Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: MODEL LETTERS ETAL

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET 05/02/2007

Total Deleted Page(s) ~ 1
Page 4 ~ b2, b7E

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/DMH/KSR/RW

1076786

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

DEAR [MR./MRS./MS.] [LAST NAME]:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (section 201 of the Electronic Communications Privacy Act, as amended), you are hereby directed to provide the Federal Bureau of Investigation (FBI) the names, addresses, and length of service and electronic communications transactional records, to include existing transaction/activity logs and all electronic mail (e-mail) header information (not to include message content and/or subject fields), for the below-listed **[e-mail/IP]** address holder(s):

[E-mail/IP ADDRESS or ADDRESSES]

[ON A SPECIFIC DATE]

or

[FOR THE PERIOD FROM [SPECIFIC DATE] TO [SPECIFIC DATE]
or [PRESENT]]

Please see the attachment following this letter for the types of information that you might consider to be a electronic communications transactional record.

If the time period noted above is to the "present," that term is intended to direct production of information to the date of the processing of this letter. If providing information to the date of processing is not feasible, please provide information to the date of receipt of this letter.

While fulfilling your obligations under this letter, please do not disable, suspend, lock, cancel or interrupt service to the above-described subscriber(s) or accounts. A service interruption or degradation may alert the subscriber(s)/account

users(s) that investigative action is being taken. If you are not able to fulfill your obligations under this letter without alerting the subscriber/account user, please contact the FBI prior to proceeding.

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.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 18 U.S.C. § 2709(c)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 18 U.S.C. § 2709(c)(1) and (2) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 18 U.S.C. § 2709(c)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 18 U.S.C. § 2709(c)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the

right to challenge the nondisclosure requirement, if set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely,

[ADIC/SAC NAME]

[ASSISTANT DIRECTOR IN CHARGE/ SPECIAL AGENT IN CHARGE]

(Rev. 08-28-2000)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2007

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** **[UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: **[DRAFTING DIVISION]**
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000)000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-07-2007

1076786

Drafted By: **[LAST, FIRST, MIDDLE: INITIALS]**

(U) **Case ID #:** ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

Title: ~~(S)~~ **[SUBJECT]**
(U) **[AKA [ALIAS] (IF APPLICABLE)**
[FCI/IT - FOREIGN POWER]
[OO: OFFICE OF ORIGIN]

Synopsis: (U) (NSLETR) Approves the issuance of an Electronic Communication Privacy Act (ECPA) National Security Letter (NSL) for electronic communications transactional records; provides reporting data; and, if necessary, transmits the NSL for delivery to the electronic communications service provider.

~~SECRET~~

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: [10-25 years based on information in the EC]**~~

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2007]**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER SERIAL XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE, (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting the names, addresses, lengths of service, and electronic transactional records for the **[e-mail/IP]** address holder(s) listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject. Barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. These electronic communications transactional records are being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) ~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks electronic communication transactional records on **[NUMBER OF] [e-mail/IP address(es)]** from **[ISP #1]**; **[NUMBER OF] [e-mail/IP address(es)]** from **[ISP #2]**, etc. **[In the case of multiple addresses to the same ISP, if you know how many different persons attach to those addresses, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to give as much information as you can, for congressional reporting purposes.]**

(U) Arrangements should be made with the electronic communications service provider to provide the records **[personally to an employee of the DELIVERING division** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within [**NUMBER OF**] business days of receipt of this request. The electronic communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

DISCLOSURE PROVISIONS

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received from an electronic communications service provider may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear.

Set Lead 3: (Action)

[DELIVERING DIVISION - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the electronic communication service provider, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

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FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/DMH/KSR/RW

1076786

DEAR **[MR./MRS./MS.] [LAST NAME]**:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (Section 201 of the Electronic Communications Privacy Act of 1986) (as amended), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the name, address, length of service, and local and long distance toll billing records associated with the following:

[NAME, IF KNOWN]

[ADDRESS, IF KNOWN]

[TELEPHONE NUMBER(S), IF KNOWN (000) 000-000]:

[RELEVANT TIME PERIOD]: [ON SPECIFIC DATE(S)]

or **[FROM [SPECIFIC DATE] to [[SPECIFIC DATE] or [PRESENT]]**

Please see the attachment following this letter for the types of information that you might consider to be a toll billing record.

If the time period noted above is to the "present," that term is intended to direct production of information to the date of the processing of this letter. If providing information to the date of processing is not feasible, please provide information to the date of receipt of this letter.

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.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement) then include the language in the following 3 paragraphs in the NSL.]

In accordance with 18 U.S.C. § 2709(c)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 18 U.S.C. § 2709(c)(1) and (2) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 18 U.S.C. § 2709(c)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 18 U.S.C. § 2709(c)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement, if one is set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure facsimile]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(01/26/1998)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: **00/00/2007**

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-07-2007

1076786

Drafted By: **[LAST, FIRST, MIDDLE NAME: INITIALS]**

(U) **Case ID #:** ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[AKA] [ALIAS IF APPLICABLE]
[IT/FCI - FOREIGN POWER];
[OO: OFFICE OF ORIGIN]

Synopsis: (U) (NSLTTR) Approves the issuance of an Electronic Communication Privacy Act (ECPA) National Security Letter (NSL) for toll billing records; provides reporting data; and, if

~~SECRET~~

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

necessary, transmits the NSL for delivery to the wire communications service provider.

(U) ~~(S)~~ ~~**Derived From: G-3**~~
~~**Declassify On: [10-25 years based on information in the EC]**~~

(U) **[FULL/PRELIMINARY] Investigation Instituted:** ~~(S)~~ **[00/00/2007]**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosures: (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service]**, requesting the name, address, length of service and local and long distance toll billing records for the phone number(s) listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY] [INTERNATIONAL TERRORISM/FOREIGN COUNTERINTELLIGENCE]** investigation of subject, a **[USPER/NON-USPER]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. These toll billing records are being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) ~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks local and long distance toll billing records for **[NUMBER OF]** telephone number(s) from **[telephone company #1]**; **[NUMBER OF]** telephone number(s) from **[telephone company #2]**, etc. **[In the case of multiple phone numbers to the same telephone company, if you know how many different persons attach to those phone numbers, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to**

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the wire communications service provider to provide the records **[personally to an employee of the DELIVERING DIVISION** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within [**NUMBER OF**] business days of receipt of this request. The wire communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

{Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.}

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

[Include the next 2 paragraphs in all ECs.]

(U) Information received from a wire communication service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD ~~(s)~~:

Set Lead 1:

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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3:

[DELIVERING DIVISION - if using personal service]

[AT [CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the wire communications service provider, **[DELIVERING DIVISION]** is requested to submit results to the **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]

[MONTH, DAY, YEAR]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/DMH/KSR/RW

[MR./MRS./MS.] [Complete name]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

1076786

Dear **[MR./MRS./MS.] [LAST NAME]**:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (Section 201 of the Electronic Communications Privacy Act of 1986) (as amended), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the name, address, and length of service with respect to the following telephone number(s):

[provide either or both - 1) person(s) to whom the telephone number(s) is/was registered and/or 2) the telephone number(s)]

[NAME OF PERSON(S)]

[TELEPHONE NUMBER(S) (000) 000-000)]:

[RELEVANT TIME PERIOD]: **[ON SPECIFIC DATE]**

or **[FROM [SPECIFIC DATE] to [SPECIFIC DATE] or [PRESENT]]**

If the time period noted above is to the "present," that term is intended to direct production of information to the date of the processing of this letter. If providing information to the date of processing is not feasible, please provide information to the date of receipt of this letter.

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.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement) then include the language in the following 3 paragraphs in the NSL.]

In accordance with 18 U.S.C. § 2709(c)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 18 U.S.C. § 2709(c)(1) and (2) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 18 U.S.C. § 2709(c)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 18 U.S.C. § 2709(c)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

[MR./MRS./MS] [COMPLETE NAMES]

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(01/26/1998)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: **00/00/2007**

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-07-2007

1076786

Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

(U) **Case ID #:** ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[AKA] [ALIAS IF APPLICABLE]
[IT/FCI - FOREIGN POWER];
[OO: OFFICE OF ORIGIN]

Synopsis: (U) (NSLTTR) Approves the issuance of an Electronic Communication Privacy Act (ECPA) National Security Letter (NSL) for toll billing records; provides reporting data; and, if

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

necessary, transmits the NSL for delivery to the wire communications service provider.

(U) ~~(S)~~ ~~**Derived From: G-3**~~
~~**Declassify On: [10-25 years based on information in the EC]**~~

(U) **[FULL/PRELIMINARY] Investigation Instituted:** ~~(S)~~ **[00/00/2007]**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosures: (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting the name, address, length of service and local and long distance toll billing records for the phone number(s) listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY] [INTERNATIONAL TERRORISM/FOREIGN COUNTERINTELLIGENCE]** investigation of subject, a **[USPER/NON-USPER]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. These toll billing records are being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) ~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks local and long distance toll billing records for **[NUMBER OF]** telephone number(s) from **[telephone company #1]**; **[NUMBER OF]** telephone number(s) from **[telephone company #2]**, etc. **[In the case of multiple phone numbers to the same telephone company, if you know how many different persons attach to those phone numbers, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to**

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the wire communications service provider to provide the records **[personally to an employee of the DELIVERING DIVISION** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The wire communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

[Include the next 2 paragraphs in all ECs.]

(U) Information received from a wire communication service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD (s):

Set Lead 1:

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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3:

[DELIVERING DIVISION - if using personal service]

[AT [CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the wire communications service provider, **[DELIVERING DIVISION]** is requested to submit results to the **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 04/11/2006

To: Counterterrorism **Attn:** AD, DAD

Counterintelligence AD, DAD

Cyber Acting AD, DAD

All Field Offices ADIC
SAC
CDC

From: Office of the General Counsel
National Security Law Branch LX-1 Room 3S100
Contact: [redacted]

Approved By: Caproni Valerie E
Hulon Willie T
Bereznay Timothy P
[redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/DMH/KSR/RW

1076786

Drafted By: [redacted]

Case ID #: 319X-HQ-A1487720-OGC

Title: LEGAL ADVICE AND OPINIONS;
FBI POLICY RE REIMBURSEMENT OF COSTS TO RECIPIENTS
OF NATIONAL SECURITY LETTERS

Synopsis: Provides guidance to the field as to the establishment within the FBI of a uniform policy with respect to reimbursement of costs to recipients of National Security Letters (NSLs) for the production of information responsive to NSLs. This guidance provides that where the authorizing statute requires reimbursement, clearly we will continue our practice of paying. Where the authorizing statute does not reference any form of reimbursement, then the FBI will not pay for the information.

Details:

Four statutes that provide for the issuance of National Security Letters vary in their provision for reimbursement of costs to recipients of NSLs for production of information responsive to NSLs. The Electronic Communications Privacy Act (ECPA), 18 U.S.C. § 2709, does not provide for reimbursement of costs; thus, there is no legal obligation to pay for toll billing/subscriber records or electronic communication transactional records to which the statute applies. The Right to Financial Privacy Act (RFPA), 12 U.S.C. § 3415, requires

reimbursement of costs for information obtained from financial institutions to which NSLs are issued under Section 3414(a)(5)(A); Title 12, Code of Federal Regulations (CFR), Part 219, and Appendix A, provides a reimbursement of costs schedule.[1] The Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681u, requires reimbursement of costs for financial institution listings and consumer identifying information obtained from credit reporting companies but no reimbursement schedule has been promulgated.[2] Its counterpart, FCRA, Section 1681v, enacted as part of the 2001 USA Patriot Act, providing for full credit reports in international terrorism cases, does not authorize reimbursement of costs.

