

FOR OFFICIAL USE ONLY

Public Availability to be Determined Under 5 U.S.C. §552

**U.S. Department of
Homeland Security****United States
Coast Guard**Commandant
United States Coast Guard2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-094
Phone: (b)(6)
Fax: (b)(6)

3810

FEB 04 2008**MEMORANDUM**From: **(b)(6)**

Judge Advocate General

Reply to CG-0941
Attn of: **(b)(6)**To: General Counsel
Department of Homeland SecurityGeneral Counsel
Intelligence Oversight BoardSubj: CONSOLIDATED INTELLIGENCE OVERSIGHT AND INTELLIGENCE
OVERSIGHT BOARD QUARTERLY REPORTRef: (a) Executive Order 12333 and 12836
(b) Memorandum dtd 14 June 07 from Director J.M. McConnell and Chairman Stephen Friedman SUBJ: Intelligence Oversight Board Reporting Criteria.
(c) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)
(d) Oversight of Coast Guard Intelligence Activities. COMDTINST 3821.14 (series)

1. This intelligence oversight quarterly report for the Coast Guard National Intelligence Element covers the period from October through December 2007 and is submitted in compliance with references (a) and (b).
2. No reports of questionable or unlawful intelligence activities were received during the reporting period. There are no indications that Coast Guard intelligence activities have been conducted contrary to law, Executive Order, or Presidential Directive.
3. During this quarter, recently assigned Coast Guard intelligence personnel at Headquarters (CG-2) received the initial training as required in reference (c). Additionally, annual refresher training was provided at Atlantic Area (Ai), Pacific Area (Pi), Maritime Intelligence Fusion Center Atlantic, and the Intelligence Coordination Center in accordance with reference (c). An informal oversight inspection was conducted by the Intelligence Oversight Officer (IOO) at the Atlantic Area Intelligence Division and the IOO at the Maritime Intelligence Fusion Center Atlantic. All informal inspections resulted in satisfactory evaluations of retained records and collection practices.

Subj: CONSOLIDATED INTELLIGENCE OVERSIGHT AND
INTELLIGENCE OVERSIGHT BOARD QUARTERLY
REPORT

3810
FEB 04 2008

4. The Coast Guard Counterintelligence Service (CGCIS) has designated an IOO. CGCIS conducted training of newly reported personnel as required by reference (c). CGCIS continues to monitor and assist the Federal Bureau of Investigation (FBI) with four cases referred to the FBI as required by 50 U.S.C. §402a or 28 U.S.C. §533.

5. Please call (b)(6) at (b)(6) if there are any questions.

#

Copy: COMDT (CG-2)
DHS Office of Inspector General
DNI General Counsel

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLYU.S. Department of
Homeland SecurityUnited States
Coast Guard

Public Availability to be Determined Under 5 U.S.C. §552

Commandant
United States Coast Guard2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-094
Phone: (b)(6)
Fax: (b)(6)

AUG 12 2008

MEMORANDUM**(b)(6)**

3810

From:

Judge Advocate General

Reply to: CG-0941
Attn of: **(b)(6)**

To:

General Counsel
Department of Homeland SecurityGeneral Counsel
Intelligence Oversight Board

Subj:

CONSOLIDATED INTELLIGENCE OVERSIGHT AND INTELLIGENCE
OVERSIGHT BOARD QUARTERLY REPORT

Ref:

- (a) Ref Executive Order 12333 and 12863
- (b) Memorandum dtd 14 June 07 from Director J.M. McConnell and Chairman Stephen Friedman SUBJ: Intelligence Oversight Board Reporting Criteria.
- (c) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)
- (d) Oversight of Coast Guard Intelligence Activities, COMDTINST 3821.14 (series)

1. This intelligence oversight quarterly report for the Coast Guard National Intelligence Element covers the period from April through June 2008 and is submitted in compliance with references (a) and (b).
2. The Intelligence Oversight Officers of Assistant Commandant for Intelligence and Criminal Investigations (CG-2) components report no issues with informal review of retained records. No reports of questionable or unlawful intelligence activities were received during the reporting period. There are no indications that Coast Guard intelligence activities have been conducted contrary to law, Executive Order, or Presidential Directive.
3. The Coast Guard Counter Intelligence Service (CGCIS) is the first of six CG-2 components to complete the biannual (formal) oversight inspection pursuant to references (c) and (d). There were no deficiencies or reportable issues. New personnel assigned to the CGCIS and CG-2 Headquarters staff received initial training this quarter as required in reference (d).
4. CGCIS continues to monitor and assist the Federal Bureau of Investigation (FBI) with three cases (one closed since the last report) referred pursuant to 50 U.S.C. §402a or 28 U.S.C. §533.
5. Please call **(b)(6)** CG-2 counsel, at **(b)(6)** for additional information.

#

Copy: COMDT (CG-2)
DHS Office of Inspector General
DNI General Counsel**FOR OFFICIAL USE ONLY**

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

Office of Inspector General

U.S. Department of Homeland Security
Washington, DC 20528**Homeland
Security**

JAN 07 2009

Homer Pointer
General Counsel, Intelligence Oversight Board
New Executive Office Building, Room 5020
Washington, DC 20500

Re: United States Coast Guard and Department of Homeland Security, Office of Intelligence and Analysis Intelligence Oversight Quarterly Report

Dear Mr. Pointer:

This Intelligence Oversight Quarterly Report for the United States Coast Guard (USCG) and Department of Homeland Security (DHS) Office of Intelligence and Analysis (I&A) for the period July 2008 – September 2008 is submitted pursuant to Executive Order (E.O.) 13462.

Office of Intelligence and Analysis Reports

I&A reported one new incident and provided an update on a past incident in its quarterly report.

