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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 2/21/2007

To: [redacted]

Attn: SSA [redacted]
SA [redacted]
CDC [redacted]

b2 Counterintelligence
b6
b7C Inspection
b7E

Attn: CD [redacted]

Attn: IIS, CRS [redacted]

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

Approved By: Thomas Julie F. [redacted] *RL*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted]:smt

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(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-2203 (Pending)

DATE: 12-11-2007
CLASSIFIED BY 65122/mml/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 12-11-2032

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2007-[redacted]

(U) Synopsis: ~~(S)~~ The [redacted] Field Office [redacted] 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.

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(U) ~~Derived From: G-3
Declassify On: 2/21/2032~~

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

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

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(U) Details: ~~(S)~~ By EC dated 2/01/2007, [redacted] requested that OGC review an incident and determine whether it warrants reporting to

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 2/21/2007

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(S)

the IOB. [redacted]
[redacted] As part of its investigation, [redacted] sought transactional information for an email account relevant to the ongoing investigation. A National Security Letter (NSL) was prepared by [redacted] and served on [redacted]. The NSL requested only transactional information for the relevant email account. The NSL results were provided to [redacted] in an email by the [redacted] [redacted] Division on 1/11/2007, with the CD-ROM to be sent later.

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(U)

~~(S)~~ On 1/22/2007, the [redacted] case agent reviewed the email and discovered that in addition to the requested transactional information, [redacted] had provided information that appeared to be content. For example, some of the information appeared to originate from the subject line of the email. The case agent immediately ceased the review and reported the incident to [redacted] Division Counsel. On 1/22/2007 the case agent contacted the [redacted] point of contact (POC) for the NSL. The POC then contacted the appropriate [redacted] representative and confirmed that [redacted] had provided the information in error. Subsequently, the [redacted] POC destroyed the CD-ROM and deleted all emails regarding this message. On 1/31/2007, [redacted] provided the requested information in compliance with the initial NSL request. On 2/01/2007, the [redacted] case agent similarly deleted the relevant email.

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(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

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 2/21/2007 b7E

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 [redacted]. Once the case agent discovered that he had received information beyond the scope of the NSL request, the case agent immediately notified the [redacted] CDC and notified [redacted]. 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.

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 2/21/2007 b7E

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)

[redacted]

AT [redacted]

(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.

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

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b7C

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~~SECRET~~//20320201

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/01/2007

To: Inspection
General Counsel

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

Attn: ASAC [redacted]
CDC [redacted]

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From: [redacted]

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

Contact: SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

jgc [initials]

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DATE: 08-07-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 08-07-2032

(U)

Case ID #: (S) 278-HO-C1229736-VIO-2120
(S) 62F [redacted]-A89455-IOB

Title: (U) SA [redacted]

SSA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U)

Synopsis: (S) To report possible IOB error.

(U)

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

Details:

(S) 1. [redacted]

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(S) 2. [redacted]

(S) 3. Possible IOB Error: E-mail content provided.

(S)

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

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(S) On 11/06/2006, a National Security Letter (NSL) requesting the name, address, length of service, and electronic

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NSL VIO-23820

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/01/2007

communication transactional records, to include existing transaction/activity logs and all email header information (not to include message content and/or subject fields), for the address holder of [redacted] from [redacted]

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(S) [redacted] was prepared and approved in accordance with the Attorney General Guidelines. The NSL was served by the [redacted] Division and on 01/11/2007, [redacted] provided the results of the NSL to the [redacted] Field Office via e-mail as a courtesy, noting that a hard copy of the information was in transit to [redacted].

(U) ~~(S)~~ A review of the results of the NSL revealed that [redacted] supplied what the case agent determined to be message content and/or subject fields. Specifically, the term "Subject:" was identified one time followed by a message topic. Also, the term "Thread Topic" was identified three times, followed by information indicative of correspondence subject matter. This information was not utilized by the case agent in any analysis nor was it documented in the case file.

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(U) ~~(S)~~ The case agent first reviewed the 01/19/2007 e-mail from [redacted] Division on 01/22/2007. [redacted] Division Counsel was contacted on 01/22/2007 to advised of the problem.

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(U) ~~(S)~~ On 01/22/2007, case agent contacted [redacted] Division Investigative Support Specialist (ISS) [redacted] as she was the sender of the soft copy content material. ISS [redacted] was advised of the situation and verified that she did not save a copy of the material on her computer. ISS [redacted] noted that the information was only sent to SA [redacted] the case agent who submitted the NSL and writer of this correspondence. ISS [redacted] agreed to query her [redacted] contact regarding the information provided as a means for [redacted] to explain why the information was provided, or to identify that an error was made. Case agent requested that ISS [redacted] permanently delete any copies of the e-mail transaction, which included the content material, that was possibly still maintained within her e-mail.

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(U) ~~(S)~~ On 01/25/2007, case agent received an e-mail from ISS [redacted] regarding this matter. ISS [redacted] explained that [redacted] of [redacted] was contacted regarding this error. [redacted] noted that he could not explain why this error occurred, yet, he aimed to correct the problem.

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(U) ~~(S)~~ On 01/31/2007 case agent received an e-mail message from ISS [redacted] noting that she destroyed the CD-R which contained e-mail content, per the request of [redacted] of [redacted]. Additionally, ISS [redacted] noted that [redacted]

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/01/2007

provided a new CD-R which contained the appropriate information that was originally requested by the NSL served on [redacted]

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(U) ~~(S)~~ On 02/01/2007 case agent permanently deleted the e-mail message received from ISS [redacted] which contained the content information.

(U) (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.)

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(U)

To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/01/2007

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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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NSL VIO-23823

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/12/2006

To: [redacted] Field

Attn: SAC [redacted]
CDC
SA

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Counterintelligence

Attn: SSA [redacted]

CD-2A

Inspection Division

Attn: IIS, CRS [redacted]

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WHERE SHOWN OTHERWISE

From: Office of the General Counsel

NSLB/CILU/Room 7947

Contact: AGC [redacted]

Approved By: Thomas Julie F. [redacted]

Drafted By: [redacted] :smt

DATE: 08-07-2007
CLASSIFIED BY 65179/DMH/KSR/RM
REASON: 1.4 (c,d)
DECLASSIFY ON: 08-07-2032

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) 1988

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2007-[redacted]

(U) Synopsis: ~~(S)~~ The [redacted] Field Office [redacted] 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.