Variations in Cost Reimbursement Policy Among FBI Field Offices

The differences in the payment provisions of the NSL statutes have caused field offices to adopt varying policies as to whether they pay bills that are submitted by NSLs recipients. When bills are submitted by RFPA NSL recipients, the rules are clear. Field offices must and do pay for such NSLs based on the reimbursement of costs schedule set out in the CFR. When bills are submitted by ECPA NSL recipients, where reimbursement is not required, some field offices pay the bills as submitted, others negotiate the amount of the charge, and others flatly refuse to pay. As to credit reporting companies responding to 1681v NSLs,[3] at least one such company submits bills which, to date, we have paid. With respect to credit reporting companies responding to 1681u NSLs, at least two have a policy of submitting bills, which we pay or intend to pay. While there is no fee schedule

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[1] RFPA, Section 3415 provides that "a Government entity shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this chapter a fee for reimbursement of costs as reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required ro requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment shall be made. Under 12 C.F.R. §219.3, Appendix A, a fee schedule has been adopted, under which photocopying is reimbursable at $.25 per page and searching is reimbursable at $11 per hour for clerical staff.

[2] FCRA, Section 1681u(e) provides that "[t]he Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing report or information in accordance with procedures established under this section a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section."

[3] The three major credit reporting companies are Experien, Transunion, and Equifax.

established, the fees that are or will be charged by credit reporting companies for 1681u requests are approximately ten dollars, which appears reasonable, as well as in line with the hourly rate set by the RFPA schedule.[4]

The Problem to be Addressed by this Guidance

Having canvassed FBI field offices as to whether they would like to see the FBI adopt a uniform policy with respect to reimbursement of costs of NSL recipients, the Office of the General Counsel (OGC) has determined that field offices do in fact want a uniform policy. That is the genesis of this guidance. However, since this is an operational issue and not a legal issue, OGC has also obtained the concurrence of the FBI's Counterterrorism Division, Counterintelligence Division, and Cyber Division that a uniform policy is desirable. Thus, this guidance is intended to create a uniform policy as to reimbursement of costs of NSL recipients, the creation of which uniform policy is particularly crucial with respect to those statutes which do not provide for compensation, such as ECPA and FCRA Section 1681v.

Reimbursement of Costs Incurred by ECPA NSL recipients

The FBI hereby adopts the policy that, since it has no legal obligation to reimburse costs incurred by an NSL recipient in producing information sought by an ECPA NSL, that it will not pay bills that are submitted by ECPA NSL recipients for such information. Its position is supported by the fact that the ECPA specifically provides for certain instances in which compensation to recipients of legal process is available. Those enumerated provisions do not include Section 2709.[5] Further, since certain NSL statutes do contain reimbursement provisions, it is clear that when Congress so intended, it did in fact enact such a provision. While there is not necessarily any obvious rationale to the determination of which NSL statutes contain reimbursement provisions, the fact is that Congress has had opportunities to remedy what may have been an oversight in the ECPA provision and has not done so. [redacted] b5

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[4] Transunion currently charges ten dollars for 1681u requests, but does not charge for 1681v requests. Experien currently charges $9.20 per report.

[5] Title 18, Section 2706(a) of ECPA provides for a reimbursement fee for obtaining "the contents of communications, records, or other information under section 2702, 2703, or 2704," except the provision does not apply, per section 2706(c), "with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider."

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Further, to the extent that bills for reimbursement submitted by carriers in the past have been paid by field offices, they presumably have been done so on the theory that payment will encourage cooperation and responsiveness to an NSL request. Inasmuch as the NSL statutes were revised by the USA PATRIOT Act Improvement and Reauthorization Act of 2005 to provide for an enforcement mechanism, there is less of a need for the FBI to seek voluntary cooperation of carriers by providing payment to which the carriers are not legally entitled.

Enclosed is a model letter that field offices may want to use in response to requests for payment. These letters may assume particular importance when addressed to carriers who to date have received reimbursement and suddenly find themselves cut off from reimbursement under the new FBI policy.

Reimbursement of Costs Incurred by FCRA Section 1681v NSL Recipients

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At the current time, Transunion does not charge for 1681v NSL requests.

Reimbursement of Costs Incurred by FCRA Section 1681u NSL Recipients

While FCRA Section 1681u provides for compensation for NSLs, there has yet to be promulgated a schedule of such fees. Inasmuch as a separate fee schedule has not been adopted, it is logical that the fee schedule adopted for RFPA NSLs be the basis of compensation for Section 1681u NSLs.

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, there should also be flexibility in how offices handle such bills. We recommend that they coordinate with one another

so that the compensation is uniform, as well as generally in line with the RFPA fee schedule. [redacted]

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Conclusion

OGC recognizes that field offices are likely to need further guidance when faced with particular scenarios. There may be situations in which lack of compensation is unduly harsh in light of the burden placed on the carrier by an NSL request. Such situations may be addressed on a case-by-case basis.[6]

To the extent that there are repercussions with respect to the compliance with NSLs, we do now have in place an enforcement mechanism for NSLs via the recently enacted USA PATRIOT Act Improvement and Reauthorization Act of 2005. That statutory authority should serve to ameliorate the possible adverse consequences that might ensue at the onset of this new policy.

Any questions about the issues set forth above should be addressed to field office Chief Division Counsel or to [redacted] in the National Security Law Branch ((571)280-[redacted]

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LEAD(s):

Set Lead 1: (Adm)

ALL RECEIVING OFFICES

Distribute to all supervisory personnel involved in the investigation of counterintelligence, counterterrorism, and cyber cases.

1 - Ms. Caproni
1 - Mr. Hulon
1 - Mr. Bereznay
1 - [redacted]
1 - [redacted]
♦♦

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[6] This flexibility is conceptually analogous to the provision of ECPA, Section 2706, which authorizes court-ordered compensation when a criminal legal process seeking telephone records is especially burdensome. See footnote 5.

SUGGESTED FORM LETTER TO NSL RECIPIENT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/DMH/KSR/RW

[Name and address of NSL recipient]

1073946

RE: Cost Reimbursement for National Security Letter
Invoice No: ___ (if relevant)
Invoice Dated: ___ (if relevant)

Dear (POC),

This letter references the above invoice directed to this office in which you request payment for producing records to the FBI in response to a National Security Letter (NSL) issued on [Date of Issuance].

The federal statute under which the NSL to your company was issued, [**Electronic Communications Privacy Act (ECPA), 18 U.S.C. § 2709, or Fair Credit Reporting Act, 15 U.S.C. § 1681v**], does not authorize cost reimbursement. [**FOR ECPA:** While certain other methods of legal process are subject to cost reimbursement under ECPA, Section 2706, the enumerated list of provisions does not include Section 2709.] [**For FCRA:** While certain other methods of legal process are subject to cost reimbursement under FCRA, including Section 1681u, there is no such comparable provision for cost reimbursement for Section 1681v.] Therefore, absent a specific provision providing for cost reimbursement, no entity or person is entitled to reimbursement for complying with federal legal process. Hurtado v. United States, 410 U.S. 578 (1973).

Therefore, it is the FBI's position that cost reimbursement for NSL compliance is not specifically authorized under [**ECPA Section 2709 or FCRA Section 1681v**].

[**TO BE USED FOR RECIPIENTS WHO HAVE BEEN REIMBURSED IN THE PAST**: We recognize that in the past, your company may have been reimbursed for compliance with NSLs. However, the FBI has reevaluated its position in that regard and determined that in order to assure fair and equal treatment of all NSL recipients, a uniform posture is required as to the appropriateness of reimbursing recipients of NSLs for their compliance in the absence of statutory authorization for such reimbursement. The FBI has decided that payment is not appropriate in these circumstances.]

Please feel free to contact the undersigned should you wish to discuss this further. This office greatly appreciates your timely compliance with NSL requests, which assists us in fulfilling our investigative responsibilities and efforts to further the national security interests of this country.

Sincerely yours,

[NAME OF SAC or SSA]
[Position]
[Name of Field Office]

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET 05/02/2007

Total Deleted Page(s) ~ 2
Page 5 ~ b2, b7E
Page 6 ~ b2, b7E

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY,STATE, ZOP CODE]
[MONTH DAY, YEAR]

[MR./MRS/MS.] [COMPLETE POC NAME]
[TITLE, IF AVAILABLE]
[COMPANY NAME]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/DMH/KSR/RW

1076786

DEAR [MR./MRS./MS.] [LAST NAME]:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 12, United States Code (U.S.C.), Section 3414(a)(5), you are hereby directed to produce to the Federal Bureau of Investigation (FBI) all financial records pertaining to the customer(s) and/or accounts listed below:

NAME(S) [if available]

ACCOUNT NUMBER(s): [if available]

SOCIAL SECURITY NUMBER(S):[if available]

DATE(S) OF BIRTH: [if available]

[FOR PERIOD FROM INCEPTION TO PRESENT]

or

[FOR PERIOD FROM [SPECIFIC DATE] TO [SPECIFIC DATE]

or [PRESENT]]

Please see the attachment following this letter for the types of information that your financial institution might consider to be a financial record.

If the time period noted above is to the "present," that term is intended to direct production of information to the date of the processing of this letter. If providing information to the date of processing is not feasible, please provide information to the date of receipt of this letter.

[MR./MRS./MS./ COMPLETE NAME]

In accordance with Title 12, U.S.C. Section 3414(a)(5)(A), I certify that these records are sought for foreign counterintelligence investigation purposes 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.

In accordance with Title 12, U.S.C., Section 3403(b), I certify that the FBI has complied with all applicable provisions of the Right to Financial Privacy Act.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement) then include the language in the following 3 paragraphs in the NSL.]

In accordance with 12 U.S.C. § 3414(a)(5)(D), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 12 U.S.C. § 3414(a)(5)(D) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 12 U.S.C. § 3414(a)(5)(D)(iii), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 12 U.S.C. § 3414(a)(5)(D)(iv), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

[MR./MRS./MS./ COMPLETE NAME]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful and the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

The FBI does not intend to suggest, by the service of the NSL upon your financial institution [redacted]

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[redacted] the non-disclosure provision set forth above prohibits the disclosure of the fact of this letter [redacted] Further, should you decide to consider [redacted] the FBI requests that you please notify the below point of contact prior to taking such action, inasmuch as it is expected that information [redacted]

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]**_OR **through use of a delivery service to the [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service or fax]**. Due to security considerations, you should neither send the records through routine mail service nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/ SPECIAL AGENT IN CHARGE]

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(Rev 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2007

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[SQUAD] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[SQUAD] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME, IF APPLICABLE]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: **[LAST, FIRST MIDDLE: INITIALS]**

(U) **Case ID #:** ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-07-2007

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[AKA] [ALIAS, IF APPLICABLE]
[IT/FCI - FOREIGN POWER]
[OO: OFFICE OF ORIGIN]

1076786

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

~~(S)~~

(U)

~~**Derived From : G-3**~~
~~**Declassify On: [10-25 years based on information in the EC]**~~

SECRET

(U) To: **[CTD/CD]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

(U) **[FULL/PRELIMINARY] Investigation Instituted:** ~~(S)~~ **00/00/2007**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER SERIAL XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service]**, requesting financial records of the customer listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. These financial records are being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) ~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks financial records for **[NUMBER OF] [individual(s)/account(s)]** from **[financial institution #1]; [NUMBER OF] [individual(s)/accounts]** from **[financial institution #2]**, etc. **[In the case of multiple accounts to the same financial institution, if you know how many different persons attach to those accounts, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to give as much information as you can, for congressional reporting purposes.]**

(U) Arrangements should be made with the financial institution to provide the records **[personally to an employee of the DELIVERING DIVISION** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The financial institution should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Option 1 - Invoking Nondisclosure Requirement]

To: **[CTD/CD]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

(U) In accordance with 12 U.S.C. § 3414(a)(5)(D), I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received from a financial institution may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

(U) To: **[CTD/CD]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING DIVISION - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the financial institution, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

(Rev. 03-08-2006)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/9/2006

To: All Divisions **Attn:** ADIC, AD, DAD, SAC, CDC

From: Office of the General Counsel National Security Law Branch
Contact: [redacted]

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Approved By: Mueller Robert S III

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

1076786

Case ID #: 319X-HQ-A1487720-OGC Serial 210

Title: NATIONAL SECURITY LETTERS
DELEGATION OF SIGNATURE AUTHORITY
DELEGATION OF NON-DISCLOSURE CERTIFICATION AUTHORITY
DELEGATION OF NON-DISCLOSURE RECERTIFICATION AUTHORITY

Synopsis: Delegates signature authority for National Security Letters under the Electronic Communications Privacy Act, 18 U.S.C.§ 2709, the Fair Credit Reporting Act, 15 U.S.C. §§ 1681u and 1681v, and the Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5). Also delegates authority for certification of the necessity for non-disclosure of such national security letters and recertification of the necessity for non-disclosure of such national security letters under the afore-mentioned statutes.