Homeland Intelligence Report on a Muslim Conference in Georgia

On May 22, 2008, I&A released (b)(2) High (b)(7e)

—titled, *TERRORISM WATCHLIST: Information Regarding a Flier Posted at a Mosque in Ohio Announcing an Upcoming Conference in Georgia*. (b)(2) reported on the activities of two individuals with (b)(2) High (b)(7e) and information in a flier posted outside a U.S. mosque. The flier announced an upcoming conference at a mosque in Georgia and listed all the speakers. Several speakers were U.S. citizens. One of the speakers was seen outside the Columbus mosque speaking to one of the individuals (b)(2) (b)(2). However, there was no information in the flier or the website tying the conference to radical extremism or terrorist activity. It was within I&A's authority to collect, retain, and disseminate information regarding the activities of the two individuals (b) (b)(2) High (b) but outside I&A's authority to collect, retain, and disseminate information regarding the conference in Georgia or the speakers who were U.S. persons. I&A did not have any evidence the conference or the speakers promoted radical extremism or terrorist activity, and their activity is protected by the First Amendment of the Constitution. Reporting on it violated I&A's Interim Intelligence Oversight Guidelines. However, due to the limited distribution (b) (b)(2) there is no evidence of any lasting impact on civil liberties and privacy rights, nor is there any evidence of impact on national security or U.S. relations with other nations.

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

The source information has been destroyed or deleted, except for information relating to (b) (2)

In an effort to prevent future incidents of this type, Office of General Counsel (OGC) staff and the I&A Intelligence Oversight Officer plan to continue to meet with I&A personnel to identify issues regarding the collection, retention, and dissemination of U.S. person information.

Congressional Correspondence

The Secretary of Homeland Security received correspondence from U.S. Senators Feingold and Rockefeller (see classified attachment) expressing their concern regarding certain I&A intelligence products which had previously been reported to the IOB, I&A's conduct of analysis regarding certain domestic matters, and the role of another DHS component in a related initiative. The Office of the Director of National Intelligence (ODNI) was notified of the letter and is coordinating on the anticipated response.

Update to Corrective Actions Related to the HSDN Posting

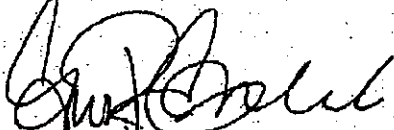
I&A is in the process of drafting a Privacy Impact Assessment (PIA) for I&A's Homeland Secure Data Network (HSDN) webpage. The HSDN PIA remains in draft pending the issuance of final I&A information handling guidelines, currently in development by an I&A working group. In the interim, (b)(2) High (b)(7e)

United States Coast Guard Intelligence Element Reports

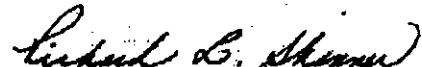
The intelligence elements of the United States Coast Guard (USCG) did not report any questionable or unlawful intelligence activities during the reporting period. In addition, the Coast Guard Counter Intelligence Service (CGCIS) completed its biannual oversight inspection, and did not note any deficiencies or reportable issues. CGCIS continues to monitor and assist the Federal Bureau of Investigation with three cases referred pursuant to 50 U.S.C. §402a or 28 U.S.C. §533. One of these three cases is being closed.

Should you have any questions, please contact Mr. Matthew L. Kronisch, DHS Associate General Counsel for Intelligence, who may be reached at 202-282-(b)(6), or Mr. Carlton L. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,



Gus P. Coldebella
General Counsel



Richard L. Skinner
Inspector General

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of
National Intelligence
Senior Associate General Counsel, Office of the Director of National Intelligence
Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG
Intelligence Oversight Officer, I&A

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

United States Senate
WASHINGTON, DC 20510

(b)(2) Low

~~SECRET~~

July 31, 2008

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Chertoff:

(U//FOUO) We are writing to express serious concerns about recent reports issued by the Department of Homeland Security's Office of Intelligence and Analysis (DHS/I&A). These reports, which have included U.S. Person information, or sought such information from recipients, have raised fundamental questions about the current mission of DHS/I&A, particularly as it relates to the domestic activities and constitutional rights of Americans.

[REDACTED]

(b)(1)(a)

(b)(2) High

(b)(6)

(b)(7)(c)

(b)(6)

(b)(7)(c)

(U//FOUO) First, the report's assessment of "derogatory" (b)(7)(E) [REDACTED] about [REDACTED] constitutionally protected speech and associations is clearly inappropriate, regardless of the analysts' conclusion that he is not an "extremist." Indeed, the conclusions reached in the report – that [REDACTED] is a "mainstream voice," that information "points to politically controversial statements but not to extremism." and that his ties

~~SECRET~~

SECRET

“appear[] to be more guilt by association than a reflection of extremism” – represent political assessments that are outside the bounds of the authorities granted U.S. law enforcement and intelligence entities. Moreover, the

(b)(2) High report’s description of [redacted] suggesting extremism and radicalization” that have been “identified” by DHS/I&A and “applied” to [redacted]
(b)(6) [redacted] is also troubling in that it suggests a template for analyzing First
(b)(7)(c) Amendment-protected activities (e.g., [redacted])
(b)(2) High [redacted]

(U//FOUO) Second, the report’s use of certain questionable (b) (7)(E) further highlights the dangers of government analysis of the speech and associations of U.S. Persons. According to the footnotes to the report, DHS/I&A gleaned “derogatory” information about [redacted] from (b)(6) (b)(7)(c) with obvious political motivations whose stated purpose is to “identif[y] the individuals and organizations that (b)(2) High make up the left,” including, in addition to [redacted] numerous members (b)(6)(b)(7)(c) of Congress and two former Presidents of the United States, as well as from (b) (7)(E)
(b)(6), (b)(7)(C) These criticisms of Americans’ First Amendment-protected political and academic views are clearly an inappropriate basis for assessments by U.S. government analysts.