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

(U) Administrative: ~~(S)~~ This electronic communication (EC) contains information from: the EC dated 10/30/2006 from [redacted] to OGC reporting a potential IOB matter.

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO

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(U) Details: ~~(S)~~ By EC dated 10/30/2006, [redacted] requested that OGC review an incident and determine whether it warrants reporting to

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

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(S) [redacted]
the IOB. [redacted]

(S) [redacted] AS part of its investigation, [redacted] sought subscriber information for a telephone belonging to [redacted]. A National Security Letter (NSL) was prepared by [redacted] and served on [redacted] dba [redacted]. The NSL requested only subscriber information for the time period 01/01/2001 to the present. On 10/20/2006, [redacted] responded to this request and in addition to the basic subscriber information, also provided toll record information.

(U) (S) Upon review of the documents provided to [redacted] it was learned that the information [redacted] provided, pursuant to the NSL, exceeded that which was requested. The error by [redacted] was apparently a misunderstanding on its part as to the nature of the request, since requests for toll billing information and subscriber information are requested separately by the FBI.

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(U) [redacted] reported that they returned the toll record information to [redacted] on 10/26/2006.

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

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 12/12/2006 b7E

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 [redacted]. 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 [redacted] and reported the matter to OGC. b2
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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 12/12/2006 b7E

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]

AT [redacted]

(U) [redacted] is requested to contact [redacted] to ensure that the appropriate protocols are in place to prevent similar types of disclosures in the future.

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cc: 1- Ms. Thomas

1- [redacted]

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1- IOB Library

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NSL VIO-23827

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/12/2006

To: [redacted] Field Office

Attn: [redacted]

Counterintelligence

Attn: SSA [redacted]

Inspection Division

Attn: IIS, CRS [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

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Approved By: Thomas Julie F. [signature]

b2 DATE: 08-07-2007
b6 CLASSIFIED BY: 65179/DMM/ESP/RM
b7C REASON: 1.4 (c)
DECLASSIFY ON: 08-07-2032

Drafted By: [redacted]:smt

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

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2007-[redacted]

(U) Synopsis: ~~(S)~~ The [redacted] Field Office [redacted] 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.

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

(U) Administrative: ~~(S)~~ This electronic communication (EC) contains information from: the EC dated 10/25/2006 from [redacted] to OGC reporting a potential IOB matter.

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

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

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(U) Details: (S) By EC dated 10/25/2006, [redacted] requested that OGC review an incident and determine whether it warrants reporting to the IOB

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[redacted]

(S) During the investigation, [redacted] issued an NSL to [redacted] requesting names, addresses, length of service and electronic communications transactional records, to include existing transaction/activity logs and all electronic mail (e-mail) header information (excluding content and/or subject fields) for the following [redacted] and [redacted] was also requested to provide the physical addresses and locations for [redacted]

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(S) The [redacted] NSL was approved and signed on 05/22/2006, then transmitted to [redacted] Division, [redacted] Resident Agency [redacted]. On 06/12/2006, [redacted] delivered the NSL to [redacted]. On 06/20/2006, [redacted] provided the FBI with a response on CD-ROM. During the week of July 10, 2006, SA [redacted] reviewed the CD from [redacted] and noticed that they had forgotten to complete the section relating to additional email addresses. During the week of 07/17/2006, SA [redacted] called [redacted] directly and notified them of the missing data. [redacted] told SA [redacted] that they had inadvertently forgot to put [redacted] in the email addresses and would prepare another CD-rom for [redacted]

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(S) Due to numerous delays, including the [redacted] [redacted] finally provided a second CD-ROM to [redacted] which was provided to [redacted] along with an EC dated 09/25/2006. SA [redacted] first reviewed the second CD-rom on 10/25/2006 and discovered that, in addition to the requested email addresses, [redacted] provided a ZIP file that contained some e-mail content. This content was not requested by SA [redacted] nor authorized by the NSL. Upon discovering [redacted] error, SA [redacted] returned the second CD-ROM NSL response to its envelope and ceased his analysis of the material. SA [redacted] then reported the matter to [redacted] A/SSA [redacted] who then sealed the envelope containing the second CD-ROM and placed it in the safe in the [redacted] SSA office.

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~~SECRET~~

To: [redacted] Field From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 12/12/2006 b7E

(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 [redacted]. Once the case agent discovered that he had received information beyond the scope of the NSL request, the case agent immediately sequestered the information, placed the information in a secure safe and reported the matter to OGC. b2 b7E

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To: [redacted] Field From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 12/12/2006 b7E

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]

AT

[redacted]

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(U) For action deemed appropriate.

cc: 1- Ms. Thomas

1- [redacted]

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1- IOB Library

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~~SECRET~~

[Redacted]

(OGC) (FBI)

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From: [Redacted] (CTD) (FBI)

Sent: Tuesday, March 08, 2005 5:25 PM

To: [Redacted] (OGC) (FBI); [Redacted] (CTD) (FBI)

Cc: [Redacted] (CTD) (FBI); [Redacted] (OGC) (FBI);
[Redacted] (OGC) (FBI)

Subject: RE: CAU telephone NSLs

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted]

I'd like to visit with you some time this week. I'll give you a call to schedule.

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Thanks

[Redacted]

CALL

[Redacted]

HQ Rm 4315

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-08-2007 BY 65179/DMH/KSR/EW

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

From: [Redacted] (OGC) (FBI)

Sent: Monday, March 07, 2005 11:18 AM

To: [Redacted] (CTD) (FBI); [Redacted] (CTD) (FBI)

Cc: [Redacted] (CTD) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)

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b7C

Subject: CAU telephone NSLs

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

At the CDC conference, I informed the CDCs that they should encourage people to route NSLs for telephone numbers through your unit. But when I went on your website, the link to "What CAU can do for You," the [Redacted] suggests that you don't want all NSLs to go to you but [Redacted] [Redacted] is that true, or do you want all phone NSLs to go to you?