Details: The USA Patriot Improvement and Reauthorization Act of 2005 (USAPA IRA) was enacted into law on March 9, 2006. It provides for procedural changes in the issuance of national security letters (NSLs). It provides that in order for the FBI to require that the recipient not disclose the fact of the request, the FBI must certify that certain harm may come were the request to be disclosed. If challenged more than one year later, the FBI must recertify that certain harm may come were the request to be disclosed. Further, the USAPA IRA provides that the NSL recipient may also challenge the receipt of the NSL itself. On the other hand, the FBI now has explicit enforcement authority and contempt penalties that attach to unlawful noncompliance with the NSL.

Specifically, the USAPA IRA provides, with respect to each of the NSL statutes set forth above, that a non-disclosure requirement attaches to the NSL "[i]f the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by

the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of a person." Once such a certification is made, if unchallenged, neither the recipient "or officer, employee, or agent of [such recipient] shall disclose to any person (other than those to whom disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request)" that the FBI has sought or obtained access to the records.[1]

There is a second non-disclosure certification provided by the USAPA IRA. If there is a challenge to the non-disclosure provision one year or more after the request is made, the Director or his designee, as defined above, may terminate the nondisclosure requirement or recertify that disclosure may result in the harm enumerated above.[2]

Thus, via this EC, I am delegating the authority to make the initial non-disclosure certification and any necessary subsequent non-disclosure recertification. However, in order to assure consistency between the persons to whom the non-disclosure certifications are delegated and the persons to whom signature authority is delegated, I am also revisiting the issue of the personnel to whom signature authority for NSLs has been delegated.

Since the enactment of the 2001 USA Patriot Act, which expanded the scope and availability of national security letters, I have issued several Electronic Communications delegating signature authority for such investigative tools. In light of the reorganization of the FBI, and specifically, the creation of the National Security Branch, it has become necessary to revise

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[1] The language in the USPAP IRA with respect to each of the NSL statutes is identical, accounting for the different recipients, except that the language in the 1681v NSL statute applies to government agencies which conduct international terrorism investigations, rather than only the FBI, and the designee provision simply states that the government agency head or his designee may certify the danger that would arise from disclosure. It does not otherwise place any restrictions on the agency head's designee. However, for purposes of consistency, the non-disclosure certification delegation for 1681v will be made at the same level as the non-disclosure certification delegations for the other NSL statutes.

[2] There is also a provision under which, if a challenge to the non-disclosure provision is filed within one year of the request, a certification by the Director of the FBI will be treated as conclusive unless the court finds that the certification was made in bad faith.

those delegations in order to assure that all persons with legal authority to sign NSLs have in fact been delegated such authority. Moreover, it also makes sense to have all such delegations consolidated into one document.

Thus, the following delegations are being made for purposes of providing signature authority for NSLs and also providing the authority to initially certify as to the necessity for non-disclosure of the NSL request and the authority to recertify if the non-disclosure provision is challenged one year or more after the request. Most of the signature delegations already are in effect, while those that are created by this EC will be so noted. Nonetheless, this EC provides an exhaustive list of all of those FBI persons with NSL signature authority and non-disclosure certification and non-disclosure recertification authority.[3]

Thus, as now permitted by ECPA, the FCPA, and the RFPA, I hereby delegate certification signature authority, non-disclosure certification authority and non-disclosure recertification authority for NSLs to the following FBI Officials:

1. The Deputy Director;

2. The Executive Assistant Director for the National Security Branch;[4]

3. The Assistant Executive Assistant Director for the National Security Branch;

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[3] This EC consolidates, and to the extent set forth below, revises, the delegations that took effect pursuant to the following ECs: 66F-HQ-A1255972, Serial 15, 66F-HQ-A1255972, Serial 31; 66F-HQ-A1255972, Serial 33; and 66F-HQ-A1255972, Serial 35. The EC, 66F-HQ-A1255972, Serial 33, providing for delegation of signature authority to The Senior Counsel for National Security Affairs is hereby rescinded, as that position no longer exists. Those portions of 66F-HQ-A1255972, Serials 31 and 35, which delegate signature authority to the Executive Assistant Director for Counterterrorism/Counterintelligence, are hereby rescinded, as that position no longer exists.

[4] The delegations of signature authority to the Executive Assistant Director and the Assistant Executive Assistant Director for the National Security Branch are new delegations, as those positions have just recently been created.

4. The Assistant Directors and all Deputy Assistant Directors of the Counterterrorism, Counterintelligence,[5] and Cyber Divisions;[6]

5. The General Counsel and Deputy General Counsel for the National Security Law Branch;[7]

6. The Assistant Director in Charge, and all SACs of the New York, Washington D.C., and Los Angeles field offices; and

7. The SACs in all other field divisions.

The NSLB is hereby authorized to issuance guidance with respect to the revision of the national security letter statutes, as well as the other changes encompassed by the USAPA IRA. One point should be made here, however. The signature authority, the initial non-disclosure certification authority, and the non-disclosure recertification authority are separate authorities. Because an NSL warrants signature does not necessarily mean that it warrants inclusion of a non-disclosure provision. Because an NSL once warranted a non-disclosure provision does not mean that one year later, it continues to warrant a non-disclosure provision. Such certifications should not and may not be made in a perfunctory manner. There must be an assessment by the individual who signs the NSL that there is a genuine need for non-disclosure because one of the enumerated dangers may arise from disclosure.

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[5] The Counterintelligence Division was denoted in its previous signature delegation by its prior incarnation, as the National Security Division. See 66F-HQ-A1255972, Serial 15. This delegation brings its designation terminology up to date.

[6] While Counterintelligence Division and Cyber Division personnel are being given signature and non-disclosure certification and recertification authority for all NSLs, it is expected that they would rarely exercise that authority in the case of 1681v NSLs (which signature authority they have not had to date), which are limited to use in international terrorism investigations. It is possible, although not likely to be a frequent occurrence, that a counterintelligence or Cyber case may have an international terrorism aspect to it that would justify the issuance of a 1681v NSL.

[7] The Deputy General Counsel for the National Security Law Branch was denoted in its previous signature delegation by its prior incarnation, as Deputy General Counsel for National Security Affairs. See 66F-HQ-A1255972, Serials 15, 31. This delegation brings its designation terminology up to date.

To: All Divisions From: OGC
Re: , 03/9/2006

LEAD:

Set Lead 1: (adm)

ALL RECEIVING OFFICES

Disseminate to personnel involved in CI, IT, and Cyber operations and to other personnel as appropriate.

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY **Date:** 03/09/2007

To: All Divisions **Attn:** ADs
DADs
SACs
ADICs
ASACs
CDCs

From: Records Management
RPAS/5334
Contact: Debbie O'Clair, 202-[redacted] b2

Approved By: Hooton William L
Caproni Valerie E

Drafted By: OClair Debra Anne

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

Case ID #: 319W-HQ-A1487699-RMD 1076786

Title: PROCEDURAL AND OPERATIONAL ISSUANCES -
RECORDS MANAGEMENT DIVISION (RMD)

Synopsis: Provides immediate interim guidance related to records management of National Security Letters (NSL).

Details: The below guidance is provided as an immediate interim solution to the proper recording of NSLs.

Original signed NSLs are to be sent to the recipient. Record copies of the NSLs are to be uploaded in the investigative case file using one of the following new document types:

NSLTSI (NSL Telephone Subscriber Information)
NSLTTR (NSL Telephone Toll Records)
NSLESI (NSL Email Subscriber Information)
NSLETR (NSL Email Transactional Records)
NSLFR (NSL Financial Records, RFPA Section 3414(a)(5))
NSLFIL (NSL Financial Institutional Listings, FCRA 1681u(a))
NSLCII (NSL Consumer Identifying Information, FCRA 1681u(b))
NSLFCR (NSL Full Credit Report, FCRA 1681v)

Effective Monday, March 12, 2007, modifications to the Automated Case Support (ACS) will have been completed to allow the entry of the above document types when uploading NSLs within ACS. Offices are to advise and assist those employees who upload NSLs in identifying the appropriate document type for each NSL. Offices are also to advise employees to use the originating

(issuing) office of the NSL in the "From" field when uploading the NSL to ACS. For example if the Tampa Field Office SAC signs off issuing an NSL for a Miami Field Office investigative case, the "From" field in ACS should indicate Tampa even though the Office of Origin is Miami.

In addition, reporting capability will be available within the next several weeks which will allow offices to generate reports of NSLs created by office, within a specified date range to facilitate statistical reporting.

It should be noted this is an interim immediate solution. Records Management Division (RMD) will host a working group of Headquarters and field personnel on Wednesday, March 14, 2007, to develop a permanent solution which minimizes human error and provides the necessary statistical reporting required. Offices are invited to nominate names of conversant and well-informed participants to attend this working group or participate via video teleconference to RMD Assistant Section Chief, Debbie O'Clair (via email). It is not mandatory to nominate an employee, and to ensure the working group is maintained at a reasonable number, not every nominated employee may be selected, but RMD seeks to ensure that the most affected stakeholders in this issue, the field offices, are represented in devising a resolution to this issue that is satisfactory to all.

To: All Divisions From: Records Management
Re: 319W-HQ-A1487699-RMD, 03/09/2007

LEAD(s):

Set Lead 1: (Action)

ALL RECEIVING OFFICES

Implement use of new NSL document types within ACS, assist and advise NSL records personnel in using the appropriate NSL document type for each document and to use issuing office of the NSL in the "From" field in ACS.

♦♦

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY **Date:** 04/07/2006

To: All Divisions

From: Office of the General Counsel
Contact: [redacted] (202) 324-[redacted]

Approved By: Caproni Valerie E
Thomas Julie F

b6
b7C
b2

Drafted By: [redacted]

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

1076786

Case ID #: 319X-HQ-A1487720-OGC

Title: (U) USA PATRIOT ACT RENEWAL - NEW LEGISLATIVE CHANGES TO FCI/IT LEGAL AUTHORITIES.

Synopsis: (U) Summarizes recent changes to national security legal authorities as a result of the "USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177) and the "USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006" (Public Law 109-178), and describes the preliminary implementation procedures.

Details: The President signed the "USA PATRIOT Improvement and Reauthorization Act of 2005" (USA PATRIOT IRA) and the "USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006" on March 9, 2006. The USAPA IRA makes permanent many of the sunseting provisions of the USA PATRIOT Act.[1] Additionally, both laws make significant changes to many national security legal authorities, including National Security Letters (NSLs) and certain FISA-related provisions, and impose new reporting requirements. Moreover, the new laws make changes in several substantive criminal laws, some of which may have implications in national security investigations.

The National Security Law Branch of the Office of General Counsel is issuing preliminary guidance on those portions of the two laws relating to national security operations. The following summarizes authorities contained in sections of the bills, to include a summary of potential changes in FBI operational procedures. Recipients should note that this is only initial guidance; more detailed explanations and procedures may follow in subsequent communications.

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[1] The USA PATRIOT Act refers to the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001," which was signed into law on October 26, 2001.

The USA PATRIOT Act Improvement and Reauthorization Act of 2005 is organized into the seven titles. Title I, which carries the same title as the overall bill, contains the significant changes to the FBI's national security tools.[2] Titles II through VII contain several other Acts and miscellaneous provisions:

- **Title I - USA PATRIOT Improvement and Reauthorization Act**

  Title I makes most of the original sunset provisions of the original USA PATRIOT Act permanent, though it creates new sunsets for the authorities in section 206 (FISA roving authority) and section 215 (FISA access to business records) of the USA PATRIOT Act, and section 6001 (Lone Wolf provision) of the Intelligence Reform and Terrorism Prevention Act of 2004. It also extends the duration of several FISA tools. Additionally, it makes significant changes to the National Security Letter statutes. Finally, the USAPA IRA requires new Congressional reporting of the use of national security tools.