(b)(1)(a) [redacted]

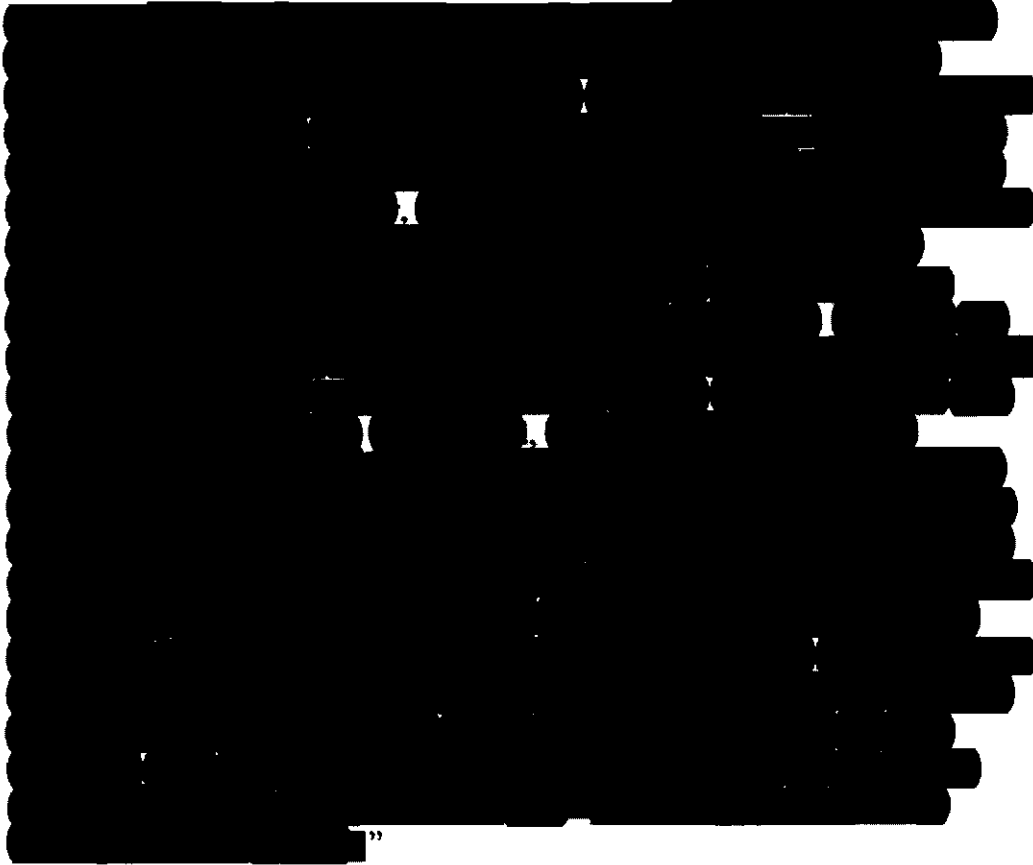
(U//FOUO) Third, we are concerned about the role of the Department’s Office for Civil Rights and Civil Liberties. The office that is charged with protecting the rights of Americans should not solicit or serve as the primary customer for intelligence assessments about whether Americans are “extremists.” Nor should such assessments be prompted by a conclusion (b)(2) High [redacted] as Department personnel explained to Committee staff. We therefore have

SECRET

~~SECRET~~

serious concerns about the dual role of the Office in protecting the civil rights of Americans while simultaneously identifying – and assessing – targets for “engagement.” Indeed, we urge the Office to refocus on the former, while the Department undertakes an overall reconsideration of the latter.

(b)(1)(a)
(b)(6)
(b)(7)(c)



(b)(2) High (U/FOUO) Finally, we have concerns about DHS/I&A’s overbroad efforts to [redacted] Specifically, on February 15, 2007, DHS/I&A issued “Somalia, Patterns of Migration to the United States,” prompted by the arrival of Somalis in the United States in the wake of the overthrow of

~~SECRET~~

~~SECRET~~

the Council of Islamic Courts in Somalia. The report sought [REDACTED] (b)(2) High
 [REDACTED] from recipients (listed as "Federal Departments and
 Agencies, State Homeland Security Advisors, State Emergency Managers,
 State and Local Fusion Centers, Law Enforcement, Tribal Governments,
 Information Sharing and Analysis Centers, and the Sector Coordinating
 Councils"), including on [REDACTED] (b)(2) High
 [REDACTED] American organizations and American citizens, such as
 private attorneys, members of refugee organizations or even church groups,
 should not be the target of such a [REDACTED] (b)(2) High
 in the absence of any indication of wrongdoing.

(U/FOUO) Based on these reports, we have serious concerns about the role
 of DHS/I&A with regard to "extremism and radicalization" and its ability to
 protect the constitutional rights of U.S. Persons. Reporting on Americans
 who are not subjects of investigations, assessments of First Amendment-
 protected activities, vague and potentially troubling [REDACTED] [REDACTED] and (b)(2) High
 the dissemination of overbroad reporting requests on legal activities
 conducted by Americans, all raise questions about DHS/I&A's role and
 mission. We therefore request that you submit to the Congress a full
 explanation of how that role and mission can be redirected away from
 assessments of the lawful activities of Americans.

Sincerely,



Russell D. Feingold
U.S. SENATOR



John D. Rockefeller IV
U.S. SENATOR

CC: Charles E. Allen
 Under Secretary for Intelligence and Analysis
 U.S. Department of Homeland Security
 Washington, D.C. 20528

~~SECRET~~

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

Homer Pointer
General Counsel, Intelligence Oversight Board
New Executive Office Building, Room 5020
Washington, DC 20500

Re: United States Coast Guard and Department of Homeland Security, Office of Intelligence and Analysis Intelligence Oversight Quarterly Report

Dear Mr. Pointer:

This Intelligence Oversight Quarterly Report for the United States Coast Guard (USCG) and Department of Homeland Security (DHS) Office of Intelligence and Analysis (I&A) for the period October 2008 – December 2008 is submitted pursuant to Executive Order (E.O.) 13462.

Office of Intelligence and Analysis Reports
I&A reported no new incidents in its quarterly report.

