

~~SECRET/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 10/20/2003

To: General Counsel
Counterterrorism

Attn: UC [redacted]

CTLU

Attn: CTD [redacted]

SSA [redacted]

ITOS Representatives

ITOS I/CONUS I/Team Number

From Office If Not FBIHQ
Delivery Field Office

Attn: Case Agent

Attn: NSL Contact

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From: Counterterrorism

[redacted] Rm 4363

Contact: SSA [redacted]

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Approved By: Bowman Marion E

[redacted]

DECLASSIFIED BY 65179 DMH/TAM/KSR/JE
ON 07-18-2007

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Drafted By: Draftee

(U) **Case ID #:** ~~(S)~~ CaseID (Pending)

~~(S)~~ 66F-HQ-C1303375

(U) **Title:** ~~(S)~~ title

(U)

[Large redacted area containing multiple 'X' marks and a large crossed-out 'X' shape]

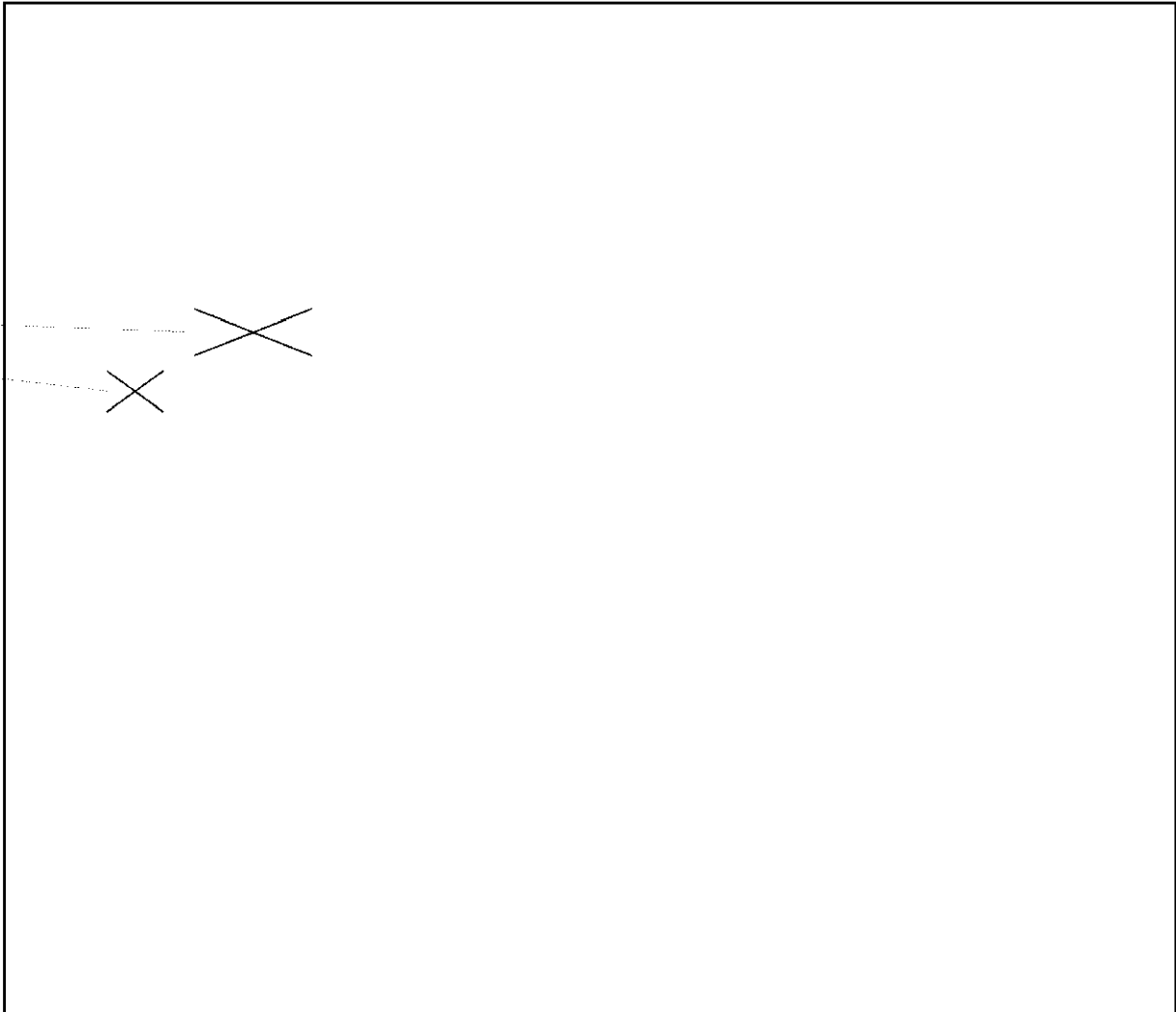
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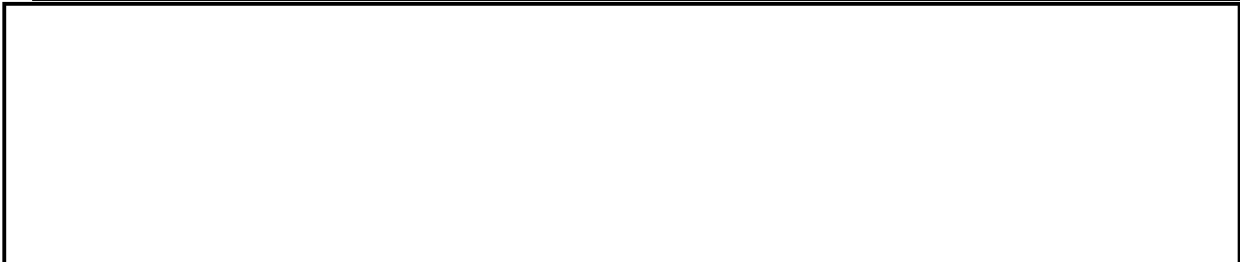
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~~SECRET/NOFORN~~