Also, the [Redacted]
[Redacted]
[Redacted]

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Please give me your thoughts.

thanks. [Redacted]

[Redacted]

NSL VIO-23871



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SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

NSL VIO-23872

3/26/2007

[Redacted] (OGC) (FBI)

From: [Redacted] (OGC) (FBI)

Sent: Tuesday, April 26, 2005 10:06 AM

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-07-2007 BY 65179/DMH/KSP/RW

To: THOMAS, JULIE F. (OGC) (FBI)

Cc: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)

Subject: FW: Emergency NSLs

**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

Julie, [Redacted]

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[Redacted]

The enclosed EC hasn't gone through [Redacted] yet, but you had approved the idea of doing it, so I am sending you a copy FYI.

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[Redacted] - I forgot to cc you on the below, but you need to be aware of it, as well.

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

From: [Redacted] (OGC) (FBI)

Sent: Tuesday, April 26, 2005 9:57 AM

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b7C

To: [Redacted] (CTD) (FBI)

Subject: Emergency NSLs

**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

[Redacted]

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[Redacted]

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Thanks. [Redacted]

NSL VIO-23881

3/26/2007

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

NSL VIO-23882

3/26/2007

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/15/2007

To: Inspection
General Counsel

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: [Redacted]

Squad

Contact: [Redacted]

Approved By: [Redacted]

DATE: 08-07-2007
CLASSIFIED BY: 65179/DMH/KSR/DW
REASON: 1.4 (c,d)
DECLASSIFY ON: 08-07-2032

Drafted By: [Redacted]: kat

Case ID #: ~~(S)~~ 278-HO-C1229736-VIO (Pending) - 2393

Title: (U) REPORT OF A POTENTIAL IOB ERROR

Synopsis: ~~(S)~~ To report possible IOB error.

~~(S)~~ Derived From : G-3
Declassify On: 03/15/2032

Enclosures: ~~(S)~~ For the Chief Division Council of the [Redacted] Office, copy of RPPA National Security Letter (NSL), and original credit report received therefrom for purposes of sequestration.

Details:

(S) 1. [Redacted]

(S) 2. [Redacted]

~~(S)~~ 3. Possible IOB Error: A carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data.

(S) [Redacted]

~~SECRET~~

NSL VIO-23891

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3/20/07

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(U) To: Inspection From: [redacted] b7E
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/15/2007

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

~~(S)~~ On or about May 26, 2004, an REPA National Security Letter (NSL) was served to [redacted] of [redacted] [redacted] requesting the name, address and all financial institutions (as defined in title 12 U.S.C. Section 3401) relating to [redacted]

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(U) ~~(S)~~ The NSL, submitted pursuant to 15 U.S.C. § 1681(u) (a), was drafted by Case Agent [redacted] of squad [redacted] which is supervised by SSA [redacted]. The NSL specifically requested the names and addresses of all financial institutions (as defined in Title 12, U.S.C., Section 3401) at which the below-named consumer maintains or has maintained an account:

(S)

[redacted]

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(U) ~~(S)~~ On May 26, 2004, the NSL was executed by [redacted]. In executing this NSL, [redacted] provided the subject's entire credit report, as opposed to the requested record of just financial institutions. Therefore, [redacted] erroneously provided additional information that was over-and-above that which was requested by the NSL. The NSL clearly requested financial institution records under 15 U.S.C. § 1681(u) (a). Case Agent discovered this problem on March 14, 2007, and took immediate action to report the incident and submit the full credit report to the Chief Division Council of the [redacted] Office for sequestration on March 15, 2007. No copies of the report remain in case file.

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(U) ~~(S)~~ The possible violation was not reported in 2004 because case Agent was not aware, at the time, that receiving a full credit history was beyond the scope of authorization.

~~SECRET~~

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NSL VIO-23892

~~SECRET~~

(U)

To: Inspection From: b2
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/15/2007 b7E

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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NSL VIO-23893

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

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Date: 04/05/2004

To: General Counsel

Attn: Unit Chief

[Redacted] CTLU 1

Attn: Squad [Redacted]

SSA [Redacted]

Attn: Squad [Redacted]

SA [Redacted]

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From: [Redacted]

SAC [Redacted]

Contact: [Redacted]

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

Approved By: [Redacted]

DATE: 08-07-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 08-07-2032

Drafted By: [Redacted]

b1 case ID #:

(S)

[Redacted] (Pending)

(U) b2

(S)

[Redacted] (Pending)

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(S)

66F-HQ-C1303371

[Redacted] (Pending)

b6 title: (S)

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[Redacted]

Synopsis: (U) Approves the issuance of an RFPA National Security Letter (NSL); provides reporting data; and, if necessary, transmits the NSL for delivery to the financial institution.

(U)

~~(S)~~

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

(S)

~~(U)~~ [Redacted]

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[Redacted]

b2

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Enclosure(s): (U) Enclosed for [Redacted] Division is an original and a copy of a letter dated 04/05/2004, addressed to [Redacted]

b6

[Redacted] Custodian of Records, [Redacted]

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[Redacted] requesting financial records.

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tuec.wpd

~~SECRET~~

(S)

[Redacted]

NSL VIO-23894

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[Redacted] 2
[Redacted]

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To: General Counsel From: [redacted]
Re: (S) [redacted] 04/05/2004

Details: (S) [redacted]

[redacted] in accordance with the Attorney General Guidelines. On b2
January 16, 2003, United States Attorney General John Ashcroft, b7E
via a memorandum to FBI Director Robert S. Mueller, III,
authorized the use of National Security Letters in a [redacted]
[redacted] to obtain telephone, financial and credit records.

(S)

[Large redacted area]

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~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted] 04/05/2004

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(U)

~~(S)~~ This electronic communication documents the SAC's approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks the identity of financial institutions records for one (1) individual.