DHS has updated its implementer required by Section 2.3 of Executive Order 12333, taking into account the recent revisions to the Executive Order. DHS Instruction 215-001 was coordinated with the Department of Justice and its recommendations incorporated into the document. DHS continues to consult with the Office of the Director of National Intelligence (ODNI) regarding its recommendations.

Following coordination with the ODNI, the Federal Bureau of Investigation and the National Counter Terrorism Center, DHS provided a response to Senators Feingold and Rockefeller regarding their correspondence (reported in the previous quarterly report) concerning certain I&A intelligence products and other matters. A copy of the response has been previously provided your office and is attached hereto.

United States Coast Guard Intelligence Element Reports

The intelligence elements of the United States Coast Guard (USCG) did not report any questionable or unlawful intelligence activities during the reporting period. The Coast Guard Criminal Investigative Service continues to monitor and assist the Federal Bureau of Investigation with two cases referred pursuant to 50 U.S.C. §402a or 28 U.S.C. §533. One of these three cases is being closed.

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

Should you have any questions, please contact Mr. Matthew L. Kronisch, DHS Associate General Counsel for Intelligence, who may be reached at 202-284(b)(6) or Mr. Carlton I. Mann, Assistant Inspector General for Inspections at 202-254-4100.

Sincerely,

David Martin
Acting General Counsel



Richard L. Skinner
Inspector General

cc: Deputy Assistant Inspector General for Oversight and Policy, Office of the Director of National Intelligence
Senior Associate General Counsel, Office of the Director of National Intelligence
Senior Counsel, Intelligence and Criminal Investigations Directorate, USCG
Intelligence Oversight Officer, I&A

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

~~SECRET//NOFORN~~

Homeland Security

November 25, 2008

The Honorable Russell D. Feingold
United States Senate
Washington, D.C. 20510

Dear Senator Feingold:

(U//~~FOUO~~) This responds to your July 31, 2008 letter which outlined your concerns about recent reports issued by the Department of Homeland Security's (DHS) Office of Intelligence and Analysis (I&A). I strongly believe that DHS has made, and must continue to make, important contributions to our understanding of the phenomenon of violent radicalization and measures that ~~may be taken to counter and prevent extremist violence within our country, all without~~ -- compromising constitutional rights and civil liberties. These concurrent responsibilities fall primarily to I&A, the Office of the General Counsel (OGC), and to the Office for Civil Rights and Civil Liberties (CRCL). As explained below, these offices have taken extensive steps to ensure that the Department pursues its efforts relating to the phenomenon of violent radicalization in an effective and lawful manner. I believe it is important that we continue to enable their work in this area. That said, these are inherently sensitive issues, and I recognize that they will require continuous attention and oversight.¹

Consistent with Congressional Direction

(U) I note at the outset that the efforts undertaken by DHS with respect to the threat of violent radicalization within the United States are not only consistent with the mission and authorities of the Department, but also with the expressed sense of Congress.

(U) Section 2402 of the *Implementing Recommendations of the 9/11 Commission Act*, P.L. 110-53, expressed the sense of the Congress that the Secretary of Homeland Security should "make a priority of countering domestic radicalization that leads to ideologically-based violence . . ." Our highest priority is to protect our country from dangerous people, which includes engaging with local communities, enhancing our understanding of violent radicalization, and working to prevent the growth of violent extremism. Also, consistent with section 2402, we have "pursu[e]d broader avenues of dialog with minority communities, . . . [and] worked directly with State, local, and community leaders to . . . educate such leaders about the threat of radicalization . . . and the necessity of taking preventative action at the local level . . ."

(U) In a March 2007 hearing, Senator Lieberman addressed this issue squarely. Citing a report by the Homeland Security Advisory Council, chaired by former Representative Lee Hamilton,

¹ In the interests of full transparency and to ensure that the work of DHS/I&A is fully understood and supported, your letter, this response, and the DHS/I&A intelligence products at issue have been provided to the Intelligence Oversight Board and to the Office of the Director of National Intelligence (ODNI).

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

Senator Lieberman stated, “[The report] then recommended that, ‘Countering “homegrown” radicalization must be one of the Department’s top priorities.’ I agree.” Similar sentiments have been expressed by Senator Collins, Representative Harman, and several others. These statements reflect an understanding that the United States faces a persistent threat from enemies that employ a narrative of violence to attract terrorist recruits and carry out attacks. As many experts and policymakers have acknowledged, the U.S. Government cannot defeat these enemies or undermine their violent message through military and law enforcement efforts alone. Rather, we must also confront them in the so-called “war of ideas” by challenging their calls to violence and by supporting those who oppose terrorism. It is therefore essential that our Department (1) maintain an awareness and understanding of domestic organizations and individuals who support or engage in terrorist violence and (2) conduct engagement and outreach with individuals, organizations, and key communities who oppose violence and who share the U.S. Government’s goal of promoting both the safety and civil liberties of all Americans.

(b)(1)(a)

[REDACTED]

(U) Notably, our international partners have reached similar conclusions about the need to actively study and address the problem of violent radicalization. At a recent meeting which I attended in Bonn, Germany, the G6 European Interior Ministers of France, Germany, Italy, Poland, Spain, and the United Kingdom issued a statement of conclusions (which I joined) expressing our shared intent to “increase efforts to isolate terrorists and remove potential recruits from their influence.” We also expressed our shared concern that “[p]rocesses of radicalization are at work not only abroad, but also within our countries.”

(U) By law and policy, our efforts to counter violent radicalization within our country must be – and are – transparent and do not involve any covert efforts to influence domestic political opinion, processes, or media, including that of American Muslim communities. Our efforts abide by the principle of transparency not only because it is required by law, but also because it is the best way to foster trust with the American Muslim community and with all communities.

(b)(1)(a)

[REDACTED]

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~**Work of the Office for Civil Rights and Civil Liberties**

(b)(1)(a)

[REDACTED]

(U) **Redress.** Under 6 U.S.C. 345 and 42 U.S.C 2000ee-1, CRCL investigates complaints concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, which includes concerns about watch lists and treatment. CRCL works with its DHS partner Agencies and Components to resolve these concerns. For example, prominent Muslim-American leaders often complain of being questioned when they return from an international trip. CRCL receives these complaints of racial or religious profiling, but needs the assistance of I&A and DHS Component agencies to sufficiently address the complaints.