To: General Counsel From: Counterterrorism
(U) Re: ~~(S)~~ CaseID, 10/20/2003



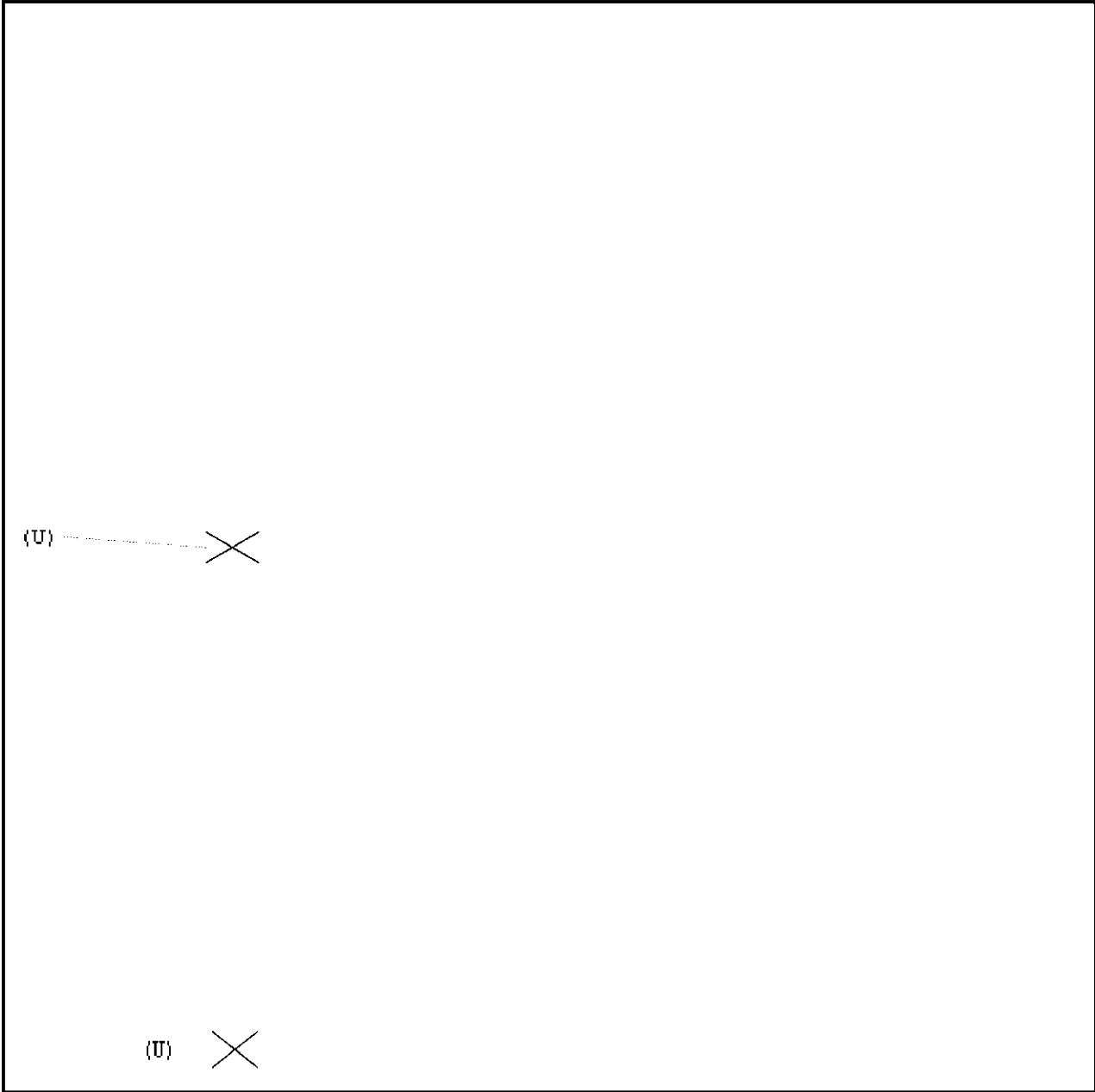
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~~SECRET/NOFORN~~

To: General Counsel From: Counterterrorism
(U) Re: ~~(S)~~ CaseID, 10/20/2003



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~~SECRET/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 10/20/2003

To: General Counsel

Attn: UC [redacted]

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Counterterrorism

CTLU1 [redacted]

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Attn: CTD [redacted]

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SSA [redacted]

ITOSRepresentatives

ITOS I/CONUS I/Team Number

FromOfficeIfNotFBIHQ

Attn: CaseAgent

DeliveryFieldOffice

Attn: NSLContact

From: Counterterrorism

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[redacted], Rm 4363

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Contact: SSA [redacted]

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Approved By: Bowman Marion E

[redacted]

DECLASSIFIED BY 65179 DMH/TAM/KSR/JE
ON 07-18-2007

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Drafted By: Draftee

(U) **Case ID #:** ~~(S) CaseID (Pending)~~
~~(S) 66E-HQ-C1303375~~

(U) **Title:** ~~(S) title~~

(U) [redacted]

(U) [redacted]

(U) [redacted]