(U) A representative of the [redacted] office who has liaison with the consumer reporting agency should deliver the letter to [redacted].

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(U) On 11/09/2001, the Director designated the official signing the enclosed letter as authorized to make the required certification.

(U) [redacted] should remind [redacted] that, under Title 15, United States Code, Section 1681u(d), it is prohibited from disclosing that the FBI has made this request. In addition, [redacted] is prohibited from including in any consumer report any information that would indicate that the FBI has sought or obtained such information.

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(U) Arrangements should be made with [redacted] to provide the records personally to a representative of your office. [redacted] should neither send the records through the mail nor utilize the name of the subject in any telephone calls to your office. [redacted] should not contact FBIHQ directly in any manner.

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(U) Consumer reports received from a consumer reporting agency must be clearly identified when reported in any Bureau communication. Subsequent dissemination of such information is prohibited, except to other Federal agencies or military investigative entities as may be necessary for the approval or conduct of a foreign counterintelligence investigation.

(U) Any questions regarding the above can be directed to [redacted] Attention: SA [redacted] phone number [redacted]

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To: General Counsel From: [redacted]
Re: (S) [redacted] 04/05/2004

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Set Lead 2: (Action)

[redacted]

AT [redacted]

(U) Deliver the attached letter as indicated above. Upon receipt of information from the carrier, [redacted] Division is requested to submit results to [redacted]

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~~SECRET~~

~~SECRET~~

U.S. Department of Justice



Federal Bureau of Investigation

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

In Reply, Please Refer to
File No.

[Redacted]

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[Redacted]

April 5, 2004

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DATE: 08-07-2007
CLASSIFIED BY: 65179/DHH/KSR/PM
REASON: 1.4 (c)
DECLASSIFY ON: 08-07-2032

Dear [Redacted]:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 15, United States Code (U.S.C.), Section 1681u(a) of the Fair Credit Reporting Act (as amended on October 26, 2001), you are hereby directed to provide the Federal Bureau of Investigation (FBI) the names and addresses of all financial institutions (as defined in Title 12, U.S.C., Section 3401) at which the below-named consumer maintains or has maintained an account:

(S)

[Redacted]

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In accordance with Title 15, U.S.C., Section 1681u(a), I certify that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, and that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment of to Constitution of the United States.

Please be advised that Title 15, U.S.C., Section 1681u(d), prohibits any consumer reporting agency, or officer from disclosing to any person that the FBI has sought or obtained access to information or records under these provisions. In addition, no consumer reporting agency, or officer, employee or agent of such consumer reporting agency, may include in any consumer report any information that would indicate that the FBI has sought or obtained such information.

~~SECRET~~

NSL VIO-23898

~~SECRET~~

[REDACTED]

You are requested to provide records responsive to this request personally to a representative of the [REDACTED] field office of the FBI. Any questions you have regarding this request should be directed only to Acting Supervisory Special Agent [REDACTED] [REDACTED] of the [REDACTED] field office. Due to security considerations, you should neither send the records through the mail nor disclose the substance of this request in any telephone conversation.

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Your cooperation in this matter is greatly appreciated.

Sincerely,

[REDACTED]
Special Agent in Charge

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

MEM / S

Precedence: ROUTINE

Date: 03/13/2007

To: INSD

Attn: IIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

OGC

Attn: ~~NSLB~~

Counterintelligence

Attn: CD-2B
A/UC

From: [redacted]

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Contact: SA [redacted]

Approved: [redacted]

don

DATE: 08-07-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 08-07-2032

Drafted By: [redacted]

Case ID #: 278-HQ-C1229736-VIO (Pending) - 2429

Title: REPORT OF A POTENTIAL IOB MATTER

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter in the case of financial National Security Letter (NSL) results.

Reference: 278-HQ-C1229736 Serial 2570

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Administrative: ~~(S)~~ Information provided to the FBI by [redacted] contained in [redacted] serial 54 have been provided to the CDC.

Details: (S) [redacted] and is still pending [redacted] is currently [redacted] The case agent for [redacted] is [redacted] and the squad supervisor is [redacted]

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(S)

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(S) On 12/20/2006 an NSL was drafted to be delivered to [redacted] to obtain the names and addresses of all financial institutions at which [redacted] maintains accounts pursuant to

~~SECRET~~

~~SECRET~~

To: INSD From: [REDACTED] b2
Re: 278-HQ-C1229736-VIO, 03/13/2007 b7E

15 U.S.C. 1681u(a). On or about 3/3/2007, the results of the NSL where provided to the writer and reviewed. Upon review, it was determined that [REDACTED] provided an entire credit report on the target.

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(U) Based on what the NSL specifically requested from [REDACTED] it clear that more information was provided beyond the request of the writer.

(U) The results have been provided to the [REDACTED] CDC for sequestration pending final guidance from OGC upon review of this matter. No use of the information has been made.

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~~SECRET~~

NSL VIO-23901

~~SECRET~~

To: INSD From: [REDACTED]
Re: 278-HQ-C1229736-VIO, 03/13/2007

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

[REDACTED] requests OGC to review the potential IOB violation and if deemed appropriate, pass the information to the appropriate body to satisfy the necessary reporting requirements. Advise [REDACTED] as to the final disposition of results.

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~~SECRET~~

NSL VIO-23902

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/16/2007

To: Counterintelligence
General Counsel
Inspection

Attn: CD- [redacted] SSA [redacted]
Attn: NSLB
Attn: Internal Investigative Section

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From: [redacted]

DATE: 08-07-2007
CLASSIFIED BY 65179/DMH/KSR/RM
REASON: 1.4 (c)
DECLASSIFY ON: 08-07-2032

Contact: SA [redacted]

Approved By: [redacted]

2007- [redacted]
ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

Drafted By: [redacted]

(U)

Case ID #: (S) 278-HO-C1229736-VIO (Pending) - 2381

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[redacted]

(U)

Title: (S) REPORT OF A POTENTIAL IOB MATTER

(U)

Synopsis: (S) To report a potential IOB matter involving an overproduction by a carrier.