(U) CRCL Engagement Efforts

(U//FOUO) Public outreach and engagement initiatives with the American people play a major role in the Department's mission to protect America while preserving our freedoms. The DHS Office for Civil Rights and Civil Liberties leads the effort to promote civic engagement with the Arab, Muslim, Sikh, and South-Asian American communities. The Office has focused on key cities including Washington, D.C., Detroit, Chicago, Los Angeles, and Houston to ensure that there are regular and open meetings between DHS officials and community leaders. DHS CRCL is convinced its first function – helping to shape policy in ways mindful of the U.S. Constitution and civil rights laws – is much more effective when it listens to the reactions and concerns of Americans. When constructive leaders of Muslim-American communities take steps to promote civic engagement among these communities, it is appropriate for the Department to welcome and, indeed, encourage those steps. On the other hand, when the U.S. Government has information suggesting particular organizations or individuals may support or engage in violent extremist activities, it is equally appropriate for Department officials to be aware of this fact before considering whether to actively engage with such individuals.

(U) CRCL outreach efforts have facilitated introductions for me and other senior Department officials with numerous prominent business leaders and scholars throughout America who have committed to help strengthen the security of our country. I have invested substantially in engagement efforts. In 2007 alone, I participated in dinners with people from Arab, Muslim, Sikh, and South Asian communities in both Northern Virginia and Detroit; met with four Muslim intellectuals and influencers in Washington, D.C.; visited a mosque in Dearborn, Michigan; here I met with an interfaith group of religious leaders; and made statements in at least three speeches on the role of Muslims in American life.²

² These were speeches to (1) the Anti Defamation League on May 1, 2007; (2) the National Association for the Advancement of colored People on July 10, 2007; and B'nai B'rith on October 30, 2007.

~~SECRET//NOFORN~~

~~—SECRET//NOFORN~~

(U) There have been many positive initiatives that are a direct result of CRCL's engagement efforts. For example, when the controversial Dutch film *Fitna* was about to be released, CRCL alerted a group of key Muslim-Americans with whom it has developed a trusted relationship. They discussed the U.S. Government's and key European allies' concerns that unrest or violence could erupt. These discussions empowered and enabled Muslim-Americans to address the release of the film and help diffuse tensions that might otherwise have erupted.

(U) Another example of this constructive engagement is the creation of the joint DHS-Federal Bureau of Investigation (FBI) National Security Internship Program (NSI). This program is an intensive nine-week, full immersion summer program that combines Arabic language, Homeland Security, Intelligence and Area Studies, and on-the-job training experience at DHS and FBI Headquarters. The goal of the NSI is to create a direct career path for DHS and FBI with some of America's best and brightest undergraduate and graduate college students who speak or are studying Arabic, as well as Homeland Security, Intelligence, and Area Studies in college. The objective of this effort is not to create a cadre of translators, but rather to build a national security workforce of individuals who possess a higher degree of cultural competency.

(U) CRCL recently arranged for several prominent Muslim-Americans, including civil rights groups and organizations such as the National Association of Muslim Lawyers to meet with intelligence analysts from DHS, FBI, and the National Counterterrorism Center (NCTC). The purposes of the day-long seminar were to make the community leaders more aware of the threats that face our country, and to allow intelligence analysts to hear firsthand the concerns and perspectives of these community leaders. Obviously, we are undertaking our work in this area with a great deal of care for the protection of the rights of these communities.

Work of the Office of Intelligence & Analysis

(U) Pursuant to both the *Homeland Security Act of 2002* and Executive Order 12333, I&A serves the information and intelligence needs of the Department and also operates as a member of the national Intelligence Community (IC). I&A's national intelligence mission includes identifying information regarding threats to the Homeland, analyzing that information, and producing intelligence products for the Intelligence Community and senior national policy makers. I&A's products also are disseminated, when appropriate, to our State, local, and tribal partners, in fulfillment of DHS's unique responsibility for information sharing in this regard. I&A's Departmental intelligence mission includes providing information analysis and intelligence support to all elements of the Department, as well as the identification and analysis of threats to homeland security (including purely domestic threats) in order to provide guidance regarding priorities for protective and support measures. This dual role distinguishes I&A's mission from that of most other IC elements whose activities are, by definition, undertaken on behalf of the national Intelligence Community.

(U//FOUO) The interim U.S. person guidelines under which DHS I&A operates (a copy of which is attached hereto) have been carefully crafted to facilitate that mission while simultaneously protecting privacy and civil liberties. These interim guidelines provide the same protections for U.S. person information regardless of whether I&A is acting pursuant to its national or departmental mission. DHS I&A has engaged in fruitful discussions with the Office

~~—SECRET//NOFORN~~

~~SECRET//NOFORN~~

of the Director of National Intelligence and the Department of Justice concerning finalization of its permanent procedures for U.S. person information consistent with Executive Order 12333, as recently revised, while still enabling DHS to fulfill its statutory mission and responsibilities. Until DHS I&A's proposed permanent procedures are finalized, the attached guidelines have been adopted as departmental policy to ensure that DHS/I&A activities remain consistent with privacy and civil liberties requirements.

(U) I&A does not analyze or maintain information on U.S. persons solely for the purpose of monitoring activities protected by the U.S. Constitution, such as the First Amendment protected freedoms of religion, speech, press, and peaceful assembly and protest. While I&A may acquire information with some connection to constitutionally protected activities, the information regarding the protected activity must always be incidental to the authorized purpose for which DHS acquired the information. Moreover, some of the statements that may serve as the basis for a DHS analysis are not entitled to First Amendment protection. For example, courts have recognized that "words [that] instruct, solicit, or persuade others to commit crimes of violence violate the law and may be properly prosecuted regardless of whether they are uttered in private, or in a public speech, or in administering the duties of a religious ministry." *United States v. Rahman* 189 F.3d 88, 117 (2d Cir. 1999) (rejecting defendant's argument that his conviction for seditious conspiracy in connection with the 1993 World Trade Center bombing violated the First Amendment).