- **Title II - Terrorist Death Penalty Enhancement**

  This portion of the USAPA IRA entitled the "Terrorist Death Penalty Enhancement Act of 2005" makes adjustments to the death penalty procedures for federal cases, including certain air piracy cases.

- **Title III - Reducing Crime and Terrorism at America's Seaports Act of 2005**

  This Title amends certain criminal statutes to strengthen maritime and seaport safety.

- **Title IV - Combating Terrorism Financing Act of 2005**

  This Title increases the penalties for terrorism financing, and adds new terrorism-related provisions to the specified unlawful activities that serve as money laundering predicates (including operating an illegal money transmitting business, such as the common "hawala" network).

- **Title V - Miscellaneous Provisions**

  As recommended by the WMD Commission, this Title creates a National Security Division within the U.S. Department of Justice, which is to be led by an Assistant Attorney General for National Security.

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[2] Congress drafted the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 after the USA PATRIOT Improvement and Reauthorization Act of 2005. Congress used the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 to make additional adjustments to the nondisclosure provisions of FISA Business Records and National Security Letters contained in the USA PATRIOT IRA, and to add the "Privacy Protections for Library Patrons."

- **Title VI - Secret Service Authorization and Technical Modification Act of 2005**

  As the Title suggests, it modifies certain authorities of the Secret Service.

- **Title VII - Combat Methamphetamine Epidemic Act of 2006**

  This Title creates regulations for the control of precursor chemicals and enhances the criminal penalties for methamphetamine production.

TITLE I - USA PATRIOT IMPROVEMENT and REAUTHORIZATION ACT of 2005.

This EC will not address the new sections of the USAPA IRA in sequence; instead, the sections will be organized by national security tools.

SUNSET PROVISIONS

Sec. 102. USA PATRIOT Act Sunset Provisions.

Section 102 repeals section 224 of the USA PATRIOT Act, making most of the original sunset provisions permanent. This section adopts a new 4-year sunset (December 31, 2009) for sections 206 (roving authority) and 215 (business records) of the USA PATRIOT Act. The now permanent provisions of the USA PATRIOT Act are the following:

USA PATRIOT Act 2001 Provision	Description of Provision
Sections 201 & 202	Expanded Title III predicates.
Section 203(b) & (d)	Information sharing of foreign intelligence obtained in Title III and criminal investigations.
Section 204	Clarification of Intelligence Exceptions from Limitations on Interception and Disclosure of Wire, Oral and Electronic Communications.
Section 207	Extended duration of certain FISAs.
Section 209	Seizure of voice mail with a search warrant.
Section 212	Emergency disclosures of e-mail and records by ISPs.
Section 214	FISA pen/trap authority.
Section 217	Interception of computer trespasser communications.
Section 218	Change in the probable cause ("significant purpose") standard of FISA.
Section 220	Nationwide search warrants for electronic evidence.

Section 223	Civil liability for certain unauthorized disclosures.
Section 225	Immunity for compliance with FISA wiretap.

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Provision	New Sunset Date
FISA Roving Authority	December 31, 2009
FISA Business Records Authority	December 31, 2009

Sec. 103. Extension of Sunset Relating to Individual Terrorists as Agents of a Foreign Power.

Section 6001(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) addressed the "lone wolf" terrorist by broadening the definition of the "agent of a foreign power" for any person other than a United States person to include a person who "engages in international terrorism or activities in preparation thereof." The USAPA IRA extends the sunset of this provision 4 years (until December 31, 2009).

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Provision	New Sunset Date
FISA "Lone Wolf"	December 31, 2009

FISA DURATION CHANGES

Sec. 105. Duration of FISA Surveillance on Non-United States Persons under Section 207 of the USA PATRIOT Act.

Section 105 extends the duration of both initiations and renewals of electronic surveillance (FISA § 105(e)), physical search (FISA § 304(d)), and pen register/trap and trace surveillance (FISA § 402(e)) for agents of a foreign power who are not U.S. persons.

Procedural Changes Related to the New FISA Durations: DOJ Office of Intelligence Policy and Review will implement these changes to the FISA process. The new durations for non-United States persons are reflected in the chart below. Overall, the new durations should translate into considerable savings in FBI and OIPR resources.

FISA Technique	Non-USP Initiations	Non-USP Renewals
Electronic Surveillance	120 days	1 year
Physical Search	120 days	1 year
Pen register/trap and trace	1 year	1 year

The initiations and renewals for United States persons will remain the same.

FISA Technique	USP Initiations	USP Renewals
Electronic Surveillance	90 days	90 days
Physical Search	90 days	90 days
Pen register/trap and trace	90 days	90 days

FISA BUSINESS RECORD CHANGES[3]

Sec. 106. Access to Certain Business Records Under Section 215 of the USA PATRIOT Act.

Section 106 makes the following changes to Sections 501 and 502 of the Foreign Intelligence Surveillance Act (FISA) regarding access to 215 Business Records.

Procedural Changes Related to FISA Business Records: FISA Business Records, which have been the subject of much debate, have been modified to contain more safeguards to protect civil liberties and privacy. These safeguards include special procedures and approvals for certain types of tangible things (i.e., library records), a directive to develop "minimization procedures," the recipient's right to seek judicial review of an order, and a recipient's right to disclose an order for the purpose of obtaining legal advice or for assistance in complying with the order. The following charts summarize significant provisions in the new law.

Scope of FISA Business Records authority.	• This authority may be used to obtain "**any tangible things (including books, records, papers, documents, and other items).**" This authority is broad, similar in scope to a criminal grand jury subpoena. • This authority requires additional procedures for certain special categories of records (see below).

[3] The changes included in this section also include the changes made by section 3 and 4 of the "USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006."

Special Categories of Tangible Things	Congress designated particular categories of records for special procedures and approvals. The FBI will adjust procedures to account for the special designation.
• Special Categories:	Library circulation records, library patron lists, book sales records, book customer lists, firearms sales records, tax return records, educational records, and medical record containing information that would identify a person.
• Approval Level for special categories:	The Director of the FBI may delegate the authority to either – • the **Deputy Director** of the FBI; or • the **Executive Assistant Director (EAD) for National Security** (or any successor position). **No further delegation is allowed.**
• Congressional Oversight of special categories:	Attorney General must provide annual report (April) to the House Judiciary Committee (HJC), the House Permanent Select Committee on Intelligence (HPSCI), the Senate Judiciary Committee (SJC), and the Senate Select Committee on Intelligence (SSCI). • Number of FISA business record orders granted, modified, or denied for the special categories of tangible things.

FISA Business Record Standard- **Relevance:**	The FBI's facts must show that there are "reasonable grounds to believe that the tangible things sought are **relevant to an authorized investigation**."
• Presumptive Relevance Test:	The tangible things are presumptively relevant if the facts show they pertain to – "(i) a foreign power or an agent of a foreign power; (ii) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or (iii) an individual in contact with, or known to, a suspected agent of a foreign power who is the subject of such authorized investigations..."

FISA Business Record Order:	• The order must describe the tangible things with **sufficient particularity** to permit them to be fairly identified. • **Date for return** - the order will contain a date on which the tangible things must be provided. • Recipient must have a **reasonable period of time** to produce. • The Order may only require production of tangible things that would be available with a grand jury subpoena or a District Court order (in other words, privileges under the law will apply to Business Record orders).

FISA Business Record Non-Disclosure Provision:	No person shall disclose the fact that the FBI has sought tangible things.
• Exceptions to non-disclosure:	A recipient may disclose a FISA Business Record Order to – (1) persons to whom disclosure is necessary to comply; (2) an attorney to obtain legal advice or assistance with respect to the production; (3) a person as permitted by the FBI Director (or designee).
• Extension of nondisclosure to others:	• If the recipient discloses to another person (see exceptions above), the recipient shall notify the person of the nondisclosure requirement. • The person to whom disclosure is made shall be subject to the nondisclosure requirement. • The FBI director (or designee) may ask the recipient to identify the other persons to whom disclosure of the Business Record order will be made (**except that the recipient does not have to identify the attorney**).

Judicial Challenge of FISA Business Record authority:	The recipient of a FISA Business Record order may challenge the legality of the order in the Foreign Intelligence Surveillance Court.
• Challenging the order:	• Recipient may move to modify or set aside the order. • FISC may grant the motion only if the order does not meet the requirements of FISA or is otherwise unlawful.

• Challenging the non-disclosure provision:	• Not less than 1 year after the order, the recipient may move to modify or set aside the nondisclosure order. • FISC may grant such a motion only if there is no reason to believe that disclosure may endanger the national security of the U.S., interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. • The FISC will treat as conclusive a **certification** by the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the FBI that a disclosure may endanger the national security of the U.S. or interfere with diplomatic relations.
• Security:	• Filings shall be under seal •Chief Justice of the U.S., in consultation with the AG and the DNI, will establish security measures.

Minimization Procedures for FISA Business Records:	Within 180 days of enactment, the Attorney General **shall** adopt specific minimization procedures governing the **retention** and **dissemination** of FISA Business Record information.
•U.S. Person information:	The minimization procedures should minimize the retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting U.S. persons consistent with the U.S. intelligence community need to obtain, produce and disseminate foreign intelligence information.
• Evidence of a crime:	The procedures should allow for the retention and dissemination of information that is evidence of a crime.

Procedural Changes Related to Congressional Oversight of FISA Business Records: The new law beefs up the Congressional reporting requirements for the FISA Business Record authority. OIPR will have the responsibility for reporting the FISA Business Record statistics to Congress.

Reporting Cycle:	Attorney General will report on an annual basis (April of each year).
Congressional Committees:	•House Permanent Select Committee on Intelligence •House Judiciary Committee •Senate Select Committee on Intelligence •Senate Judiciary Committee

Reporting Categories:	(1) Total number of applications for FISA Business Records. (2) Total number of orders granted, modified, or denied. (3) Total number of orders granted, modified, or denied for the special categories of tangible things. • Library circulation records, library patron lists, book sales records, or book customer lists. • Firearms sales records. •Tax return records. •Educational records. • Medical records containing information that would identify a person.
Additional unclassified report:	Annually (April of each year), the Attorney General shall make an unclassified report on the total number of FISA Business Records applications, and the total number of orders granted, modified, or denied.

Sec. 106A Audit on Access to Certain Business Records for Foreign Intelligence Purposes.

Section 106A directs the Inspector General of the Department of Justice to perform a comprehensive audit of the effectiveness and use, including improper or illegal use, of the FISA Business Records authority. The audit will take place in two phases, covering the years of 2002 to 2006.

Procedural Changes Related to the Audit of FISA Business Records: The Inspector General's Office of the Department of Justice (DOJ IG) started the audit process in January 2006, in anticipation of the new USA PATRIOT Improvement and Reauthorization Act. It will be incumbent upon the FBI to cooperate with the DOJ IG to complete the two-phased audit. Per established procedures, the FBI's Inspection Division will be the primary point of contact for the DOJ IG. Additional guidance may be published as the audit process continues.

Scope of Audit:	The IG will perform a comprehensive audit of the effectiveness and use, including any improper or illegal use, of the investigative authority.
Timing of Audit:	For 2002, 2003, and 2004, the audit should be completed within one year of enactment (March 9, 2007).
	For 2005 and 2006, the audit should be completed by December 31, 2007.
Report results to Congress:	The IG shall submit the audit reports to – • House Judiciary Committee. • House Permanent Select Committee on Intelligence. • Senate Judiciary Committee. • Senate Select Committee on Intelligence.