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~~SECRET/NOFORN~~

To: General Counsel From: Counterterrorism

(U) Re: ~~(S)~~ CaseID, 10/20/2003

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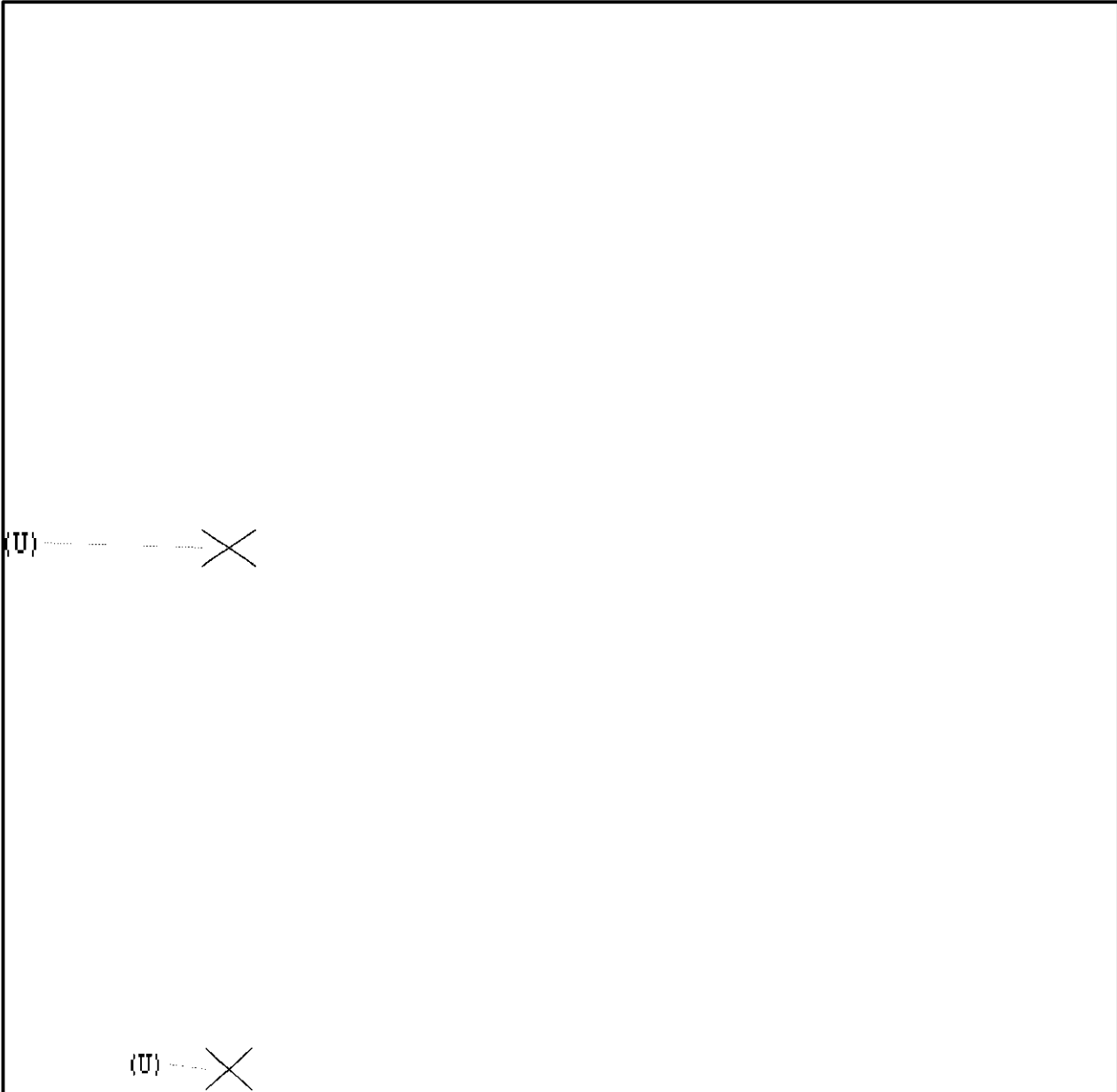
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~~SECRET/NOFORN~~

To: General Counsel From: Counterterrorism
(U) Re: ~~(S)~~ CaseID; 10/20/2003



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~~SECRET/NOFORN~~



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~~SECRET~~

DATE: 07-18-2007
CLASSIFIED BY 65179 DMH/TAM/KSR/SE
REASON: 1.4 (c)
DECLASSIFY ON: 07-18-2032

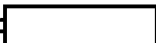
January 29, 2004



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Dear 

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended, October 26, 2001), you are hereby requested to provide to the Federal Bureau of Investigation (FBI) the name, address, length of service, and local and long distance toll billing record associated with the following information for the period identified: **It is also requested that the records obtained are sent to  on a computer disk in ASCII TEXT, format.**

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

~~SECRET~~

NSL VIO-19998

~~SECRET~~



Page 2

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

You are requested to provide records responsive to this request personally to a representative of the [redacted] office of the FBI. Any questions you have regarding this request should be directed only to the [redacted] 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 yours,

Marion E. Bowman
Senior Counsel
National Security Affairs
Office of the General Counsel

