data regarding the removal of the data is responsible for sequestering the data.

Contacted for sequestering the data.

Contacted that the data was destroyed.

Confirmed that the data was destroyed.

With the sequestered data correlated and advised that the appropriate data was removed for the address of where to mail.

(S)secret/orcon/NO FORN
To: Inspection
From: (S)  
Re: (S)  
12/18/2006

that did not need to be sequestered, and is in the process of recovering this data.

(S//OC/NF) asserts that none of data was used in investigation was able to independently obtain.

through the issuance of NSLs.

(S) requests CTD provide the enclosed LHM to

through the issuance of NSLs.
LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) (x) For information and action if deemed appropriate.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) (x) For information and action if deemed appropriate.

Set Lead 3: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) (x) Request that CTD provide OIPR with the enclosed LHM.
Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

For information and action if deemed appropriate.

Set Lead 3: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

Request that CTD provide OIPR with the enclosed LHM.
To: Counterterrorism Inspection
Attn: SAC CDC

From: General Counsel National Security Law Branch/CTLU
Contact: 

Approved By: Thomas Julian

Date: 02/26/2007

Case ID #: 278-HQ-C-122916-VIO (Pending)

Title: INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2007-704

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

Reference: 

Administrative: 

OIG/DOJ REVIEW
FBI INVESTIGATION
OIG/DOJ INVESTIGATION: 
To: 
From: General Counsel
Re: 278-HQ-C129736-VIO, 02/26/2007

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

Details: (S//NF) By electronic communication (EC) dated December 18, 2006, referenced above, Division reported a possible IOB error in conjunction with its ongoing counterterrorism investigation.

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1) See, EC from the Division to the General Counsel dated 12/18/06, hereinafter cited as EC.
2) (U) EC.
3) (U) Id.
To: From: General Counsel
Re: 278-HQ-C1229736-VIO, 02/26/2007

reported the matter to both NSLB and the Office of Intelligence Policy and Review ("OIPR"). In addition, verified that data was sequestered.

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

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

Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

Since all inadvertently obtained information has already been destroyed, no action lead to is necessary.

4 Id.

5 Id.
To: General Counsel  
Re: 278-HQ-C1229736-VIO, 02/26/2007

For future reference, information inadvertently obtained should not be destroyed unless directed by. Rather, the material should be collected, sequestered, sealed and delivered to OIPR for appropriate disposition.
To: From: General Counsel
Re: 278-HQ-C1229736-VIO, 02/26/2007

LEAD(s):
Set Lead 1: (Info)
   (U) For information.

Set Lead 2: (Info)
   COUNTERTERRORISM
   AT WASHINGTON, D.C.
   (U) For information.

Set Lead 3: (Action)
   INSPECTION DIVISION
   AT WASHINGTON, D.C.
   (U) For review and action deemed appropriate.

cc: Ms. Thomas
    TOB LIBRARY
February 26, 2007

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

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

Derived From: G-3
Declassify On: 25X1
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. Matt Olsen
Deputy Assistant Attorney General
National Security Division
U.S. Department of Justice
Room 2200 C

1 - Ms. Margaret Skelly-Nolen
Acting Counsel
Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
DIVISION
IOB MATTER 2007 (U)

Federal Bureau of Investigation ("FBI") has reported electronic surveillance errors in conjunction with its ongoing counterterrorism investigation of an identified U.S. person ("USPER").

In addition, the FBI determined that it provided thereby resulting in an inadvertent over-collection, it reported the matter to both NSLB and the Office of Intelligence Policy and Review ("OIPR"). In addition,

(U) This matter has been reported to the FBI's Inspection Division for appropriate action.

Derived from: G-3
Declassify on: X1

DATE: 05-26-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-26-2032

ALL INFORMATION CONTAINED HERIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
To: Inspection General Counsel
Attn: IIS, Room 11861
Attn: NSLB, Room 7975
Attn: ASAC, ADC

Date: 01/25/2007

From: Contact: SA

Approved By

Drafted By:

Case ID #: 278-HQ-C1229736-VIO

Title: (U) REPORT OF POTENTIAL IOB MATTER

Synopsis: (U) To report possible IOB error.

Details:

(S) The captioned potential Intelligence Oversight Board matter

(S) A National Security Letter (NSL) was issued in the above referenced case to obtain subscriber information

During the preparation of the NSL, two of the digits in the telephone number were transposed resulting in the request for subscriber information for telephone number instead of The NSL was approved and issued, and the carrier provided records for telephone number

SD Miller

OA 04/23/07

Secret
To: Inspection From: 
Re: 278-HQ-C1229736-VIO, 01/25/2007

After the carrier's return of the NSL and corresponding records, an analyst from another division discovered that the numbers had been transposed and telephonically notified Special Agent who prepared the NSL. Special Agent informed his supervisor, Supervisory Senior Resident Agent (SSRA) of the error. SA and SSRA reviewed 319X-HQ-A1487720-OGC, Serial 290, dated 01/03/2007, for guidance in reporting the matter and taking corrective action.