Examine effectiveness of the tool:	Audit will look at the following for effectiveness – • Categories of records obtained. • The importance to the FBI and the IC of the information obtained. • The manner in which the information is collected, retained, analyzed, and disseminated by the FBI (this will include an examination of the access to "raw data" provided by the FBI to other agencies of the Federal, State, local, or tribal governments, or private sector agencies). • The minimization procedures adopted by the AG. • Whether, and how often, the FBI used information to produce analytical intelligence products for the FBI, the IC, or other Federal, State, local, or tribal government agencies. • Whether, and how often, the FBI provided the information to law enforcement authorities for criminal proceedings.
Examine the process:	The audit process will look at the following: • How often the FBI requested DOJ to submit an application and the request was not submitted to the court (including the basis for the decision). • Whether the court granted, modified, or denied the application. • The justification for the failure of the AG to issue implementing procedures governing the requests in a timely fashion, including whether the delay harmed national security. • Whether bureaucratic or procedural impediments prevent the FBI from fully using the authority.

FISA ROVING SURVEILLANCE CHANGES

Sec. 108. Multipoint Electronic Surveillance Under Section 206 of the USA PATRIOT Act.

This section modifies FISA sections 104(a) and 105(c), to clarify the amount of detail the FBI must provide to obtain a FISA roving surveillance order.

Procedural Changes Related to FISA Roving Surveillance:

The application must now include a description of the "specific" target when the target is identified by description rather than by name. The section also adds a return requirement on the FBI in national security investigations. This is consistent with Congress' intent to provide an extra layer of judicial review and to prevent the potential abuse of this investigative authority.

OIPR will implement the new requirements for the FISA roving surveillance. OIPR and FBI OGC may develop more specific guidance on the new process for obtaining this authority in the future.

Standard for roving surveillance:	• The FISC must find the possibility of the target thwarting surveillance based upon specific facts. • The order must describe the specific target in detail when authorizing a roving surveillance for a target whose identity is not known.

Return requirement:	•Presumed **10 day notice** – the FBI (applicant) must provide notice to the court within 10 days unless the court finds good cause to justify a longer period of up to 60 days.
	The FBI must inform the court: • The nature and location of new facility. • The facts and circumstances relied upon by applicant. • Any new minimization procedures. • The total number of electronic surveillances that have been or are being conducted under the roving authority.

Consistent with Congress' intent to provide more oversight, the reporting requirements for FISA roving surveillance have been changed.

Procedural Changes Related to FISA Roving Surveillance Congressional Oversight: OIPR will maintain responsibility for reporting on the FISA roving surveillance.

Reporting cycle:	The Attorney General will report on a semi-annual basis.
Congressional Committees:	• House Permanent Select Committee on Intelligence • Senate Select Committee on Intelligence • Senate Judiciary Committee
Reporting categories:	• Total number of applications made for orders and extensions. • Each criminal case in which information has been authorized for use at trial, during the period covered by such report. • Total number of emergency employments and total number of subsequent orders approving or denying surveillance.

FISA OVERSIGHT CHANGES

In section 109 of the USA PATRIOT Act Improvement and Reauthorization Act, Congress has implemented additional reporting requirements for the use of FISA physical search authority and FISA pen registers and trap and trace authority. This section modifies the reporting requirements in FISA sections 306 and 406(b).

Congressional Reporting on FISA Physical Search authority:

Reporting cycle:	Attorney General will report on a semiannual basis.
Congressional Committees:	• House Permanent Select Committee on Intelligence • House Judiciary Committee • Senate Select Committee on Intelligence • Senate Judiciary Committee
Reporting categories:	Report the following regarding emergency physical searches – • Total number of applications. • Total number of orders granted, modified, or denied. • Number of physical searches involving the residences, offices, or personal property of U.S. persons, and the number of occasions the AG provided notice. • Total number of emergency authorizations, and total number of subsequent orders approving or denying the physical searches.

Congressional Reporting on FISA Pen Register and Trap and Trace authority:

Reporting cycle:	Attorney General will report on a semiannual basis.
Congressional Committees:	• House Permanent Select Committee on Intelligence • House Judiciary Committee • Senate Select Committee on Intelligence • Senate Judiciary Committee
Reporting categories:	Report the following regarding pen registers/trap and trace – • Total number of applications. • Total number of orders granted, modified, or denied. • Total number of emergency authorizations, and total number subsequent orders approving or denying the pen registers/trap and trace.

Procedural Changes Related to Enhanced Congressional Oversight: If necessary, OIPR and FBI OGC will publish guidance in response to the new provisions. OIPR will retain responsibility for reporting to Congress on FISA related activities.

FISA PEN REGISTER/TRAP AND TRACE CHANGES

Sec. 128. PATRIOT Section 214; Authority for Disclosure of Additional Information in Connection with Orders for Pen Register and Trap and Trace Authority under FISA.

Congress modified the FISA pen register and trap and trace devices authority to give the FBI access to more information through this authority. The pertinent portion of the new statute describing the information available to the FBI is reproduced here (highlights added):

> FISA § 402 [50 U.S.C. § 1842]. Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations.

(C) shall direct that, upon the request of the applicant, the provider of a wire or electronic service shall disclose to the Federal officer using the pen register or trap and trace device covered by the order –

(i) in the **case of the customer or subscriber using the service covered** by the order (for the period specified by the order) –

(I) the **name of the customer or subscriber**;
(II) the **address of the customer or subscriber**;
(III) the **telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information**;
(IV) the **length of the provision of service** by such provider to the customer or subscriber and the **types of services** utilized by the customer or subscriber;
(V) in the case of a provider of local or long distance telephone service, any **local or long distance telephone records of the customer** or subscriber;
(VI) if applicable, any **records reflecting period of usage (or sessions)** by the customer or subscriber; and
(VII) any **mechanisms and sources of payment** for such service, including the number of any credit card or bank account utilized for payment for such service; and

(ii) if available, with respect to **any customer or subscriber of incoming or outgoing communications to or from the service covered** by the order –

(I) the **name of such customer or subscriber**;
(II) the **address of such customer or subscriber**;
(III) the **telephone or instrument number, or other subscriber number or identifier, of such customer or subscriber, including any temporarily assigned network address or associated routing or transmission information**; and
(IV) the **length of the provision of service** by such provider to such customer or subscriber and the **types of services** utilized by such customer or subscriber.

The chart below summarizes the information available through the new adjustments to the FISA tool.

Customer/subscriber using the service covered:	Information available through PR/TT: • Name of the customer or subscriber. • Address of the customer or subscriber. • Telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information. • Length of service. • Types of service. • Any local or long distance telephone records of the customer/subscriber. • Records reflecting period of usage. • Mechanisms/sources of payment, including the number of any credit card or bank account used.
Customer/subscriber of incoming or outgoing communications to/from the service covered:	Information available through PR/TT: • Name of customer/subscriber. • Address of customer/subscriber. • Telephone or instrument number, or other subscriber number or identifier, ... including any temporarily assigned network address or associated routing or transmission information. • Length of service. • Types of service.

The chart below summarizes the Congressional reporting requirements for the use of the FISA pen register and trap and trace authority.

Reporting cycle:	Attorney General shall report on a semiannual basis.
Congressional Committees:	• House Permanent Select Committee on Intelligence • House Judiciary Committee • Senate Select Committee on Intelligence • Senate Judiciary Committee
Reporting categories:	Use of pen registers and trap and trace.

Procedural Changes Related to Pen Registers/Trap and Trace: OIPR will retain the reporting responsibilities for the FISA pen register/trap and trace authority.

The FBI will now be able to obtain subscriber information (including billing information) with a FISA pen register/trap and trace, without having to couple the request with a FISA Business Record request. This provision should make this investigative tool more useful to

the FBI. OIPR has already made the changes to its pen register/trap and trace format to take advantage of the new provision.

EMERGENCY DISCLOSURES

Sec. 107 Enhanced Oversight of Good-Faith Emergency Disclosures Under Section 212 of the USA PATRIOT Act.

The emergency disclosure provision, codified at 18 U.S.C. § 2702(b)(8) & (c)(4), provides law enforcement with the ability to gain quick access to e-mail content and records under emergency conditions. The USA PATRIOT Act created the emergency disclosure provision which explicitly permits, but does not require, a service provider (most often an ISP) to voluntarily disclose to law enforcement information, including e-mail content, in emergencies involving a risk of death or serious physical injury. Such disclosures are outside of the compulsory process – subpoena, court order, and search warrant – that is generally required before law enforcement can obtain such information from a service provider. See, 18 U.S.C. § 2703.

Section 107 makes changes to the emergency disclosure provision of 18 U.S.C. Section 2702, including the requirement for more Congressional reporting, to deal with the concern that this authority was not subject to sufficient Congressional, judicial or public oversight.

Procedural Changes Related to Good-Faith Emergency Disclosures: The Attorney General must now report annually to Congress on the number of accounts subject to disclosure, and the Attorney General must report the basis for the voluntary disclosures in investigations that are closed without filing criminal charges.

The FBI will need to track the use of this investigative authority for reporting purposes. The FBI will publish additional guidance on this issue as necessary.

Voluntary disclosure by provider:	If the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay.
Reporting cycle:	Attorney General shall report on an annual basis.
Congressional Committees:	• House Judiciary Committee • Senate Judiciary Committee
Reporting categories:	• Number of accounts from which voluntary disclosures were received. • Summary of the basis for disclosure where the investigation was closed without criminal charges.

NATIONAL SECURITY LETTERS[4]

Sec. 115. Judicial Review of National Security Letters.

Title 18, Chapter 223 of the United States Code (Witnesses and Evidence) is amended to include a new section 3511 which provides for the judicial review of NSLs.

Procedural Changes Related to the Judicial Review of NSLs: This new section modifies the NSL authorities under the Electronic Communications Privacy Act (ECPA)(18 U.S.C. § 2709), the Fair Credit Reporting Act (FCRA)(15 U.S.C. § 1681u and 15 U.S.C. § 1681v), and the Right to Financial Privacy Act (RFPA)(12 U.S.C. § 3414), to make it clear that the recipient may seek the help of an attorney, and may challenge the legality of an NSL order and its non-disclosure provision in Federal District Court. A Federal District Court can modify or set aside an NSL if it is unreasonable, oppressive, or otherwise unlawful. It continues to be important for the FBI to serve NSLs only if the information sought falls within the statutory categories, and which are not overly broad or oppressive.

Future practice will give the FBI an idea of how many NSL challenges can be expected in a calendar year. If Federal grand jury practice is any indication, the number of NSLs challenged on a yearly basis should be small. Regardless, the FBI Field Office will need to work with local Assistant United States Attorneys when a recipient challenges the legality of an NSL or the non-disclosure provision. Additionally, FBI Field Offices should immediately notify FBI OGC if they receive notice of any challenge to an NSL or the NSL's nondisclosure provision. The following chart breaks down the new provisions (including jurisdictional issues).

The new law also gives the U.S. government a mechanism to address the situation where a recipient fails to comply with the NSL, which has been missing from the investigative tool in the past. Again, this procedure will require the assistance of a local United States Attorney's Office.

Judicial review of NSL (Recipient may challenge the request):	• Jurisdiction: In the U.S. District in which the recipient resides or does business.
	• Recipient may ask court to set aside or modify request.
	• Court will grant the recipient's motion if the NSL is **unreasonable, oppressive, or otherwise unlawful.**

[4] The changes listed in this section also include the changes made by sections 4 and 5 of the "USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006."

Judicial review of NSL nondisclosure provision (Recipient may challenge the nondisclosure provision):	• Jurisdiction: In the U.S. District in which the recipient resides or does business.
	• Filed **within one year** of NSL request – • Court may **modify/set aside** the non-disclosure if... "no reason to believe that disclosure may endanger the national security of the U.S., interfere with criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person." • **Certification/Authority level**: Court will treat as conclusive the certification by the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the FBI that disclosure may endanger the national security of the United States or interfere with diplomatic relations (unless made in bad faith).
	• Filed **one year or more** after the NSL – • Within 90 days of recipient's petition, designated government officials must either **terminate** the nondisclosure requirement or **recertify** that the disclosure "may result in a danger to the national security of the U.S., interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person." • **Termination/Recertification Authority level**: The Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the FBI, or his designee in a position not lower than Deputy Assistant Director at FBI headquarters or a SAC in an FBI field office designated by the Director shall either terminate the nondisclosure requirement or recertify that disclosure "may result in a danger to the national security of the U.S., interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person." • **Conclusive**: Certification by the AG, DAG, an Assistant Attorney General, or the Director of the FBI that disclosure may endanger the national security of the United States or interfere with diplomatic relations shall be treated as conclusive (unless made in bad faith).