~~SECRET~~

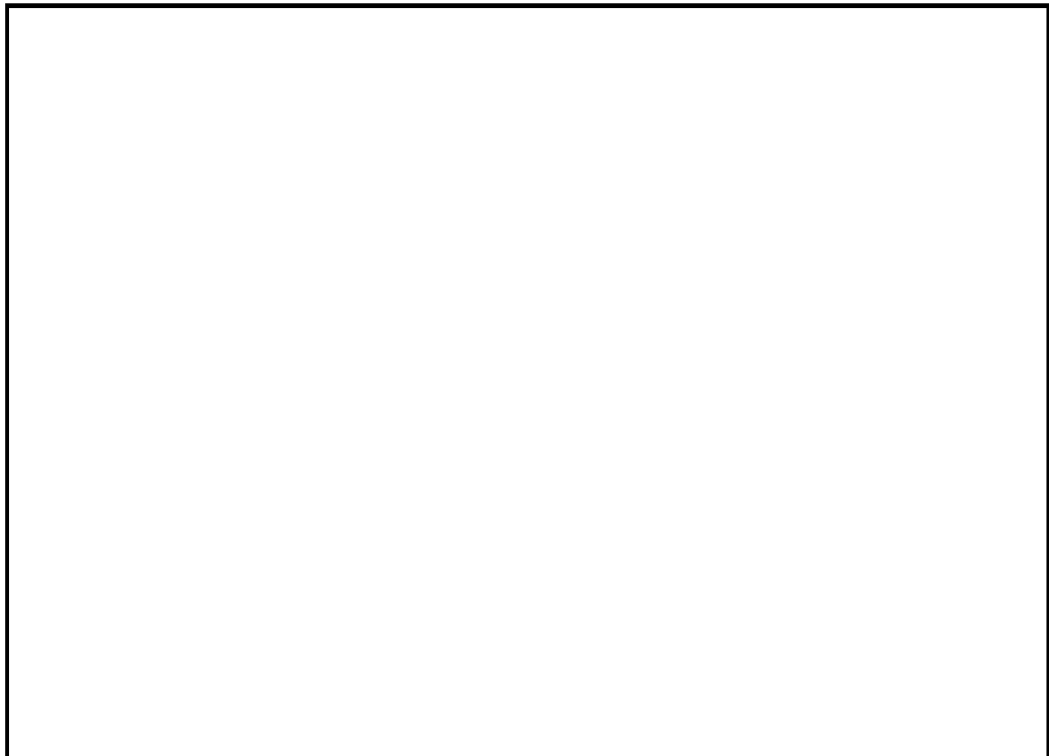
NSL VIO-19999



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-18-2007 BY 65179 DMH/TAM/KSR/JE

ATTACHMENT

In preparing your response to this request, you should determine whether your company maintains the following types of **information which may be considered by you to be toll billing records** in accordance with Title 18, United States Code, Section 2709:



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We are not requesting, and you should not provide, information pursuant to this request that would disclose the content of any electronic communication as defined in Title 18, United States Code, Section 2510(8).

~~SECRET~~

DATE: 07-18-2007
CLASSIFIED BY 65179 DMH/TAN/KSR/JB
REASON: 1.4 (c)
DECLASSIFY ON: 07-18-2032

[Redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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[Redacted]

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NSL VIO-20001

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U.S. Department of Justice



Federal Bureau of Investigation

August 24, 2004



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 07-18-2007
CLASSIFIED BY: 65179 DMH/TAM/KSR/JB
REASON: 1.4 (c)
DECLASSIFY ON: 07-18-2032

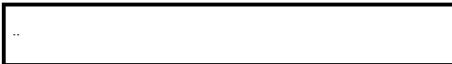
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Dear 

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended, October 26, 2001), you are hereby directed to provide the Federal Bureau of Investigation (FBI) the names, addresses, lengths of service, billing records and electronic communication transactional records, to include existing transaction/activity logs and all e-mail header information (not to include message content and/or subject fields) for the account holders specified below:




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

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

You are requested to provide records responsive to this request personally to a representative of the  field office of the FBI. If the records provided are particularly large, we request that you provide this information in electronic format, preferably on a CD-ROM. Any questions you have regarding this request should be directed only to the   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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~~SECRET~~

NSL VIO-20002

~~SECRET~~

Your cooperation in this matter is greatly appreciated.

Sincerely,

Marion E. Bowman
Senior Counsel
National Security Affairs
Office of the General Counsel

ATTACHMENT

In preparing your response to this request, you should determine whether your company maintains the following types of **information which may be considered by you to be an electronic communication transactional record** in accordance to Title 18, United States Code, Section 2709:



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If the records provided are particularly large, we request that you provide this information in electronic format, preferably on a CD-ROM.

We are not requesting, and you should not provide, information pursuant to this request that would disclose the content of any electronic communication as defined in Title 18, United States Code, Section 2510 (8).

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-18-2007 BY 65179 DMH/TAM/KSR/JE

~~SECRET~~

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to
File No.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 07-16-2007
CLASSIFIED BY 65179 DMH/TAM/KSR/JB
REASON: 1.4 (c)
DECLASSIFY ON: 07-18-2032

August 16, 2004



Dear 

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended, October 26, 2001), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the name, address, and length of service of the person or entity to whom the following telephone number is or was registered:

(S) 

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

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

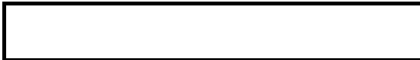
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~~SECRET~~

NSL VIO-20005

~~SECRET~~



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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 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 yours,

Marion E. Bowman
Senior Counsel
National Security Affairs
Office of the General Counsel

~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY

Date: 09/27/2004

To: General Counsel

[Redacted]

Counterterrorism

Attn:

[Redacted]

Attn:

IA

Attn:

SSA

Attn:

SSA

IA

ITOS I, [Redacted] Team 5

SSA

From: Counterterrorism
ITOS1 [Redacted] LX1/4S-123
Contact: [Redacted]

Approved By: Bowman Marion E

[Redacted]

DATE: 07-18-2007
CLASSIFIED BY: 65179 DMH/TAM/KSP/JE
REASON: 1.4 (c)
DECLASSIFY ON: 07-18-2032

Drafted By:

Case ID #: (S)

[Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Title: ~~(S)~~

(U)

[Redacted] - VICTIM;
[Redacted] VICTIM;

(S)

[Redacted]

(S)

[Redacted]

(U) ~~(S)~~ Synopsis: Approves the issuance of an ECPA National Security Letter (NSL); provides reporting data; and, if necessary, transmits the NSL for delivery to the electronic communications service provider.

(U)

~~(S)~~

~~Derived From: G-3
Deal # 15, G-3 # 1, 25~~

Reference: (S)

[Redacted]

~~SECRET~~

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To: General Counsel From: Counterterrorism
Re: (S) [redacted] 09/27/2004

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Enclosure(s): (U) Enclosed for the [redacted] Field Office is an original and a copy of a National Security Letter, dated 09/24/2004 addressed to [redacted] [redacted] requesting the names, addresses, length of service, billing records, and electronic communication transactional records for the e-mail address holder listed.