(U)

~~(S) Derived From : G-3
Declassify On: 03/16/2032~~

Details: (S) [redacted]

[redacted] (Pending), Case Agent SA [redacted] discovered a potential IOB violation involving an overproduction by a carrier that had occurred in 2006, prior to SA [redacted] being assigned the case [redacted]

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(S)

[redacted] The Supervisory Special Agent for this investigation is SSA [redacted]

(U)

(S) SA [redacted] the previous case agent, requested through an NSL dated 04/12/06 from [redacted] subscriber information for [redacted] on date 08/2005, a

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(S)

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UPLOADED WITH/TEXT
WITHOUT TEXT
BY AB
DATE 3/27/07

NSL VIO-23903

~~SECRET~~

To: General Counsel Attn: NSLB Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/16/2007

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(S) telephone line believed to be used by [redacted] On 10/16/2006, a response was received from [redacted] identifying the subscriber as [redacted]. The response also indicated that the length of service from 12/20/2005 to present." This information was included [redacted]

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(S) [redacted] The request form was never converted to a Declaration and thus the over-produced information was never submitted [redacted]

(S) ~~(S)~~ As of EC dated 10/20/2006, the case was reassigned to SA [redacted] upon SA [redacted] transfer to another squad. In preparation for a re-submittal of [redacted] SA [redacted] sent another NSL dated 02/12/07 to [redacted] for the same information: subscriber information for [redacted] as of 08/2005. [redacted] response, included in EC dated 03/09/2007 and received on 03/14/07, was negative. On 03/16/07, SA [redacted] attempted to determine the cause of the discrepancy in the result despite the fact that the same information had been requested in the previous NSL. Upon comparing the results, SA [redacted] noticed that though the subscriber information was requested as of 08/2005, the results from [redacted] did not conform to the date requested but were from 12/20/2005 to present.

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(U) ~~(S)~~ Upon this discovery, SA [redacted] then consulted with SSA/ADC [redacted] Legal Department, [redacted] who advised that this was a possible IOB violation due to over-production by carrier. SA [redacted] advised that the over-production be sealed and sequestered with the CDC. SA [redacted] sealed the over-production on 03/16/07 and gave it to Legal Unit on 03/21/2007. The Legal Unit was also provided with the FISA request form and copies of same contained in [redacted] files.

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(S) The FBI originally listed [redacted] as the number for which subscriber information was sought and subsequently amended the NSL to seek subscriber information for [redacted] on 8/2005.

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~~SECRET~~

To: General Counsel Attn: NSLB Inspection From: b2
Re: ~~(S)~~ 278-HQ-C1229736-VIO; 03/16/2007 b7E

(U)

LEAD(s):

Set Lead 1: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U)

~~(S)~~ Read and clear.

Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

(U)

~~(S)~~ Read and clear.

Set Lead 3: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U)

~~(S)~~ Read and clear.

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SECRET

FEDERAL BUREAU OF INVESTIGATION

Date: 04/02/2007

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Precedence: [redacted]

AGC [redacted] INSLB/CILU/Room 7947

✓ 16 [redacted]

From: [redacted]

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

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Approved By: [redacted]

Drafted By: [redacted]

Case ID # [redacted] (S) (U) (S) 2778-110 [redacted] (pending) - 2605

Title: (S) [redacted]

DATE: 08-07-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 08-07-2032

(U) (S) INTELLIGENCE OVERSIGHT BOARD
MATTER: 2605 [redacted]

b2

Synopsis: (S) Retained by [redacted] to FBIHQ, Office of General Counsel.

(U) (S) [redacted]

(S) (U) [redacted]

Reference: (S) [redacted] (U) (S) 2778-110 [redacted] VIO Serial 2199.

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Details: (S) On 04/02/2007, [redacted] received the above referenced [redacted] matter, which concerned a nonreportable Intelligence Oversight Matter.

(S) (S) On 03/30/2006, FBI [redacted] submitted an NSL for [redacted] on telephone [redacted] a (S) telephone number [redacted] by [redacted] On 12/26/2007, [redacted] mistakenly provided a compact disk to FBI [redacted] that contained [redacted] toll billing records. The disk was

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To: Office of the General Counsel From: [redacted]
Re: (S) [redacted] 04/02/2007

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immediately provided to [redacted] A/CDC [redacted] for
sequestration.

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(U)

(S) FBI [redacted] believed the [redacted] toll
billing records provided were relevant to the above
investigation and a NSL will be submitted to request the
previously provided toll billing records.

(U)

(S) [redacted] considers this lead covered.

~~SECRET~~

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To: Office of the General Counsel From: [redacted]
Re: (S) [redacted] 04/02/2007

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LEAD(s):

Set Lead 1: (Info)

OFFICE OF THE GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ Information only.

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NSL V10-13008

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 03/22/2007

To: [Redacted]

Attn: SAC
ASAC
SSA [Redacted]
SA [Redacted]
SA [Redacted]
CDC [Redacted]

Counterintelligence
Inspection

Attn: CD-1
Attn: IIS, CRS [Redacted]

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

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WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F [Redacted]

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DATE: 08-08-2007
CLASSIFIED BY 65179/DMH/ESR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 08-08-2032

Drafted By: [Redacted] smt

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

(U)

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2007 [Redacted]

(U)

Synopsis: ~~(S)~~ The [Redacted] Field Office [Redacted] 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 electronic communication (EC) should be maintained in the control file for periodic review by Counsel to the IOB.