After receiving 319X-HQ-A1487720-OGC, Serial 290, SA contacted Associate General Counsel (AGC) Patrice Kopistansky who advised him to contact Division's Chief Division Counsel and to also remove the records. On January 9, 2007, SA Gaylord notified Associate Division Counsel (ADC) of the error. SA also facilitated the removal of the records Per ADC direction, records were secured stored in a safe.
To: Inspection  
From:  
Re: 278-HQ-C1229736-VIO, 01/25/2007  

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For appropriate action.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) General Counsel is requested to review the circumstances regarding the possible IOB violation and to subsequently provide ADC direction regarding the disposition of the records which were inadvertently collected.

**
Precedence: ROUTINE
To: Counterterrorism
Attn: SAC
CDC

Precedence: ROUTINE
To: Inspection
Attn: ITOS 1, CONUS IV

Precedence: ROUTINE
To: Counterterrorism
Attn: ITOS 1, CONUS IV

Precedence: ROUTINE
To: Inspection
Attn: IIS

From: General Counsel
Contact: SSA

Approved By: Thomas Julie

Drafted By: 

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

Title: (x) INTELLIGENCE OVERSIGHT BOARD (IOB)

Synopsis: (x) The Division requested that the Office of
General Counsel (OGC) review a potential Intelligence Oversight
Board (IOB) error and determine whether it is reportable to the
IOB. It is the opinion of OGC that this matter must be reported
to the IOB. OGC will prepare and deliver the necessary
correspondence to the IOB.

Reference: (x) 278-HQ-C1229736-VIO, Serial 2112

Details: (x)

Pursuant to this investigation, a National Security Letter (NSL) was issued
requesting subscriber information
records in accordance with 18 U.S.C. §2709. During the
preparation of the NSL two of the digits in
telephone number were transposed.
To: Office of the General Counsel
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 02/26/2007

Information records of a number that was not relevant to a FBI investigation prior to discovery of the error.

(S) It should be noted that, upon discovery of this error, the case agent immediately sought advice as to how to rectify the situation. The case agent, pursuant to this advice, removed the information and stored the original data, as well as one copy, in a safe.

(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 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.

Here, due to the incorrect number stated in the NSL, the FBI received records pertaining to a telephone number that was not relevant to an authorized investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA. Accordingly, 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:  
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 02/26/2007

LEAD(s):

Set Lead 1: (Action)

(U) Field Office 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) For action deemed appropriate.

cc:  Ms. Thomas
IOB Library

SECRET
February 26, 2007

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 - 2321
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. Matt Olsen
   Deputy Assistant Attorney General
   National Security Division
   U.S. Department of Justice
   Room 2200 C

1 - Ms. Margaret Skelly-Nolen
   Acting Counsel
   Office of Intelligence Policy and Review
   U.S. Department of Justice
   Room 6150
INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
FIELD OFFICE
IOB MATTER 2007 [U]

(S) By electronic communication dated January 25, 2007, the Federal Bureau of Investigation (FBI) Field Office reported that the FBI issued a National Security Letter (NSL) seeking subscriber information records. Due to a typographical error made by the FBI on the NSL, the FBI obtained records pertaining to a telephone number that was not relevant to an authorized investigation, thus, the matter is being reported to the IOB.

(S) The FBI deleted the information and sequestered the data. The FBI will return the inadvertently obtained data to the telephone carrier, or destroy the data with documentation to the file.

DATE: 05-26-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-26-2032

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Derived from: G-3
Declassify on: 02/26/2032

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

From: Contact: TFO

Approved By:
   b2
   b7E
   b6
   b7C

Drafted By:

Case ID #: 278-HQ-C1229736-VIO -21/3

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

Synopsis: (X) To report possible IOB error.

Details:

1. Possible IOB Error:

2. Description of IOB Error.

(S) A National Security Letter (NSL) was submitted requesting information.

Date: 05/27/2007
CLASSIFIED BY 65179 DNH/KJR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05/27/2032
To: Inspection  
From:  
Re: X) 278-HQ-C1229736-VIO, 01/19/2007

(S) provided the NSL results in paper format. The


the case agent did not


review


on


the case agent noticed


(The NSL that was served to


specifically noted [should not

be included].) The case agent immediately sequestered the original


results that were stored in the 1-A envelope as well as the copy that


was made from the original. Since the CDC was out of the


office on 01/16/2007 and 01/17/2007, the case agent was not able to


notify the CDC about this matter until 01/18/2007. On 01/18/2007 the


case agent provided the original and copy of the records to


CDC


records provided


It was determined that provided


sequestered and sealed those records


CDC will


maintain the sequestered and sealed records under locked conditions in


his office.


the improperly provided information to the case agent


for investigative purposes in that such records were properly provided


to the Division in response to the above-stated NSL.


(S) No information pertaining to the tainted


information was entered into ACS. Information


is being stored in the 1-A at this time.
To: Inspection  From:  
Re:  278-HQ-C1229736-VIO, 01/19/2007

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.

♦♦