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Details: (S) [redacted]

[Large redacted area]

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(U) ~~(S)~~ This electronic communication documents the Senior Counsel's approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks electronic communication transactional records on the following e-mail address:

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(S) [redacted]

(U) On 10/17/2003, the Director designated the official signing the enclosed letter as authorized to make the required certification.

(U) Arrangements should be made with the institution receiving the enclosed letter to produce the records personally to an employee of the [redacted] Field Office. The institution should neither send the records through the mail nor utilize the name of the subject or any identifying information related to the subject in any telephone calls to the FBI. The institution should not contact FBIHQ directly in any manner.

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~~SECRET~~

To: General Counsel From: Counterterrorism
Re: (S) [redacted] 09/27/2004

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(U) The [redacted] Field Office should remind the electronic communications provider that it is prohibited from disclosing that the FBI has made this request.

(U) Any questions regarding the above can be directed to FBI [redacted] SSA [redacted] and OS [redacted].
[redacted] Should the institution be unable to fully comply with this request due to lack of specificity or should the institution require more detailed information to locate such records, the [redacted] Field Office should immediately contact SSA [redacted] or OS [redacted] for additional information.

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~~SECRET~~

To: General Counsel From: Counterterrorism
Re: (S) [redacted] 09/27/2004

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LEAD(s) :

Set Lead 1: (Action)

AT [redacted]

(U) Hand deliver enclosed NSL as indicated above.
Upon receipt of requested records, immediately submit results to
OS [redacted] FBI LX-1, Counterterrorism Division,
CTD/ITOS1, [redacted] Room 4S-123.

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Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

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Set Lead 3: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) [redacted] Team 2. For information only. Read and
clear.

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Set Lead 4: (Info)

[redacted]
AT [redacted]

(U) [redacted] For information only. Read and clear.

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~~SECRET~~


May 10, 2004



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-18-2007 BY 65179 DMH/TAM/KSR/JE


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Dear 

I am in Receipt of your letter dated March 19, 2004 requesting clarification of the applicability of 18 U.S.C. Section 2709 to . As stated in our previous correspondence, under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended, October 26, 2001), a wire or electronic communication service provider has a duty to comply "with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation (FBI) . . . or his designee"


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As an initial matter, a careful reading of Public Law 107-56 (USA PATRIOT Act) informs that the Director of the FBI. may at his discretion, delegate certification authority for National Security Letters (NSLs) to FBI officials from the level of Special Agent in Charge (SAC) and above. Prior to the passage of the PATRIOT Act the delegation level was no lower than Deputy Assistant Director. On October 10, 2003, the Director authorized an additional delegation for certification authority of NSLs to me, as Senior Counsel of National Security Affairs.

As regards the scope of 



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 Title 18 U.S.C. Section 2510, Definitions for terms used in 18 U.S.C. Section 2709, defines "electronic communication service" as "any service which provides to users thereof the ability to send or receive wire or electronic communications." 18 U.S.C. Section 2510(15). Correspondingly under the statute, "'electronic communication' means any transfer of signs, signals writing, images, sounds, data, or intelligence of any nature."



Page 2

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

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You are requested to provide records responsive to this request personally to a representative of the [redacted] office of the FBI. Any questions you have regarding this request should be directed only to the [redacted] 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.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

Marion E. Bowman
Senior Counsel
National Security Affairs
Office of the General Counsel



Page 3

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~~SECRET/NOFORN/X1~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY

Date: 08/16/2004

To: General Counsel

Attn: [Redacted] CTLU/II

[Redacted]

Attn: [Redacted]

Counterterrorism

Attn: [Redacted] CAU/Room 4315

From: General Counsel
Senior Counsel for National Security Affairs
Contact: AGC [Redacted]

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Approved By: Bowman Marion E

DATE: 07-18-2007
CLASSIFIED BY 65179 DMH/TAM/KSR/JB
REASON: 1.4 (c)
DECLASSIFY ON: 07-18-2032

Drafted By: [Redacted]

Case ID #: (S) [Redacted]
(U) ~~(S)~~ 66F-HQ-C1303375

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Title: (S) [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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(U) **Synopsis:** ~~(S)~~ Approves the issuance of an ECPA National Security Letter (NSL); provides reporting data; and, if necessary, transmits the NSL for delivery to the telephone company.

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

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Reference: (S) [Redacted]

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Enclosure(s): (U) Enclosed for [Redacted] is an NSL dated 08/16/2004, addressed to [Redacted] requesting subscriber information.

Details: (S) [Redacted]

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~~SECRET/NOFORN/X1~~

To: General Counsel From: General Counsel
Re: (S) [redacted] 08/16/2004

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(S//NF) [redacted]

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(S) [redacted]

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(U) ~~(S)~~ This electronic communication documents the Senior Counsel's approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on one telephone number.

(U) Arrangements should be made with the institution receiving the enclosed letter to produce the records personally to an employee of your office. The institution should neither send the records through the mail nor utilize the name of the subject in any telephone calls to your office. The institution should not contact FBIHQ directly in any manner.

(U) You should remind the telephone company that it is prohibited from disclosing that the FBI has made this request.

(U) On 10/17/2003, the Director designated the official signing the enclosed letter as authorized to make the required certification.

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(U) ~~(S)~~ [redacted] is the responsibility of the office to advise FBIHQ. This may be done by routing slip to the National Security Law Unit, Office of the General Counsel, Room 7975, the FBIHQ entity handling the operational legal needs of the Counterterrorism Division. This reporting is necessary in order to provide information to Congress regarding the FBI's use of this authority as mandated by Congress.

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(U) Any questions regarding the above can be directed to the Office of the General Counsel, Attention: AGC [redacted]

[redacted]

~~SECRET/NOFORN/X1~~

To: General Counsel
Re: (S) [redacted] 08/16/2004 From: General Counsel

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LEAD(s):

Set Lead 1: (Action)

[redacted]

AT [redacted]

(U) Deliver the enclosed letter to the addressee indicated. Upon receipt of information requested [redacted] is requested to submit results to FBIHQ, Attention: [redacted] CAU, Room 4315.