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(U)

~~Derived From : G-3
Declassify On: 03/21/2032~~

(U)

Administrative: ~~(S)~~ This EC contains information from the EC dated 2/21/2007 from [Redacted] to OGC reporting a potential IOB matter, a phone conversation between author and SSA [Redacted] on 3/13/2007 and an email dated 3/15/2007 from SA [Redacted]

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(S)

Reference: ~~(U)~~ [Redacted]

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel b2
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007 b7E

~~(S)~~ Details: (S) By EC dated 2/21/2007, [redacted] requested that OGC review an incident and determine whether it warrants reporting to the IOB. [redacted]

(S) [redacted] As part of its investigation, [redacted] sought transactional information pursuant to 18 U.S.C. §2709 for telephone number [redacted] which [redacted] had reason to believe was used by [redacted]. A National Security Letter (NSL) was prepared by [redacted] and served on [redacted] via NSL dated 5/17/2004. The NSL requested the "name, address, length of service, and local and long distance toll billing records associated with [redacted] (emphasis added)

(U) ~~(S)~~ Upon review of the documents provided to [redacted] in July 2004, it was learned that the information [redacted] provided, pursuant to the NSL, included information concerning an associated telephone number. [redacted] reported that they did not upload nor analyze the results for the associated number because the association alone was the immediate intelligence value and thus there was no further reason to upload the information at that time.

(U) ~~(S)~~ The association was the fact that both numbers were subscribed to by the same individual. Thereafter, since the associated number was provided in the same report as the requested number, the entire report was placed in the file. [redacted] determination at the time was that since the additional number was clearly "associated" with the requested number, the acquisition of this information was entirely lawful and therefore no further action was necessary (i.e. reporting or sequestering).²

(U) ~~(S)~~ Thereafter, the Department of Justice, Office of the Inspector General (OIG) conducted an NSL audit between June 19-30, 2006. The audit called into question the acquisition of the associated number. At that time, [redacted] discussed

¹It should be noted that this submission was at the request of OGC in response to the OIG report on the FBI's use of national security letters wherein they reference 22 instances where they thought a potential IOB submission was in order. As discussed infra, [redacted] was not otherwise required to submit a potential IOB EC to OGC.

²Since that time, on 3/13/2007, author advised [redacted] to sequester the records, out of an abundance of caution.

~~SECRET~~

To: [redacted] From: Office of the General Counsel b2
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007 b7E

this with the OIG "during which it was agreed that the second telephone number was associated with the subject telephone number."³

(U) The plain language and legislative history of §2709 supports the position that the FBI is permitted to acquire information on associate numbers attributable to the same account. The plain language of §2709 allows the FBI to "request . . . toll billing records of a person." (emphasis added) Thereby allowing the FBI to acquire the records for all numbers subscribed to by the "person." Additionally, the legislative history of §2709 defines "toll billing records" and states:

As used in this section, toll billing records consist of information maintained by a wire or electronic communication service provider identifying the telephone numbers called from a particular phone or attributable to a particular account for which a communication service provider might charge a service fee. H.R. REP. 103-46, 1993 U.S.C.C.A.N. 1913. (emphasis added)

(U) Read together, §2709 and its legislative history clearly contemplate the acquisition of "associated" numbers. The use of the word "person" by Congress in section 2709 indicates that it did not seek to limit the acquisition of records to a particular number. The legislative history itself supports this interpretation by defining "toll billing records" as numbers called "from a particular phone" or "attributable to a particular account." Thus, Congress seemingly contemplated that a single subscriber ("person") might have multiply numbers in his/her name.

(S) ~~(S)~~ Here, [redacted] had reason to believe that [redacted] was used by the subject of an open investigation, thereby making the number relevant to said investigation as required by statute. As a result, [redacted] issued an NSL requesting the "name, address, length of service, and local and long distance toll billing records associated with [redacted] (emphasis added) In response, [redacted] provided [redacted] with the subscriber name and toll records for [redacted]

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[redacted] EC from [redacted] to General Counsel dated 2/21/2007 [redacted]
[redacted]

~~SECRET~~

To: [redacted] From: Office of the General Counsel b2
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007 b7E

(S) [redacted] as well as the toll records for the other number subscribed to by the subscriber (i.e. the "associated" number).

To prohibit the acquisition of this information would not only contravene the plain language and legislative history of §2709, but would also impede investigations by limiting the information that can be lawfully obtained.

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Although the attachment was not provided in this case it is nonetheless instructive on the point of whether [redacted] should have reported this as a potential IOB. The attachment lists several items that can be considered "toll billing records" to include:

All telephone numbers associated with the targeted account or account-holder in this letter, to include any and all of the above information [the toll billing records] for any secondary or additional telephone numbers identified by you as belonging to the targeted account or account-holder.

This attachment language mirrors the types of records contemplated by Congress and otherwise comports with the mandates of §2709.

Moreover, although released after the acquisition of information in this case, the official OGC IOB guidance released on 11/16/2006 is instructive. This guidance does not require reporting in the situation at hand and states in relevant part ". . . conduct that must be reported as potential IOB violations" include situations where "[A] carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data." This, however, is inapposite to the situation at hand. Here, as discussed above, the associated number was not "beyond the scope of the . . . relevant legal authority," nor did it result in the "unintentional acquisition of data," because the NSL expressly requested "associated" records. Therefore, there was neither a carrier error nor an unlawful 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,

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To: [redacted] From: Office of the General Counsel b2
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007 b7E

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)

~~(S)~~ In the instant case, the collection of information in July 2004 by the FBI was lawful. The plain language of §2709 and the accompanying legislative history allow for the acquisition of records for multiple numbers attributable to the same account. Here, both the requested number and the associated number were attributed to the same account and were relevant to an ongoing investigation. In fact, [redacted] had open investigations on all three individuals (the user of the requested number, the user of the associated number, and the subscriber).

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(U)

~~(S)~~ Therefore, the acquisition of toll records for the associated number was entirely lawful and did not require reporting to OGC and subsequently does not need to be reported to the IOB.

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To: [redacted] From: Office of the General Counsel b2
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007 b7E

LEAD(s):

Set Lead 1: (Info)

[redacted]

~~AT~~ [redacted]

(S) (U) The records received pursuant to the 5/17/2004 NSL request pertaining to [redacted] and the associated number, do not require further sequestration and can be analyzed and uploaded as appropriate per logical investigation.