(U) Of course, all such information gathering must comply with the authorities and guidelines which apply to I&A, such as the U.S. Constitution, the Privacy Act, Executive Order 12333, and other restrictions. I&A personnel are provided regular training, and in-house attorney resources are available for analysts to consult in these matters. I&A leaders and their counsel provided your staff an extensive briefing on these authorities and guidelines in May 2008.

(U) With this background in mind, let me turn to the two areas of I&A's work about which your letter expressed concerns: I&A's work in support of the Department's counter-radicalization efforts and its work in support of Somali refugee resettlement.

(b)(1)(a)

[REDACTED]

(b)(1)(a)

[REDACTED]

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

(b)(1)(a) [Redacted]

(b)(1)(a) [Redacted]

(b)(1)(a) [Redacted]

(b)(1)(a) [Redacted]

(U//FOUO) In particular, I&A and CRCL have instituted a process to ensure proper documentation for future assessment requests undertaken by I&A on behalf of CRCL that may involve U.S. persons. This process will help ensure that there is an articulated, valid mission need for I&A assessments, clarify the purpose for undertaking those assessments, and guard against any inappropriate assessments based solely on First Amendment activities by ensuring that properly articulated mission needs, and not First Amendment activities, are the basis for undertaking the assessment.

(U//FOUO) **Refugee resettlement.** Your letter also expressed concerns about an I&A report that analyzed patterns of Somali migration to the United States. [Redacted] (b)(2) High

[Redacted]

The report concluded that the vast majority of such refugees were victims of persecution seeking a safe haven, but that chaotic conditions and the absence of reliable documentation due to the breakdown of public order in Somalia raised the prospect that terrorists or members of violent Somali militias could exploit the process. The report included a list of "information needs" that urged recipients to identify a wide range of additional information,

(b)(2)(high) (b)(2) High

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

(U//FOUO) [REDACTED]

(b)(2) High

[REDACTED] Nevertheless, the list of "information needs" at the end of this report was not clear enough in laying out the specific information required and the purpose for obtaining that information. DHS has taken additional steps to ensure that I&A products that include requests for additional information are written more precisely.

(b)(1)(a)

[REDACTED]

Sincerely,



Michael Chertoff

Enclosure

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

November 25, 2008

The Honorable John D. Rockefeller IV
United States Senate
Washington, D.C. 20510

Dear Senator Rockefeller:

(U//FOUO) This responds to your July 31, 2008 letter which outlined your concerns about recent reports issued by the Department of Homeland Security's (DHS) Office of Intelligence and Analysis (I&A). I strongly believe that DHS has made, and must continue to make, important contributions to our understanding of the phenomenon of violent radicalization and measures that ~~may be taken to counter and prevent extremist violence within our country, all without~~ compromising constitutional rights and civil liberties. These concurrent responsibilities fall primarily to I&A, the Office of the General Counsel (OGC), and to the Office for Civil Rights and Civil Liberties (CRCL). As explained below, these offices have taken extensive steps to ensure that the Department pursues its efforts relating to the phenomenon of violent radicalization in an effective and lawful manner. I believe it is important that we continue to enable their work in this area. That said, these are inherently sensitive issues, and I recognize that they will require continuous attention and oversight.¹

Consistent with Congressional Direction

(U) I note at the outset that the efforts undertaken by DHS with respect to the threat of violent radicalization within the United States are not only consistent with the mission and authorities of the Department, but also with the expressed sense of Congress.

(U) Section 2402 of the *Implementing Recommendations of the 9/11 Commission Act*, P.L. 110-53, expressed the sense of the Congress that the Secretary of Homeland Security should "make a priority of countering domestic radicalization that leads to ideologically-based violence . . ." Our highest priority is to protect our country from dangerous people, which includes engaging with local communities, enhancing our understanding of violent radicalization, and working to prevent the growth of violent extremism. Also, consistent with section 2402, we have "pursu[e]d broader avenues of dialog with minority communities, . . . [and] worked directly with State, local, and community leaders to . . . educate such leaders about the threat of radicalization . . . and the necessity of taking preventative action at the local level . . ."

(U) In a March 2007 hearing, Senator Lieberman addressed this issue squarely. Citing a report by the Homeland Security Advisory Council, chaired by former Representative Lee Hamilton, Senator Lieberman stated, "[The report] then recommended that, 'Countering "homegrown"

¹ In the interests of full transparency and to ensure that the work of DHS/I&A is fully understood and supported, your letter, this response, and the DHS/I&A intelligence products at issue have been provided to the Intelligence Oversight Board and to the Office of the Director of National Intelligence (ODNI).

~~SECRET//NOFORN~~

www.dhs.gov

~~SECRET//NOFORN~~

radicalization must be one of the Department's top priorities.' I agree." Similar sentiments have been expressed by Senator Collins, Representative Harman, and several others. These statements reflect an understanding that the United States faces a persistent threat from enemies that employ a narrative of violence to attract terrorist recruits and carry out attacks. As many experts and policymakers have acknowledged, the U.S. Government cannot defeat these enemies or undermine their violent message through military and law enforcement efforts alone. Rather, we must also confront them in the so-called "war of ideas" by challenging their calls to violence and by supporting those who oppose terrorism. It is therefore essential that our Department (1) maintain an awareness and understanding of domestic organizations and individuals who support or engage in terrorist violence and (2) conduct engagement and outreach with individuals, organizations, and key communities who oppose violence and who share the U.S. Government's goal of promoting both the safety and civil liberties of all Americans.