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Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Set Lead 3: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information of Communications Analysis Unit.
Read and Clear.

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~~SECRET/NOFORN/X1~~



U.S. Department of Justice

Federal Bureau of Investigation

~~SECRET~~

Washington, D. C. 20535-0001

BY COURIER

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

DECLASSIFIED BY 65179 DMH/TAM/KSR/JE
ON 07-18-2007

Dear Mr. Friedman:

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Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2006- (U)

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

Enclosure

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

~~Derived From: C-3
Declassify On: 1/02/2017~~

~~SECRET~~

NSL VIO-20021

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

~~SECRET~~

NSL VIO-20022

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

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about a United States Person or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-31-2007 BY 65179 DMH/KSR/JS

NSL VIO-20023

LEAD(s) :

Set Lead 1: (ACTION)

[REDACTED]

AT

[REDACTED]

(U) For review and action deemed appropriate.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-18-2007 BY 65179 DMH/TAM/KSR/JE

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

Ms. Thomas

[REDACTED]

IOB Library

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~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] FIELD OFFICE
IOB MATTER 2006-[redacted] (U)

b2
b7E

(U) ~~(S)~~ By Electronic Communication (EC)¹ dated July 17, 2006, [redacted] Division [redacted] notified FBI Headquarters (FBIHQ) of an inadvertent acquisition of toll record information associated with unknown individuals in the course of a national security investigation. [redacted]

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(S) [redacted] remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA).²

(U) ~~(S)~~ During the course of the investigation, [redacted] issued National Security Letters (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States."

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(U) ~~(S)~~ The error in this instance occurred in July 2005, after the initial toll records were received from [redacted]

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(S) [redacted] However, when the NSL result letter was scanned with optical character recognition (OCR) software, an errant spreadsheet was produced. The spreadsheet indicated that [redacted]

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(U) ¹ ~~(S)~~ 278-HQ-C1229736-VIO Serial 1549.

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. §.1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of the incorrect telephone numbers, the phone numbers referenced in this EC will only list the last four digits.

~~SECRET~~

NSL VIO-20030

~~SECRET~~

~~Derived From : G-3~~

~~Declassify On: 12/29/2016~~

(S)

[Redacted]

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(S)

[Redacted]

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b7E
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(U)

~~(S)~~

In the course of performing [Redacted] in June 2006, the errors were discovered and remedied by [Redacted]. [Redacted] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers from [Redacted]. In addition, [Redacted] removed all references to the inadvertently uploaded numbers from FBI records, including [Redacted] and Automated Case Support (ACS). In addition, [Redacted] coordinated with the [Redacted] Division [Redacted] to remove the EC documenting the subscriber information belonging to the seven errant numbers [Redacted].

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(S)

[Redacted]

(U)

[Redacted]

b2
b7E

(U) Section 2.4 of Executive Order (EO) 12863,

⁴ (U) See, id.

(S)

⁵ [Redacted] was permanently charged out in December 2006 removing the last reference to these errant telephone numbers in ACS. The charged-out serial is being forwarded from [Redacted] to [Redacted].

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⁶ See, Id.

~~SECRET~~

~~SECRET~~

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

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, this matter is being to the IOB.

- 3 -

~~SECRET~~

NSL VIO-20032

DATE: 07-18-2007
CLASSIFIED BY 65179 DMH/TAM/KSP/JE
REASON: 1.4 (c)
DECLASSIFY ON: 07-18-2032

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[REDACTED] FIELD OFFICE
IOB MATTER 2006-[REDACTED] (U)

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(U) [REDACTED] (S) By Electronic Communication (EC) dated July 17, 2006, [REDACTED] Division [REDACTED] notified FBI Headquarters (FBIHQ) of an inadvertent acquisition of toll record information associated with unknown individuals in the course of a national security investigation. [REDACTED]

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(S) [REDACTED] remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA).¹

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(S) [REDACTED] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709² for toll record information associated with the target. The error occurred after the initial records were received from [REDACTED]

[REDACTED]

(S) The spreadsheet indicated that [REDACTED]

[REDACTED]

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b7A

~~Derived From : G-3
Declassify On: 12/29/2016~~

¹ (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

(U) ² The statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States."

³ (U) In order to avoid any further dissemination of the incorrect telephone numbers, the phone numbers referenced in this EC will only list the last four digits.

SECRET

(S)



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(U) Immediately upon discovery, the errors were remedied by [redacted]. All references to the errant telephone numbers have been removed from FBI computer systems. To prevent future errors, additional quality control steps and software training have been added to the telephone record scanning process. The above-referenced telephone records were some of the first scanned records.

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b7E

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, this matter is being to the IOB.

⁴ (U) See, id.

~~SECRET~~

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(U) Details: ~~(S)~~ As discussed in the electronic communication (EC) from [redacted] cited below,¹ on [redacted]
(S) [redacted] of ~~XXXXX, aka XXX XXX~~, who was and remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA),² [redacted]
(S) [redacted]

(S) During the course of the investigation, [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." The NSL, dated ~~XXX XX, XXXX~~, was addressed to ~~XXXX XXXXXX~~ and requested subscriber information and the telephone records of the target. ~~XXXX responded with this information.~~

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(U) ~~(S)~~ The error in this instance occurred in July, 2005, after the phone records were received from..... The NSL
(S) [redacted]

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(U) ¹ ~~(S)~~ EC from [redacted] to OCG dated and titled "....."

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² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of the incorrect telephone numbers, the numbers are being abbreviated in this document.

~~SECRET~~/NOFORN

(U) [redacted] then requested and initiated an NSL dated October 17, 2005⁴ for the subscriber results of these seven errant telephone numbers. The subscriber information received for these numbers was associated with presumed U.S. Persons. The results of this NSL was received on [redacted]. The subscriber information was uploaded on [redacted].