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Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

cc: 1- Ms. Thomas

[redacted]

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1- IOB Library

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~~SECRET~~

[redacted] (OGC) (FBI)

From: [redacted] (OGC) (FBI) b6
Sent: Thursday, March 15, 2007 2:24 PM b7C
To: [redacted] (OGC) (FBI)
Subject: FW: NSL Checklist Audit

SECRET//ORCON
RECORD xxxx

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 13, 2007 6:11 PM
To: [redacted] (INSD) (FBI); [redacted] (INSD) (FBI) b6
Cc: [redacted] (OGC) (FBI) b7C
Subject: NSL Checklist Audit b2

SECRET//ORCON
RECORD xxxx

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DECLASSIFIED BY 65179/DMH/KSR/RW
ON 08-08-2007

[redacted] and [redacted]
See attached your checklist with changes. [redacted]
[redacted]

Again - sorry it took so long to get back to you.

Thank you
[redacted]



NSL
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~~DERIVED FROM: G-1 FBI Classification Guide G-1, dated 1/99, Foreign Government Information
DECLASSIFICATION EXEMPTION 1
SECRET//ORCON~~

~~DERIVED FROM: G-1 FBI Classification Guide G-1, dated 1/99, Foreign Government Information
DECLASSIFICATION EXEMPTION 1
SECRET//ORCON~~

b6

[redacted] (OGC) (FBI) b7C

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 15, 2007 2:24 PM
To: [redacted] (OGC) (FBI)
Subject: FW: INSD/IIS NSL Compliance Checklist - Potential IOBs

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-08-2007 BY 65179/DMH/KSR/RM

This is the IOB one.

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

From: [redacted] (INSD) (FBI)
Sent: Wednesday, March 14, 2007 2:00 PM
To: [redacted] (BS) (FBI); [redacted] (INSD) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (INSD) (FBI); [redacted] (INSP) (FBI); [redacted] (INSD) (FBI); [redacted] (INSD) (FBI); [redacted] (INSD) (FBI); [redacted] (INSD) (FBI); [redacted] (INSD) (FBI); [redacted] (INSD) (FBI)
Subject: INSD/IIS NSL Compliance Checklist - Potential IOBs

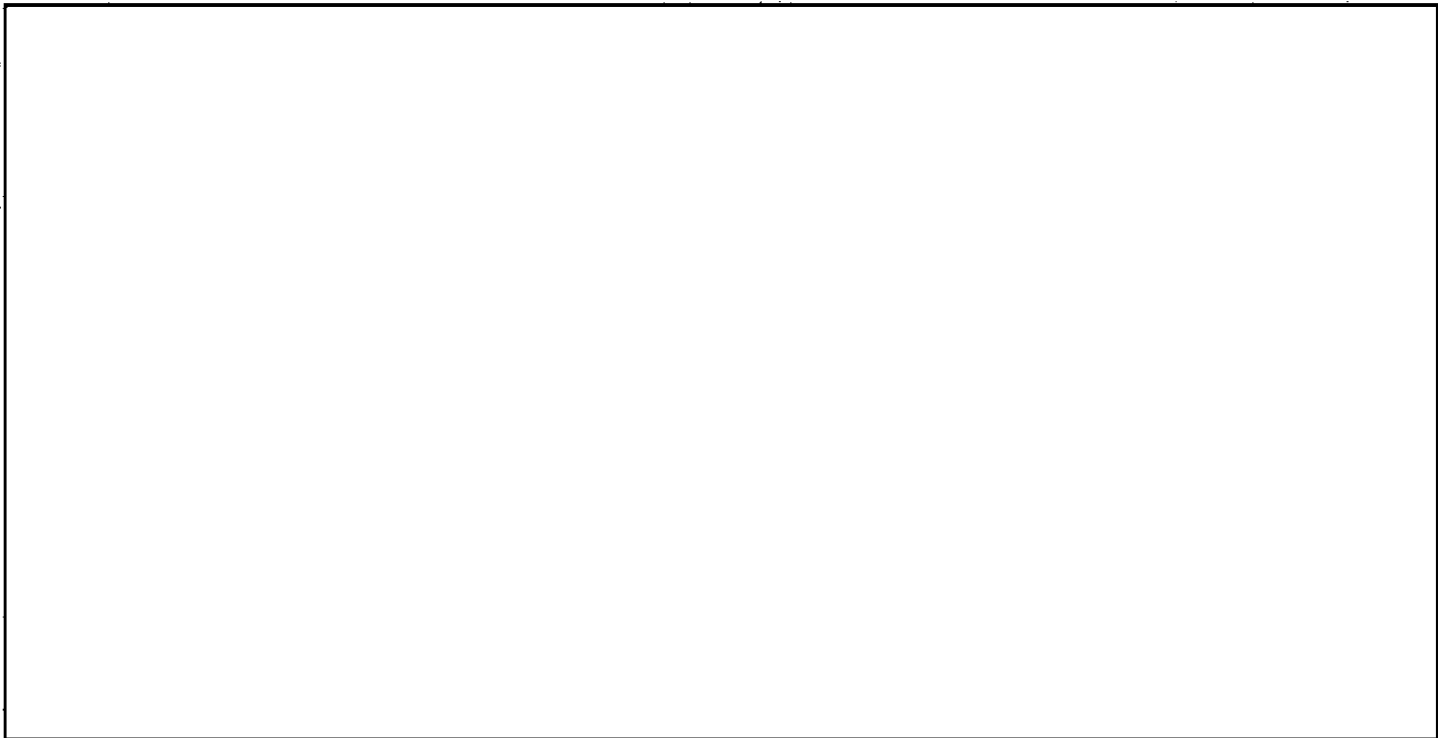
SENSITIVE BUT UNCLASSIFIED
NON-RECORD



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Continued from yesterday.



Thanks.

SENSITIVE BUT UNCLASSIFIED

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/05/2007

To: [redacted]

Attn: IIS [redacted]
A/CDC [redacted]

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Counterintelligence

Attn: CD-2

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Inspection

Attn: IIS, CRS [redacted]

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

Approved By: Thomas Julie F. [signature]

DATE: 08-08-2007
CLASSIFIED BY: 65172/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 08-08-2032

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b7C

Drafted By: [redacted]

(U)

Case ID #: (S) 278-HQ-C1229736-VIO Serial 2199 (Pending)

(U)

Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2007-[redacted]

(U)

Synopsis: (S) 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.