(b)(1)(a) [Redacted]

(U) Notably, our international partners have reached similar conclusions about the need to actively study and address the problem of violent radicalization. At a recent meeting which I attended in Bonn, Germany, the G6 European Interior Ministers of France, Germany, Italy, Poland, Spain, and the United Kingdom issued a statement of conclusions (which I joined) expressing our shared intent to "increase efforts to isolate terrorists and remove potential recruits from their influence." We also expressed our shared concern that "[p]rocesses of radicalization are at work not only abroad, but also within our countries."

(U) By law and policy, our efforts to counter violent radicalization within our country must be – and are – transparent and do not involve any covert efforts to influence domestic political opinion, processes, or media, including that of American Muslim communities. Our efforts abide by the principle of transparency not only because it is required by law, but also because it is the best way to foster trust with the American Muslim community and with all communities.

(b)(1)(a) [Redacted]

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~**Work of the Office for Civil Rights and Civil Liberties**

(b)(1)(a)

(U) Redress. Under 6 U.S.C. 345 and 42 U.S.C 2000ee-1, CRCL investigates complaints concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, which includes concerns about watch lists and treatment. CRCL works with its DHS partner Agencies and Components to resolve these concerns. For example, prominent Muslim-American leaders often complain of being questioned when they return from an international trip. CRCL receives these complaints of racial or religious profiling, but needs the assistance of I&A and DHS Component agencies to sufficiently address the complaints.

(U) CRCL Engagement Efforts

(U//FOUO) Public outreach and engagement initiatives with the American people play a major role in the Department's mission to protect America while preserving our freedoms. The DHS Office for Civil Rights and Civil Liberties leads the effort to promote civic engagement with the Arab, Muslim, Sikh, and South-Asian American communities. The Office has focused on key cities including Washington, D.C., Detroit, Chicago, Los Angeles, and Houston to ensure that there are regular and open meetings between DHS officials and community leaders. DHS CRCL is convinced its first function – helping to shape policy in ways mindful of the U.S. Constitution and civil rights laws – is much more effective when it listens to the reactions and concerns of Americans. When constructive leaders of Muslim-American communities take steps to promote civic engagement among these communities, it is appropriate for the Department to welcome and, indeed, encourage those steps. On the other hand, when the U.S. Government has information suggesting particular organizations or individuals may support or engage in violent extremist activities, it is equally appropriate for Department officials to be aware of this fact before considering whether to actively engage with such individuals.

(U) CRCL outreach efforts have facilitated introductions for me and other senior Department officials with numerous prominent business leaders and scholars throughout America who have committed to help strengthen the security of our country. I have invested substantially in engagement efforts. In 2007 alone, I participated in dinners with people from Arab, Muslim, Sikh, and South Asian communities in both Northern Virginia and Detroit; met with four Muslim intellectuals and influencers in Washington, D.C.; visited a mosque in Dearborn, Michigan; here I met with an interfaith group of religious leaders; and made statements in at least three speeches on the role of Muslims in American life.²

² These were speeches to (1) the Anti Defamation League on May 1, 2007; (2) the National Association for the Advancement of colored People on July 10, 2007; and B'nai B'rith on October 30, 2007.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

(U) There have been many positive initiatives that are a direct result of CRCL's engagement efforts. For example, when the controversial Dutch film *Fitna* was about to be released, CRCL alerted a group of key Muslim-Americans with whom it has developed a trusted relationship. They discussed the U.S. Government's and key European allies' concerns that unrest or violence could erupt. These discussions empowered and enabled Muslim-Americans to address the release of the film and help diffuse tensions that might otherwise have erupted.

(U) Another example of this constructive engagement is the creation of the joint DHS-Federal Bureau of Investigation (FBI) National Security Internship Program (NSI). This program is an intensive nine-week, full immersion summer program that combines Arabic language, Homeland Security, Intelligence and Area Studies, and on-the-job training experience at DHS and FBI Headquarters. The goal of the NSI is to create a direct career path for DHS and FBI with some of America's best and brightest undergraduate and graduate college students who speak or are studying Arabic, as well as Homeland Security, Intelligence, and Area Studies in college. The objective of this effort is not to create a cadre of translators, but rather to build a national security workforce of individuals who possess a higher degree of cultural competency.

(U) CRCL recently arranged for several prominent Muslim-Americans, including civil rights groups and organizations such as the National Association of Muslim Lawyers to meet with intelligence analysts from DHS, FBI, and the National Counterterrorism Center (NCTC). The purposes of the day-long seminar were to make the community leaders more aware of the threats that face our country, and to allow intelligence analysts to hear firsthand the concerns and perspectives of these community leaders. Obviously, we are undertaking our work in this area with a great deal of care for the protection of the rights of these communities.

Work of the Office of Intelligence & Analysis

(U) Pursuant to both the *Homeland Security Act of 2002* and Executive Order 12333, I&A serves the information and intelligence needs of the Department and also operates as a member of the national Intelligence Community (IC). I&A's national intelligence mission includes identifying information regarding threats to the Homeland, analyzing that information, and producing intelligence products for the Intelligence Community and senior national policy makers. I&A's products also are disseminated, when appropriate, to our State, local, and tribal partners, in fulfillment of DHS's unique responsibility for information sharing in this regard. I&A's Departmental intelligence mission includes providing information analysis and intelligence support to all elements of the Department, as well as the identification and analysis of threats to homeland security (including purely domestic threats) in order to provide guidance regarding priorities for protective and support measures. This dual role distinguishes I&A's mission from that of most other IC elements whose activities are, by definition, undertaken on behalf of the national Intelligence Community.

(U//FOUO) The interim U.S. person guidelines under which DHS I&A operates (a copy of which is attached hereto) have been carefully crafted to facilitate that mission while simultaneously protecting privacy and civil liberties. These interim guidelines provide the same protections for U.S. person information regardless of whether I&A is acting pursuant to its national or departmental mission. DHS I&A has engaged in fruitful discussions with the Office of the Director of National Intelligence and the Department of Justice concerning finalization of

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

its permanent procedures for U.S. person information consistent with Executive Order 12333, as recently revised, while still enabling DHS to fulfill its statutory mission and responsibilities. Until DHS I&A's proposed permanent procedures are finalized, the attached guidelines have been adopted as departmental policy to ensure that DHS/I&A activities remain consistent with privacy and civil liberties requirements.