Failure to Comply:	• The Attorney General may invoke the aid of a Federal District Court. • Jurisdiction: U.S. District in which the investigation is carried on, or the person or entity resides or does business or may be found. • Court may compel by ordering person/entity to comply. • Failure to obey is punishable by contempt.

Court Proceedings & Security:	• Court must close hearings to the extent necessary to prevent an unauthorized disclosure of NSL. • Petitions, filings, records, orders, and subpoenas must be kept **under seal** to the extent and as long as necessary to prevent unauthorized disclosure. • At government's request, ex parte and in camera review of government's submissions which may contain classified material.

Sec. 116. Confidentiality of National Security Letters.

Section 116 makes changes to the National Security Letter authorities contained in the Electronic Communications Privacy Act (ECPA) (18 U.S.C. § 2709), the Right to Financial Privacy Act (RFPA)(12 U.S.C. § 3414), and the Fair Credit Reporting Act (FCRA) (15 U.S.C. §§ 1681u and 1681v).

For example, Congress used this section to clarify the application of NSLs [18 U.S.C. § 2709 - telephone toll and transactional records] to libraries. A library is subject to an NSL only if it falls within the definition of a wire or communications provider.

Libraries and 18 U.S.C. § 2709 (telephone toll and transactional records):	A library is not a wire or electronic communications service provider unless the library is providing the services defined in 18 U.S.C. § 2510(15)(electronic communication service).

Additionally, this section is used to statutorily establish the NSL nondisclosure requirements and the exceptions to the nondisclosure requirement available to a recipient.

Procedural Changes Related to National Security Letters Confidentiality: To avoid overstepping this authority, the FBI should not issue an NSL to a library unless the library is acting as an internet service provider and not merely providing internet access to its customers through some other Internet service provider (e.g, AOL). If you have any questions regarding the application of this provision to a particular library, please direct your questions to FBI OGC NSLB.

The other significant changes to NSLs regarding confidentiality are common to all NSLs used by the FBI. In order to activate the nondisclosure requirement, the NSLs must contain a certification from the Director of the FBI, or a Special Agent in Charge in an FBI field office. This new legislation allows designation of this certification to the SACs in field offices "designated by the Director." This language reflects Congress' intention that the delegation not occur automatically, but that the Director must choose which offices needed, and were properly

prepared to exercise, the delegated authority. The Director has made delegations to FBI Field Offices in a separate communication. Field Offices with delegated authority will receive instructions on the process of preparing and issuing NSLs (instructions and updated forms will be posted on the FBI OGC National Security Law Branch website). The remaining changes are summarized in the chart below. FBI OGC NSLB will publish additional guidance on this authority as necessary.

Nondisclosure activated by FBI Certification:	• **FBI certification**: There may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, if a recipient discloses that the FBI has sought or obtained access to information or records under NSL statutes.
	• **Authority level: Director of the FBI**, or his designee in a position not lower than **DAD at FBI headquarters,** or a **Special Agent in Charge in a Bureau field office designated by the Director.**
Exceptions - Recipient may disclose NSL request:	• Recipient may disclose to persons necessary to comply with NSL request.
	• **Attorney**: Recipient may disclose to an attorney to obtain legal advice or legal assistance regarding any NSL request.
Notice:	• The NSL shall notify the recipient of the nondisclosure requirement.
	• Recipient disclosing NSL to an individual necessary to comply or, to an attorney, shall inform them of the applicable nondisclosure requirement.
FBI request for identity of persons to whom recipient plans to disclose NSL:	• Only activated at the request of the FBI Director or Director's designee.
	• Recipient of NSL shall identify the persons to whom disclosure will be made or was made.
	• **EXCEPT**: Nothing requires the person to identify an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance.

Sec. 117. Violations of Nondisclosure Provisions of National Security Letters.

This section makes it a federal crime for an individual to knowingly and with the intent to obstruct an investigation or judicial proceeding violate the nondisclosure provision of an NSL.

Procedural Changes Related to Violations of National Security Letter Non-disclosure: None at this point.

Obstruction of an Investigation (18 U.S.C. § 1510):	• Individual must have been notified of the nondisclosure provision.
	• Individual must knowingly and with the intent to obstruct an investigation or judicial proceeding violate the nondisclosure provision.
	• Punishable by up to five years imprisonment, a fine, or both.

Sec. 118. Reports on National Security Letters.

Section 118 of the USA PATRIOT Improvement and Reauthorization Act of 2005 outlines a new reporting scheme for National Security Letters.

Procedural Changes Related to National Security Letter Reporting: This section now requires that NSL statistics be reported to the House and Senate Judiciary Committees, in addition to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence. Additionally, Congress has directed that the NSL requests made pursuant to the 15 U.S.C. § 1681v [Fair Credit Reporting Act] be reported semi-annually to the House Committee on Financial Services and the Senate Committee on Banking, Housing and Urban Affairs, in addition to the House and Senate intelligence committees. These provisions are consistent with Congress' desire for more oversight of the national security investigative tools. Finally, Congress has directed that the Attorney General provide an unclassified report annually (April) which will report the aggregate numbers of NSL requests concerning different U.S. persons. With the unclassified report, Congress intends for the public to have a better view of the material Congress sees in conducting its oversight responsibilities.

The FBI OGC's National Security Law Branch and OIPR will provide future guidance on the FBI's role in the reporting of NSLs.

Current NSL Reports:	• AG reports on a semi-annual basis.
	• Reports will now also be made to the House Judiciary Committee, the House Permanent Select Committee on Intelligence, the Senate Judiciary Committee, and the Senate Select Committee on Intelligence.

Enhanced Oversight of 15 U.S.C. § 1681v NSLs (for credit agency consumer records):	• AG reports on a semi-annual basis.
	• Reports will now also be made to the House Judiciary Committee, the House Committee on Financial Services, the House Permanent Select Committee on Intelligence, the Senate Judiciary Committee, the Senate Housing and Urban Affairs Committee, and the Senate Select Committee on Intelligence.

Aggregate Report of NSL requests:	• AG reports annually (April).
	• Total number of NSL (excluding NSL's for subscriber information) requests for information concerning different U.S. persons.
	• Unclassified report.

Sec. 119. Enhanced Oversight of National Security Letters.

Consistent with Congress' theme of more oversight, Congress has directed that the Inspector General of the Department of Justice shall perform an audit of the effectiveness and use, including any improper or illegal use, of national security letters issued by the Department of Justice.

Procedural Changes Related to the Audit of National Security Letters: This DOJ IG audit of the use of NSLs, which began in January of 2006, will require the cooperation of the FBI. Congress' goal in this audit is to obtain detail on the specific functions and characteristics of NSLs and an analysis of the necessity of this national security investigative tool. As with DOJ IG's audit of the FISA Business Record authority, the FBI's Inspection Division will be the primary point of contact for the DOJ IG (per established procedures). The FBI OGC NSLB may issue additional guidance as the audit process continues.

Requirements of DOJ IG Audit:	Comprehensive audit of – • Use of NSLs for 2003 through 2006. • Description of noteworthy facts/circumstances, including any improper or illegal use of NSLs.
Timing of Audit:	• For 2003 and 2004, must be completed not later than one year after enactment (March 9, 2007).
	• For 2005 and 2006, must be completed not later than December 31, 2007.
Congressional Committees:	• House Judiciary Committee and House Permanent Select Committee on Intelligence. • Senate Judiciary Committee and Senate Select Committee on Intelligence.

Examine Effectiveness of NSLs:	The audit will examine: • Importance of the information acquired by DOJ to the intelligence activities of DOJ and other members of the IC. • How information is collected, retained, analyzed, and disseminated (including access to raw data) to members of the IC community, and other Federal, State, local or tribal governments, or private sector entities. • How often NSL information was used to produce an analytical intelligence product for distribution to the IC community, and to other Federal, State, local or tribal governments. • Whether, and how often, NSL information was provided to law enforcement authorities for use in criminal investigations. • Following enactment of the USA PATRIOT IRA, the number of NSLs issued without the certification necessary to create a nondisclosure obligation. • Types of electronic communications and transactional information obtained under § 2709, and the procedures DOJ used if content information is obtained.

Feasibility of Minimization Procedures:	•Not later than February 1, 2007, or upon completion of the 2003/2004 audit, the Attorney General and the Director of National Intelligence shall jointly submit a report on the feasibility of applying minimization procedures to protect the constitutional rights of U.S. persons.
	• Report goes to the House Judiciary Committee, the House Permanent Select Committee on Intelligence, the Senate Judiciary Committee, and the Senate Select Committee on Intelligence.

DELAYED NOTICE SEARCH WARRANTS

Sec. 114. Delayed Notice Search Warrants.

The section changes the procedural requirements for the warrants and increases the oversight of the delayed notice search warrants (18 U.S.C. § 3103a). A major change is the implementation of a 30 day notice requirement, as opposed to the former requirement of "within a reasonable period" of the warrant's execution.

Procedural Changes Related to Delayed Notice Search Warrants: In applicable cases, the FBI (through the U.S. Department of Justice trial attorney or Assistant United States Attorney) must provide the facts to a court to show there is "reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse effect." The showing will have to be updated for each extension.

Notification Delay	No more than **30 days** (or a later date certain if facts justify). •undue delay of trial is not a basis for a delayed notice.
Extensions of Delays	**90 days** (unless the facts justify longer)-- •granted upon an updated showing of the need for further delay.
Reporting	Annual reporting to Congress by Court (starting with the fiscal year ending September 30, 2007).

OTHER LAW ENFORCEMENT/CRIMINAL RELATED PROVISIONS

Sec. 104. Section 2332b and the Material Support Sections of Title 18, United States Code.

This section makes permanent the material support of terrorism provisions in section 6603 of the Intelligence Reform and Terrorism Prevent Act of 2004 (18 U.S.C. §§ 2332b and 2339B).

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 110. Attacks Against Railroad Carriers and Mass Transportation Systems.

This section merges wrecking trains (18 U.S.C. § 1992) and attacks on mass transit (18 U.S.C. § 1993) into one section - 18 U.S.C. § 1992. The new law expands the law to cover the planning for such attacks, so it is now a federal crime to surveil, photograph, videotape, diagram, or collect information as part of a plan for an attack.

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 111. Forfeiture.

This section expands the authorization to confiscate property located within the United States when it constitutes proceeds used in or derived from trafficking in nuclear, chemical, biological, or radiological weapons technology or material.

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 112. Section 2332b(g)(5)(B) Amendments Relating to the Definition of Federal Crime of Terrorism.

This section adds drug trafficking in support of terrorism (21 U.S.C. § 960A) and receiving foreign military-type training from a foreign terrorist organization (18 U.S.C. § 2339D) to the definition of federal crimes of terrorism (18 U.S.C. § 2332b(g)(5)(B)).

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 113. Amendments to Section 2516(1) of Title 18, United States Code (Title III).

This section adds 20 federal crimes related to terrorism to the list of predicate offenses that may be used as a basis to intercept wire, oral, or electronic communications (18 U.S.C. § 2516(1)). The new wiretap predicates include the following:

- 18 U.S.C. § 37 [violence at international airports]
- 18 U.S.C. § 43 [animal enterprise terrorism]
- 18 U.S.C. § 81 [arson within special maritime and territorial jurisdiction]
- 18 U.S.C. §§ 175, 175b, and 175c [biological agents]
- 18 U.S.C. § 832 [nuclear and weapons of mass destruction threats]
- 18 U.S.C. § 842 [explosive materials]
- 18 U.S.C. § 930 [possession of weapons in Federal facilities]
- 18 U.S.C. § 956 [conspiracy to harm persons or property overseas]
- 18 U.S.C. § 1028A [aggravated identity theft]
- 18 U.S.C. § 1114 [killing or attempted killing of Federal employees, including any member of the uniformed services]
- 18 U.S.C. §1116 [killing or attempted killing of certain foreign officials, including internationally protected persons]
- 18 U.S.C. § 1992 [attacks on mass transit]
- 18 U.S.C. § 2340A [torture]
- 18 U.S.C. § 2339 [harboring terrorists]
- 18 U.S.C. § 2339D [receiving military-type training from a foreign terrorist organization]
- 18 U.S.C. § 5324 [structuring transactions to evade reporting requirements]
- 49 U.S.C. §46504 [assault on a flight crew member with a dangerous weapon]
- 49 U.S.C. §46505(b)(3) or (c) [weapons offenses on board an aircraft]

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 122. Prohibition of Narco-Terrorism.