(U) ~~Derived From: C-3
Declassify On: 02/05/2032~~

(U)

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

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Reference: (S) (U) [redacted]

(U)

Details: (S) By EC dated 01/04/2007, [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.

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X (C)

NSL VIO-23953

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 02/05/2007 b7E

(S) [redacted]
[redacted] On 11/30/2006, [redacted] 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 [redacted] via Federal Express on 12/15/2006.

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(U) (S) On 12/26/2006, [redacted] received the requested subscriber information along with a disk containing 140 pages of toll records pertaining to the requested number. The disk containing the toll records was immediately turned over to the Acting Chief Division Counsel for sequestration.

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(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

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 02/05/2007 b7E

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. b2 b7E

(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.

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-CI229736-VIO, 02/05/2007 b7E

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)

[redacted]

AT [redacted]

(U) If deemed relevant to the investigation, [redacted] should submit the appropriate NSL requesting the toll records or return the disk to [redacted] if the information is not relevant or [redacted] does not seek their return, then the disk should be destroyed with appropriate documentation placed in the file.

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cc: Ms. Thomas

[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/04/2007

To: Inspection
General Counsel

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

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From: [Redacted]

Squad [Redacted]

Contact: ISS [Redacted]

Approved By: [Redacted]
[Redacted]
[Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]:ksh

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)-2037
(U) 278-[Redacted]C26391 (Pending)-274
(S) [Redacted]

Title: (U) INTELLIGENCE OVERSIGHT BOARD (IOB)
[Redacted]
SUPERVISORY SPECIAL AGENT
[Redacted]
SPECIAL AGENT
[Redacted] DIVISION
REPORT OF A POTENTIAL IOB MATTER

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DATE: 08-08-2007
CLASSIFIED BY: 65179/DMH/KER/RM
REASON: 1.4 (c)
DECLASSIFY ON: 08-08-2032

(U) Synopsis: (S) To report a possible IOB violation involving receipt of unsolicited telephone toll records from [Redacted]
[Redacted]

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

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(S) (U) [Redacted]

(S) Reference: (U) [Redacted]
(U) 278-HQ-C1229736 Serial 2570

(U) 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: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 01/04/2007

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records received from [redacted]
[redacted]

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(S) ~~(S)~~ Referenced EC, dated 11/30/2006, directed [redacted] Division to send a National Security Letter (NSL) to [redacted] in [redacted] via Fed-Ex, requesting subscriber information for telephone number [redacted]

[redacted] This NSL was sent via Fed-Ex on 12/15/2006.

(S) ~~(S)~~ On 12/26/2006, [redacted] Division received the requested subscriber information from [redacted] along with a disk containing 140 pages of telephone toll records. These toll records were not requested in the NSL.

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(S) ~~(S)~~ [redacted] It is a pending investigation.

(U) ~~(S)~~ The disk containing the toll records, along with the Response Cover Sheet from [redacted] have been turned over to the [redacted] Acting CDC (A/CDC) [redacted] pending a response from the National Security Law Branch regarding this matter. A/CDC [redacted] secured the toll records within his office safe.

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NSL VIO-23958

~~SECRET~~

To: Inspection From: [REDACTED] b2
Re: (U) 278-HQ-C1229736-VIO, 01/04/2007 b7E

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.

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NSL VIO-23959

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 2/21/2007

To: [Redacted]

Attn: SSA [Redacted]
SA
CDC

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Counterintelligence

Attn: CD-4

Inspection

Attn: IIS, CRS [Redacted]

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

Approved By: Thomas Julie [Redacted]

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WHERE SHOWN OTHERWISE

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(U)

Drafted By: [Redacted]

Case ID #: (S) 278-HQ-C1229736-VIO (Pending) 2202
(S) 62F [Redacted] A89455-IOB - 22

Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2007- [Redacted]

DATE: 12-11-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (e)
DECLASSIFY ON: 12-11-2032

(U)
(U)

Synopsis: (S) The [Redacted] Field Office [Redacted] 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.

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(U) ~~Derived From : G-3
Declassify On: 2/21/2032~~

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

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Reference: (S) 278-HQ-C1229736-VIO Serial 2119

(U)

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 2/21/2007 b7E

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

(S) [redacted] As part of its investigation, [redacted] sought transactional information for an email account relevant to the ongoing investigation. A National Security Letter (NSL) was prepared by [redacted] and served on [redacted]. The NSL requested only transactional information for the relevant email account. The NSL results were provided to [redacted] in an email by the [redacted] Division on 1/11/2007, with the CD-ROM to be sent later.

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(U) ~~(S)~~ On 1/16/2007, the [redacted] case agent reviewed the email and discovered that in addition to the requested transactional information, [redacted] had provided information that appeared to be content. For example, some of the information appeared to originate from the subject line of the email. The case agent immediately ceased the review and reported the incident to [redacted] Division Counsel. On 1/17/2007 the case agent contacted the [redacted] point of contact (POC) for the NSL. The POC then contacted the appropriate [redacted] representative and confirmed that [redacted] had provided the information in error. Subsequently, the [redacted] POC destroyed the CD-ROM and deleted all emails regarding this message. On 1/22/2007 the [redacted] case agent similarly deleted the relevant email.

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(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

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To: [redacted] From: Office of the General Counsel. b2
Re: 278-HQ-C1229736-VIO, 2/21/2007 b7E

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 [redacted]. Once the case agent discovered that he had received information beyond the scope of the NSL request, the case agent immediately notified the [redacted] CDC and notified [redacted]. 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.

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To: [redacted] From: Office of the General Counsel b2
Re: 278-HQ-C1229736-VIO, 2/21/2007 b7E

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)

[redacted]

AT [redacted]

(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. b2
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cc: 1- Ms. Thomas

[redacted]

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1- IOB Library

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NSL VIO-23963