(U) I&A does not analyze or maintain information on U.S. persons solely for the purpose of monitoring activities protected by the U.S. Constitution, such as the First Amendment protected freedoms of religion, speech, press, and peaceful assembly and protest. While I&A may acquire information with some connection to constitutionally protected activities, the information regarding the protected activity must always be incidental to the authorized purpose for which DHS acquired the information. Moreover, some of the statements that may serve as the basis for a DHS analysis are not entitled to First Amendment protection. For example, courts have recognized that "words [that] instruct, solicit, or persuade others to commit crimes of violence violate the law and may be properly prosecuted regardless of whether they are uttered in private, or in a public speech, or in administering the duties of a religious ministry." *United States v. Rahman* 189 F.3d 88, 117 (2d Cir. 1999) (rejecting defendant's argument that his conviction for seditious conspiracy in connection with the 1993 World Trade Center bombing violated the First Amendment).

(U) Of course, all such information gathering must comply with the authorities and guidelines which apply to I&A, such as the U.S. Constitution, the Privacy Act, Executive Order 12333, and other restrictions. I&A personnel are provided regular training, and in-house attorney resources are available for analysts to consult in these matters. I&A leaders and their counsel provided your staff an extensive briefing on these authorities and guidelines in May 2008.

(U) With this background in mind, let me turn to the two areas of I&A's work about which your letter expressed concerns: I&A's work in support of the Department's counter-radicalization efforts and its work in support of Somali refugee resettlement.

(b)(1)(a)

[REDACTED]

(b)(1)(a)

[REDACTED]

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

(b)(1)(a)

[REDACTED]

(b)(1)(a)

[REDACTED]

(b)(1)(a)

[REDACTED]

(b)(1)(a)

[REDACTED]

(U//FOUO) In particular, I&A and CRCL have instituted a process to ensure proper documentation for future assessment requests undertaken by I&A on behalf of CRCL that may involve U.S. persons. This process will help ensure that there is an articulated, valid mission need for I&A assessments, clarify the purpose for undertaking those assessments, and guard against any inappropriate assessments based solely on First Amendment activities by ensuring that properly articulated mission needs, and not First Amendment activities, are the basis for undertaking the assessment.

(U//FOUO) **Refugee resettlement.** Your letter also expressed concerns about an I&A report that analyzed patterns of Somali migration to the United States [REDACTED] (b)(2) High

[REDACTED]

The report concluded that the vast majority of such refugees were victims of persecution seeking a safe haven, but that chaotic conditions and the absence of reliable documentation due to the breakdown of public order in Somalia raised the prospect that terrorists or members of violent Somali militias could exploit the process. The report included a list of "information needs" that urged recipients to identify a wide range of additional information. [REDACTED] (b)(2) High

[REDACTED]

(U//FOUO) [REDACTED] (b)(2) High

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

(b)(2)(high)

(b)(2)(high) Nevertheless, the list of "information needs" at the end of this report was not clear enough in laying out the specific information required and the purpose for obtaining that information. DHS has taken additional steps to ensure that I&A products that include requests for additional information are written more precisely.

(b)(1)(a)



Sincerely,

A handwritten signature in black ink, appearing to be "Michael Chertoff", is written over the word "Sincerely,".

Michael Chertoff

Enclosure

~~SECRET//NOFORN~~

Secretary
U.S. Department of Homeland Security
Washington, DC 20528



Homeland Security

September 29, 2008

RECEIVED

MEMORANDUM FOR: The Honorable J. Michael McConnell
Director of National Intelligence

The Honorable Stephen Friedman
Chairman, Intelligence Oversight Board

FROM: Michael Chertoff

SUBJECT: Executive Order 13462: President's Intelligence Advisory Board
and Intelligence Oversight Board

This memo is to inform you that I have jointly designated the Office of General Counsel and the Office of Inspector General within the Department for the purpose of submitting on my behalf all reports to the Intelligence Oversight Board (IOB) required by Executive Order, in accordance with Section 8(b)(ii) of Executive Order 13462.

The individual points-of-contact for each office, and their corresponding contact information, is as follows:

Matthew L. Kronisch
Associate General Counsel (Intelligence)
E-mail: (b)(6) (U)
(b)(2)(high), (b)(6) (b)(2)(high), (b)(6) (S)
*b(2)(high), (b)(6) (TS/SC) (STE to TS/SC)

Phone: (b)(2)(high), (b)(6) (U) (STE to TS/SC)
NSTS: (b)(2)(high), (b)(6)
Facsimile: (202) 447-3925 (U)
Mailing address:
Department of Homeland Security
Office of General Counsel (Intelligence)
Washington, D.C. 20528
Courier address:
Department of Homeland Security
Office of General Counsel (Intelligence)
(b)(2)(high) - Nebraska Avenue Complex
Washington, D.C. 20528

Carlton I. Mann
Assistant Inspector General (Inspections)
E-mail: (b)(6) (U)
Phone: (b)(6) (U)
Facsimile: (202) 254-4304 (U)
Mailing address:
Department of Homeland Security
Office of Inspector General
STOP 2600 Office of Inspections
245 Murray Lane, SW
Building 410
Washington, D.C. 20528
Courier address:
Department of Homeland Security
Office of Inspector General
Office of Inspections
(b)(2)(high)
(b)(2)(high)
(b)(2)(high)

www.dhs.gov

The Department will submit all reports to the IOB jointly through the General Counsel and Inspector General. Moreover, IOB reporting from this Department will continue pursuant to the schedule and in accordance with all other requirements outlined in the April 17, 2007 memorandum from the Assistant to the President for National Security Affairs until new reporting guidance on the formatting and scheduling of IOB reports is issued.