This section makes it a federal crime to engage in drug trafficking to benefit terrorism (amended the Controlled Substance Import and Export Act - 21 U.S.C. §§ 951 et seq.). To prove this crime, the evidence must show that a defendant had knowledge that the person or organization has engaged or is engaging in terrorism.

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 123. Interfering with the Operation of an Aircraft.

This section makes it a federal crime to interfere with or disable a pilot or navigation facility operator with the intent to danger or with reckless disregard for human safety (e.g., aiming lasers at pilots) (18 U.S.C. § 32).

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 124. Sense of Congress Relating to Lawful Political Activity.

Congress uses this section to express the sense of Congress that federal investigations should not be based solely upon an American citizen's membership in a non-violent political organization or their otherwise lawful political activity.

Procedural Changes: None at this time. All employees are reminded, however, that neither criminal nor national security investigations of U.S. persons may be predicated solely on the exercise of First Amendment rights.

Sec. 127. Sense of Congress.

Congress uses this section to express its sense that the victims of terrorist attacks should have access to the forfeited assets of terrorists under 18 U.S.C. § 981.

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

DATA-MINING ACTIVITIES

Sec. 126. Report on Data-Mining Activities.

This section requires the Attorney General to report to Congress on any Department of Justice (including the FBI) initiative that uses pattern-based data-mining or is developing pattern-based data-mining. Among several topics, the report is to explain how any pattern-based data-mining initiatives collect, review, gather, and analyze information, and how the initiatives will ensure the accuracy of information and protect the privacy and due process rights of individuals.

The statute defines pattern-based data-mining as follows in section 126(b)(1):

> (1) Data-Mining.——The term "data-mining" means a query or search or other analysis of one or more electronic databases, where——
>
> (A) at least one of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;
>
> (B) the search does not use personal identifiers of a specific individual or does not utilize inputs that appear on their face to identify or be associated with a specified individual to acquire information; and
>
> (C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

Procedural Changes:

FBI will participate in preparing the report.

TITLE II - TERRORISM DEATH PENALTY ENHANCEMENT

Among several provisions, this Title adjusts the Sentencing Guidelines to create a term of post-incarceration supervision in connection with a conviction for a federal terrorism crime for any term of years or for life and makes legal counsel available for death-penalty defendants.

Procedural Changes Related to the Terrorism Death Penalty Enhancement: None at this time.

TITLE III - REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS ACT of 2005

This Title strengthens statutes related to seaport and maritime safety. For example, the Title prohibits the maritime transportation of weapons of mass destruction for use in a federal terrorism crime (18 U.S.C. § 2283). Additionally, it prohibits the maritime transportation of terrorists (18 U.S.C. § 2284). The following highlights some of the new provisions in Title III.

Sec. 305. Transportation of Dangerous Materials and Terrorists.

This section makes it a federal crime to transport aboard a vessel an explosive, biological agent, chemical weapon, or radioactive or nuclear material with the intent that the material will be used to commit a federal crime of terrorism (as defined in 18 U.S.C. § 2332b(g)(5)(B)).

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 309. Bribery Affecting Port Security.

This section makes it a federal crime to give or take a bribe with the intent to commit international or domestic terrorism affecting port security.

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

Sec. 311. Smuggling Goods from the United States.

This creates a new federal crime for illegally smuggling goods from the United States.

Procedural Changes: None at this time. If necessary, additional guidance may be issued in the future.

TITLE IV - COMBATING TERRORISM FINANCING ACT of 2005.

The U.S. Department of Justice indicated that this Title carries forward the overall strategy to stop terrorist-financing by making several adjustments to criminal statutes. It accomplishes this goal by enhancing penalties for terrorism financing and prohibiting terrorism financing through informal money networks, including hawalas. Illegal money laundering transmissions (18 U.S.C. § 1960) are now predicates for racketeering (RICO predicate list at 18 U.S.C. § 1961(1). Terrorism financing (18 U.S.C. § 2339C) and the receipt of foreign military

training (18 U.S.C. § 2339D) are now added to the money laundering predicate offense list (18 U.S.C. § 1956(c)(7)(D)). Finally, the Title authorizes the U.S. to confiscate the U.S. property related to certain acts of international terrorism against a foreign government or international organization (18 U.S.C. § 981(a)(1)(G)).

TITLE V - MISCELLANEOUS.

The Title creates a U.S. Department of Justice National Security Division which will be headed by a statutory Assistant Attorney General.

Sec. 506. Department of Justice Intelligence Matters.

This new section establishes a National Security Division (NSD) within the DOJ, headed by an Assistant Attorney General for National Security (AAGNS). This reorganization of DOJ is consistent with a recommendation by the WMD Commission that the "Department of Justice's primary national security elements - the Office of Intelligence Policy and Review, and the Counterterrorism and Counterespionage sections - should be placed under a new Assistant Attorney General for National Security."

> On March 2, 2006, the U.S. Department of Justice stated the following:
> This reorganization would bring together under one umbrella the attorneys from the Criminal Division's Counterterrorism and Counterespionage Sections and the attorneys from the Office of Intelligence Policy and Review (OIPR), with their specialized expertise in the Foreign Intelligence Surveillance Act and other intelligence matters. The new Assistant Attorney General will thus have all three core national security components under his or her control. He or she will lead a dedicated team acting in concert to accomplish their shared mission of protecting the national security while simultaneously safeguarding Americans' civil liberties. The Assistant Attorney General will also serve as the Department's primary liaison to the new Director of National Intelligence, and the new Division will gather expertise from across the Department to create a focal point for providing advice on the numerous legal and policy issues raised by the Department's national security missions.

Procedural Changes: The new Division will contain the Office of Intelligence Policy and Review, the Counterterrorism Section and the Counterespionage sections. The FBI's working relationships with these components will continue as normal. If the U.S. Department of Justice issues specific guidance at a future date, the guidance will be communicated to the FBI.

TITLE VI - SECRET SERVICE AUTHORIZATION AND TECHNICAL MODIFICATION ACT OF 2005.

The Title confirms that the Secret Service is a distinct entity within the U.S. Department of Homeland Security (DHS). Among several provisions, the Title establishes a "rolling" no trespass zone for individuals under Secret Service protection. It also prohibits fraud in connections with U.S. identification documents issued for a presidentially designated nationally significant event.

Procedural Changes Related to the Secret Service Act: None at this time. If necessary, additional guidance may be issued in the future.

TITLE VII - COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005.

Congress meant to provide a comprehensive approach toward controlling the methamphetamine problem. This Title increases the regulation of domestic and international commercial transactions in methamphetamine precursor chemical and enhances the criminal sanctions for methamphetamine related crimes, including the smuggling and selling of methamphetamine. For example, the Title requires sale of products containing ephedrine, pseudoephedrine, and phenylpropanolamine be limited to a 3.6 grams per customer per day, and the products be available only "behind the counter" at sales locations.

Procedural Changes Related to the Combat Methamphetamine Epidemic Act of 2005: None at this time. If necessary, additional guidance may be issued in the future.

Questions and Additional Information:

The National Security Law Branch (202-324-[redacted] is available to answer questions about this legislation. In addition, materials relating to the new legislation will be posted on the NSLB FBI Intranet website, which can be found through the FBI Office of General Counsel website.

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LEAD(s):

Set Lead 1: (Action)

ALL RECEIVING OFFICES

Read and Clear

♦♦

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

[MR./MRS./MS.] [Complete name]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179 DMH/KSR/JW

1076786

Dear **[MR./MRS./MS.] [LAST NAME]**:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (Section 201 of the Electronic Communications Privacy Act of 1986) (as amended), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the name, address, and length of service with respect to the following email/IP account(s):

[provide either or both - 1) person(s) to whom the email/IP address(es) is/was registered and/or 2)the email/IP address(es)

[NAME OF PERSON(S)]

[E-mail/IP ADDRESS(ES)]

[ON A SPECIFIC DATE]

or

[FOR THE PERIOD FROM [SPECIFIC DATE] TO [SPECIFIC DATE]
or [PRESENT]]

If the time period noted above is to the "present," that term is intended to direct production of information to the date of the processing of this letter. If providing information to the date of processing is not feasible, please provide information to the date of receipt of this letter.

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.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement) then include the language in the following 3 paragraphs in the NSL.]

In accordance with 18 U.S.C. § 2709(c)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 18 U.S.C. § 2709(c)(1) and (2) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 18 U.S.C. § 2709(c)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 18 U.S.C. § 2709(c)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

[MR./MRS./MS] [COMPLETE NAME]

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(01/26/1998)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2007

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[SQUAD] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[SQUAD] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000)]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-07-2007

1076786

Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

(U) **Case ID #:** ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[AKA] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO:[OFFICE OF ORIGIN]

Synopsis: (U) (NSLESI) Approves the issuance of an Electronic Communication Privacy Act(ECPA) National Security Letter (NSL)for email subscriber information; provides reporting data; and, if

~~SECRET~~

(U)
To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

necessary, transmits the NSL for delivery to the electronic communications service provider.

(U) ~~(S)~~ ~~**Derived From: G-3**~~
~~**Declassify On: [10-25 years based on information in the EC]**~~

FULL/PRELIMINARY Investigation Instituted: ~~(S)~~ **[00/00/2007]**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosures: (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through a restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting the name, address, and length of service for the e-mail address holder(s) listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY]** **[INTERNATIONAL/FOREIGN COUNTERINTELLIGENCE]** investigation of the subject, a **[USPER/NON-USPER]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining an investigation of the subject; barebones facts will not suffice and will cause the request to be rejected for lack of legal sufficiency]**. This electronic subscriber information is being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on **[NUMBER OF]** **[e-mail/IP address(es)]** from **[ISP #1]**; **[NUMBER OF]** **[e-mail/IP address(es)]** from **[ISP #2]**, etc.

(U) Arrangements should be made with the electronic communication service provider to provide the records **[personally to an employee of the DELIVERING division** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The electronic communication service provider should neither send the

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2007]**

records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) (S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs]

(U) Information received from an electronic communications service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, with

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (~~S~~) **[CASE FILE NUMBER, 00/00/2007]**

respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD (s):

Set Lead 1:

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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3:

[DELIVERING DIVISION - fif using personal service]

AT [CITY, STATE]

(U) Deliver the enclosed NSL as indicated above. Upon receipt of the information requested, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

NSLB: National Security Letters (NSLs)

[redacted]

b2

Model ECs and NSLs (as of 5/2/2007)

1. Telephone Subscriber EC (wpd)
2. Telephone Subscriber NSL (wpd)
3. Toll Record EC (wpd)
4. Toll Record NSL (wpd)
5. E-Mail Subscriber EC (wpd)
6. E-Mail Subscriber NSL (wpd)
7. Transactional Record EC (wpd)
8. Transactional Record NSL (wpd)
9. RFPA EC (wpd)
10. RFPA NSL (wpd)
11. 1681u(a) EC (wpd)
12. 1681u(a) NSL (wpd)
13. 1681u(b) EC (wpd)
14. 1681u(b) NSL (wpd)
15. 1681u(a) and (b) combination EC (wpd)
16. 1681u(a) and (b) combination NSL (wpd)
17. 1681v EC full credit report / IT investigation only (wpd)
18. 1681v NSL full credit report / IT investigation only (wpd)
19. NSL Delegation EC approved by Director (wpd)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179 DMH/KSR/JW

1076786

NATIONAL SECURITY LETTERS (UPDATED 3/9/2007)

National Security letters are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention:

1. Under the Electronic Communications Privacy Act, 18 U.S.C. §2709, the FBI can obtain telephone and email communication records from telephone companies and internet service providers.
2. Under the Right to Financial Privacy Act, 12 U.S.C.§3414(a)(5)(A), the FBI can obtain the records of financial institutions (which is very

b2

[redacted]

Contacts

Contacts (all)

- Credit Bureaus
- Financial Institutions
- Internet Service Providers
- Telephone Companies
- Field Office POCs (doc)

Resources

Determining

[redacted]

b2
b7E

Issue Spotting Checklist (doc)

broadly defined).