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(U) In the course of performing [redacted] [redacted] the errors were discovered and expeditiously remedied by the [redacted] Field Intelligence Group. The [redacted] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers from [redacted]. By July 13, 2006, all [redacted] division references to the inadvertently uploaded numbers were removed from FBI records, including [redacted] and Automated Case Support (ACS). Subsequently, [redacted] confirmed that all references to the seven errant telephone numbers has been removed from Automated Case Management System (ACS)⁵.

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(U) To prevent future errors, additional quality control steps have been added [redacted]

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

⁴ (U) Since the approving EC, the NSL, and the NSL results all include the incorrect telephone numbers, these documents have been permanently charged out of the FBI's Automated Case Support (ACS) system.

⁵ (U)IA [redacted] confirmed via telephone on December 26, 2006 that all results have been expunged from ACS.

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~~SECRET~~/NOFORN

NSL VIO-20038

SECRET/NOFORN

provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about a United States Person or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

SECRET/NOFORN

NSL VIO-20039

~~SECRET/NOFORN~~

LEAD(s) :

Set Lead 1: (ACTION)

[REDACTED]

AT

[REDACTED]

(U) For review and action deemed appropriate.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

DECLASSIFIED BY 55179 DMH/TAN/KSR/JE
ON 07-18-2007

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

Ms. Thomas

[REDACTED]

IOB Library

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~~SECRET/NOFORN~~

NSL VIO-20040

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/09/2006

To: [redacted]
Counterterrorism
Inspection

Attn: SAC, CDC
Attn: AD
Attn: IIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: General Counsel
Counterterrorism Law Unit II/LX-1 3S100
Contact: [redacted]

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Approved By: Thomas, Julie F
[redacted]
DATE: 07-19-2007
CLASSIFIED BY: 65179 DMH/TAM/KSR/IE
REASON: 1.4 (c)
DECLASSIFY ON: 07-19-2032

Drafted By: [redacted]

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

(U) **Title:** ~~(S)~~ SA [redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER,
IOB 2006 [redacted]

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(U) **Synopsis:** ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB). OGC will prepare a cover letter and a letterhead memorandum for the General Counsel and the Assistant Director, Inspection Division (INSD), for submission to the IOB. Submission of this matter to the OPR is a matter within the cognizance of the IIS.

(U) ~~(S)~~ **Derived from :** G-3
Declassify On: X-1

(U) **Reference:** 278-HQ-C1229736-VIO-1093 ~~(S)~~

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

Details: (U) Referenced communication from the [redacted] Field Office [redacted] dated 12/14/2005, requested that OGC review

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~~SECRET~~

~~SECRET~~

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(U) To: [redacted] From: General Counsel
Re: 278-HQ-CI229736-VIO-1093 ~~(S)~~, 02/09/2006

the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

(U) ~~(S)~~ As discussed in the electronic communication (EC) from [redacted] cited below,¹ on 10/17/2003, [redacted]

(S) [redacted]

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(S) ~~(S)~~ During the course of the investigation, [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." The NSL, dated March 18, 2005, was addressed to [redacted] and requested what was intended to be subscriber information and the telephone records of the target, [redacted]. His telephone number was believed to be [redacted]. However, the number was mistakenly written with one number changed, so that the NSL was issued for the wrong telephone number.³ Records for

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(U) ¹ ~~(S)~~ EC from [redacted] to OCG dated 12/14/2005 and titled "Special Agent (SA) [redacted] Possible Intelligence Oversight Board (IOB) Matter - International Terrorism Related."

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² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document. Since the EC approving the NSL and the NSL itself include the incorrect telephone number, these documents have been permanently charged out of the FBI's

~~SECRET~~

~~SECRET~~

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(U) To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO-1093 ~~(S)~~, 02/09/2006

(U) that telephone number were provided by the telephone company to the [redacted] Division of the FBI, which forwarded the information to [redacted] via an EC dated 6/23/2005.⁴ Upon receipt of the records, the case agent realized his mistake. [redacted]

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[redacted] Further, serials created before the mistake was discovered and which referenced the incorrect phone number and information have been permanently charged out of the FBI's Automated Case Support system. By EC dated 07/01/2005, this matter was reported to OGC and the [redacted] Division and notice was given of the destruction of the NSL return information.⁵ It was reported as a possible IOB violation by EC dated 12/14/2005.⁶

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially

Automated Case Support (ACS) system.

(S) ~~(U)~~ ⁴ 66F-HQ-C1303375, Serial 53874; [redacted]

[redacted] Since this document contains the incorrect telephone number and the name of the subscriber of that telephone number, these three file copies of the document have been permanently charged out of ACS.

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(S) ~~(U)~~ ⁵ See [redacted] Serial 1691; 66F-HG-C1303375. This document includes the incorrectly written telephone number. However, this document has not been deleted from ACS because the document itself reveals the mistaken nature of the telephone number, and provides a record for the fact that the information was obtained and then destroyed.

⁶ (U) See 278-HQ-C1229736-VIO-1093, addressed to OGC.

~~SECRET~~

~~SECRET~~

To: From: General Counsel
(U) Re: 278-HQ-C1229736-VIO-1093 ~~(S)~~, 02/09/2006

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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)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about a United States Person or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about a USP was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel
(U) Re: 278-HQ-C1229736-VIO-1093 ~~(S)~~, 02/09/2006

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LEAD(s) :

Set Lead 1: (ACTION)

[redacted]
AT [redacted]

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b7E

(U) For review and action deemed appropriate.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

1 - [redacted]

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~~SECRET~~

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Details: (U) Referenced communication from the [redacted] Field Office [redacted] dated 12/14/2005, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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(U) [redacted] (S) As discussed in the electronic communication (EC) from [redacted] cited below,¹ on [redacted] [redacted] of XXXXX, aka [redacted] XXX, who was and remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA),² [redacted]

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(S) [redacted]

(U) [redacted] (S) During the course of the investigation, [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States." [redacted]

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(S) [redacted] [redacted] XXXXX. His telephone number was believed to be (XXX)-XXX-XXXX. However, the number was mistakenly written with one number changed, so that the NSL was issued for the wrong telephone number.³ Records for that telephone number were provided by the telephone company to the [redacted] Division of the FBI, which forwarded the information to [redacted]

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(U) [redacted] (S) EC from [redacted] to OGC dated 12/14/2005 and titled "Special Agent (SA) [redacted] Possible Intelligence Oversight Board (IOB) Matter - International Terrorism Related."

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of this incorrect telephone number, the number is not being listed in this document. Since the EC approving the NSL and the NSL itself include the incorrect telephone number, these documents have been permanently charged out of the FBI's Automated Case Support (ACS) system.

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(U) [redacted] via an EC dated 6/23/2005.⁴ Upon receipt of the records, the case agent realized his mistake. The records from [redacted] were destroyed. Further, serials created before the mistake was discovered and which referenced the incorrect phone number and information have been permanently charged out of the FBI's Automated Case Support system. By EC dated 07/01/2005, this matter was reported to OGC and the [redacted] Division and notice was given of the destruction of the NSL return information.⁵ It was reported as a possible IOB violation by EC dated 12/14/2005.⁶

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⁴ (U) 66F-HQ-C1303375, Serial 53874; 315E [redacted] 72571, Serial 68, 64A [redacted] E70054-A, Serial 1684. Since this document contains the incorrect telephone number and the name of the subscriber of that telephone number, these three file copies of the document have been permanently charged out of ACS.

⁵ (U) See 315E [redacted] 72571, Serial 74; 64A [redacted] C70054-A, Serial 1691; 66F-HG-C1303375. This document includes the incorrectly written telephone number. However, this document has not been deleted from ACS because the document itself reveals the mistaken nature of the telephone number, and provides a record for the fact that the information was obtained and then destroyed.

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⁶ (U) See 278-HQ-C1229736-VIO-1093, addressed to OGC.

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NSL VIO-20050



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

~~SECRET~~

DECLASSIFIED BY 65179 DMH/TAM/KSR/JB
ON 07-19-2007

BY COURIER

Mr. Stephen Friedman
Chairman, Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum, entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, IOB Matter 2006 [redacted] (U)

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

Enclosure

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

~~Derived from : G-3
Declassify on: X25-1~~

~~SECRET~~

NSL VIO-20051

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

1 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 4303

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NSL VIO-20052

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/29/2006

To: [redacted]

Attn: SAC [redacted]

ASAC [redacted]

SSA [redacted]

IA [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Counterterrorism

Attn: CTD/ITOS II/[redacted]

Inspection

Attn: Internal Investigative Section

Attn: Ms. [redacted]

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From: Office of General Counsel
NSLB/CTLU-2/LX-1, 3S-100

Contact: [redacted]

Approved By: Thomas Julie F

DATE: 07-19-2007
CLASSIFIED BY 55179 DMH/TAM/KSR/JE
REASON: 1.4 (c)
DECLASSIFY ON: 07-19-2032

Drafted By: [redacted]

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

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2006 [redacted]

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(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General
Counsel (OGC) that the above referenced matter must be reported to
the Intelligence Oversight Board (IOB). Our analysis follows.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 12/29/2016~~

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1549

(U) Details: ~~(S)~~ By electronic communication (EC) dated July 17,
2006 and referenced above, the [redacted] Division [redacted]
requested that OGC review the facts of the captioned matter and
determine whether it warrants reporting to the IOB. We believe it
does and our analysis follows.

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To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

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(S) [redacted]
[redacted] remains a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA).²

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(U) ~~(S)~~ During the course of the investigation, [redacted] issued National Security Letters (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States."

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(S) [redacted]
[redacted]

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(S) [redacted]
[redacted]

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(U) ~~(S)~~ 278-HQ-C1229736-VIO Serial 1549.

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of the incorrect telephone numbers, the phone numbers referenced in this EC will only list the last four digits.

⁴ (U) See, id.

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To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

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(S) [redacted]

(U) [redacted] In the course of performing [redacted] in June 2006, the errors were discovered and remedied by [redacted]. [redacted] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers from [redacted]. In addition, [redacted] removed all references to the inadvertently uploaded numbers from FBI records, including [redacted] and Automated Case Support (ACS). In addition, [redacted] coordinated with the [redacted] Division [redacted] to remove the EC documenting the subscriber information belonging to the seven errant numbers provided by [redacted]. [redacted] directly coordinates toll record NSLs requests for the FBI with [redacted] USA.

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(U) To prevent future errors, additional quality control steps have been added to the telephone record scanning process. The process of scanning phone records as opposed to hand-entering the information was only initiated in [redacted] earlier in 2005. The above-referenced telephone records were some of the first scanned records. Since that time, OCR-records scanning control/quality assurance has improved and is only performed by trained personnel.

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(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision

(S) [redacted] was permanently charged out in December 2006 removing the last reference to these errant telephone numbers in ACS. The charged-out serial is being forwarded from [redacted] to [redacted]

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⁶ See, Id.

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To: [redacted] From: General Counsel
Re: 278-HQ-CI229736-VIO, 12/29/2006

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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)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

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To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

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LEAD(s) :

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

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Set Lead 2: (Information)

COUNTERTERRORISM

AT ITOS II [redacted]

(U) For review and action deemed appropriate.

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Set Lead 3: (Discretionary)

[redacted]

AT [redacted]

(U) For review and action deemed appropriate.

cc: Ms. Thomas

[redacted]
IOB Library

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FEDERAL BUREAU OF INVESTIGATION
FOIPA
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