3. Under the Fair Credit Reporting Act, 15 U.S.C.§§1681u(a) and (b), the FBI can obtain a list of financial institutions and consumer identifying information from a credit reporting company.
4. Under the Fair Credit Reporting Act, 15 U.S.C. §1681v, the FBI can obtain a full credit report in an international terrorism case. This provision was created by the 2001 USA Patriot Act.

b5

The standard for issuing an NSL is relevance to an authorized investigation to protect against international terrorism or clandestine intelligence activities provided that such an investigation of a

b2

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: OIG - EXIGENT LETTERS - 2005 - 1

Federal Bureau of Investigation

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

OIG'S PATRIOT ACT REVIEW

DOCUMENT REQUEST: DOJ-OIG REQUEST of JULY 17, 2006

SUBJECT: ***COPIES OF ALL "EXIGENT LETTERS" ISSUED DURING THE PERIOD CY 2003-2005***

(2005 EXIGENT LETTERS

FBI TRACKING # : OIG REQ-PAR (07-17-06) - ITEM #6

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PACKET: #4

(JULY 31, 2006)

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01 [redacted]

1/3/05

b2

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
January 5, 2005

[redacted]

Attn: [redacted]

RE: Special Project / SSA [redacted]

Dear [redacted]

b4
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b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

b6
b7C

[redacted]

Supervisory Special Agent

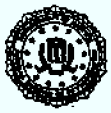
U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

0[redacted]
1/4/05

b2



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

December 27, 2004

[redacted]

Attention [redacted]

Re: Special Project / SSA [redacted]

Dear [redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted]
Unit Chief
Communications Analysis Unit

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

b6
b7C

By: [redacted]
Supervisory Special Agent

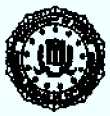
For the following telephone numbers:

[redacted]

b6
b7C
b7D

CAU [redacted] tsk [redacted]
Q [redacted]

b2



U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 12, 2005

[redacted]

Attn [redacted]

RE: Special Project /

Dear [redacted]

b4
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b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

By: [redacted]

b6
b7C

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 14, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU [redacted]

Dear [redacted]

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Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

[redacted]

By: [redacted]

Supervisory Special Agent

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
January 13, 2005

Attn:

RE: Special Project / SSA

Dea

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Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

Unit Chief
Communications Analysis Group

b6
b7C

By:
SSA

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 14, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU [redacted] Task [redacted]

Dear [redacted]

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Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

By: [redacted]

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 14, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU [redacted]

Dear [redacted]

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Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

b6
b7C

By: [redacted]

Supervisory Special Agent

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 19, 2005

[redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Attn [redacted]

RE: Special Project /

Dear [redacted]

b4
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b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally t[redacted] as expeditiously as possible.

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

b6
b7C

[redacted]

By: [redacted]

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4315
January 14, 2005

[redacted]

Attention: [redacted] RE: Special Project / IA [redacted]

Dear Sir:

Due to exigent circumstances, it is requested that call detail records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

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Additionally, please provide [redacted] for the telephone numbers in the attached list.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]
Unit Chief
Communications Analysis Unit

b6
b7C

By: [redacted]
Intelligence Analyst

U.S. Department of Justice
Federal Bureau of Investigation

Call detail and [redacted] for the following telephone number:

[redacted]

b2
b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944

January 21, 2005

[redacted]

Attn: [redacted]

RE: Special Project / SSA [redacted]

Dea [redacted]

Due to exigent circumstances, it is requested that
b4 records for the attached list of telephone numbers be provided.
b6 Subpoenas requesting this information have been submitted to the
b7C U.S. Attorney's Office who will process and serve them formally
b7D to [redacted] as expeditiously as possible.

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

[redacted]

By:
SSA [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

[redacted]

b6
b7C
b7D

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

January 21, 2005

[redacted]

Attention [redacted]

Re: Special Projects / SSA [redacted]

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b7D

Dear Sir:

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. A subpoena requesting this information has been submitted to the United States Attorney's Office (USAO). The request will be processed and served formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted] Unit Chief
Communications Analysis Unit

[redacted]

b6
b7C

By: [redacted]
Supervisory Special Agent

b4
b6
b7C
b7D

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

January 18, 2005

[redacted]

Attention: [redacted]

Re: Special Project / SSA [redacted]

Dear [redacted]

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b7C
b7D

Due to exigent circumstances, it is requested that records for the telephone number listed below. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

[redacted]
Unit Chief
Communications Analysis Unit

b6
b7C

By: [redacted]
Supervisory Special Agent

[redacted]

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 25, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU [redacted]

Dear [redacted]

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Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

b6
b7C

[redacted]
Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 21, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU [redacted]

Dear [redacted]

b4
b6
b7C
b7D
b2

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

b6
b7C

By: [redacted]

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

January 25, 2005

[redacted]

Attention: [redacted]

Re: Special Project / SSA [redacted]

Dear [redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

[redacted]
Unit Chief
Communications Analysis Unit

b6
b7C

By: [redacted]
Supervisory Special Agent

For the following U.S. numbers:

[redacted]

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
January 26, 2005

[redacted]

Attn [redacted]

RE: Special Project / SSA [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

b6
b7C

[redacted]

By: SSA

Supervisory Special Agent

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 24, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

[redacted]

By:

[redacted]

Supervisory Special Agent

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 25, 2005

[redacted]

Attn: [redacted]

RE: Special Project /

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

b6
b7C

By:

[redacted]

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 26, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU [redacted] TASK [redacted]

Dear [redacted]

b4
b6
b7C
b7D
b2

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

By: [redacted]

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

January 28, 2005

[redacted]

Attn: [redacted]

RE: Special Project / CAU [redacted] TASK [redacted]

Dear [redacted]

b4
b6
b7C
b7D
b2

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

By: [redacted]

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4315
February 2, 2005

[redacted]

Attn: [redacted]

RE: Special Project / SSA [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

b6
b7C

[redacted]

SSA

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

[redacted]

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
February 2, 2005

[redacted]

Attn: [redacted]

RE: Special Project / SSA [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

[redacted]

By: [redacted]
SSA

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone number:

b6
b7C
b7D

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

February 3, 2005

[redacted]

Attention: [redacted]

Re: Special Project / SSA [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

[redacted]
Unit Chief
Communications Analysis Unit

b6
b7C

By: [redacted]
Supervisory Special Agent

For the following U.S. numbers:

[redacted]

b6
b7C
b7D

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

February 9, 2005

[redacted]

Attention: [redacted]

Re: Special Project / SSA [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

[redacted]
Unit Chief
Communications Analysis Unit

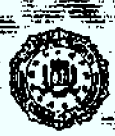
b6
b7C

By: [redacted]
Supervisory Special Agent

For the following U.S. numbers:

[redacted]

b6
b7C
b7D



U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4315
February 4, 2005

[redacted]

Attn: [redacted]

RE: Special Project / SSA [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

b6
b7C

[redacted]

By:
SSA

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

[redacted]

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

February 04, 2005

[redacted]

Attn: [redacted]

RE: Special Project [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

b6
b7C

[redacted]

By:

[redacted]

Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

[redacted]

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535

February 04, 2005

[redacted]

Attn: [redacted]

RE: Special Project [redacted]

Dear [redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

By: [redacted]
Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4315
February 4, 2005

[redacted]

Attn: [redacted]

RE: Special Project / SSA [redacted]

Dear [redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted]

Unit Chief
Communications Analysis Group

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

SSA

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

[redacted]

b6
b7C
b7D

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4315
August 3, 2004

[redacted]

Dear [redacted]

Due to exigent circumstances, it is requested that call detail records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D
b2

Additionally, please provide [redacted] for the telephone numbers in the attached list.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

b6
b7C

[redacted]
Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

Call detail and [redacted] for the following telephone numbers:

b2
b6
b7C
b7D

[redacted]

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

February 10, 2005

[redacted]

Attention: [redacted]

Re: Special Project / SSA [redacted]

Dear [redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

[redacted]

b6
b7C

Unit Chief
Communications Analysis Unit

By: [redacted]

Supervisory Special Agent

For the following U.S. numbers:

b6
b7C
b7D

[redacted]

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4315

February 10, 2005

[redacted]

Dear [redacted]

Due to exigent circumstances, it is requested that call detail records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D
b2

Additionally, please provide [redacted] for the telephone numbers in the attached list.

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

[redacted]

Supervisory Special Agent

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/DMH/KSR/RW

U.S. Department of Justice
Federal Bureau of Investigation

Call detail and [redacted] for the following telephone numbers:

[redacted]

b2
b6
b7C
b7D

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: OIG- EXIGENT LETTERS - 2003 - 2

Federal Bureau of Investigation

OIG'S PATRIOT ACT REVIEW

DOCUMENT REQUEST: DOJ-OIG REQUEST of JULY 17, 2006

SUBJECT: ***COPIES OF ALL "EXIGENT LETTERS" ISSUED DURING THE PERIOD CY 2003-2005***

(2003 EXIGENT LETTERS [redacted] b4 b7D

FBI TRACKING # : OIG REQ-PAR (07-17-06) - ITEM #6

PACKET: #5

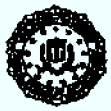
(JULY 31, 2006)

DATE	TYPE of DOCUMENT	SUBJECT	TOTAL PAGES	BATES STAMP #s
03/11/03-12/18/06	LETTERS	2003 EXIGENT LETTERS [redacted] b4 b7D	163	354-516
TOTAL PAGES			***163***	

#6 b4 b7D

[redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
(S) File No. CAU b2

b1
b2
b7E

FBIHQ
935 Pennsylvania Avenue N.W.
Washington, DC 20535
Room 4944
March 28, 2003

b4
b6
b7C
b7D

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b7D
b6
b7C

Due to exigent circumstances, it is requested that toll records for the preceding 18 months for the referenced telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to as expeditiously as possible.

b4
b7D
b6
b7C

Your assistance in this matter is greatly appreciated.

Sincerely,
Larry A. Mefford
Assistant Director in Charge

b6
b7C

BY:
Supervisory Special Agent

SECRET

b2

U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

FBIHQ
935 Pennsylvania Avenue N.W.
Washington, DC 20535
Room 4944
March 23, 2003

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

[redacted]

b4
b6
b7C
b7D

RE: Special Project / [redacted]

[redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the below listed telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Your assistance in this matter is greatly appreciated.

Sincerely,
Larry A. Mefford
Assistant Director in Charge

[redacted]

b6
b7C

BY: [redacted]
Supervisory Special Agent

(S)

[redacted] [redacted] b1 b2 b7E

[redacted] b4 b6 b7C b7D

RE: Special Project/SA [redacted] /Det. [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

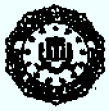
[redacted] b2 b7E b6 b7C

BY: [redacted]
Supervisory Special Agent

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

b2



U.S. Department of Justice

Federal Bureau of Investigation

b1
b2
b7E

(S) In Reply, Please Refer to
File No. [redacted]

b2 CAU * [redacted]

FBIHQ
935 Pennsylvania Avenue N.W.
Washington, DC 20535
Room 4944
March 28, 2003

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

b4
b6
b7C
b7D

[redacted]

b7D
b6
b7C

(S) [redacted]

Due to exigent circumstances, it is requested that toll records for the preceding 18 months for the referenced telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally t[redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Your assistance in this matter is greatly appreciated.

Sincerely,
Larry A. Mefford
Assistant Director in Charge

[redacted]

b6
b7C

BY: [redacted]
Supervisory Special Agent

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[redacted] b2 b7E

(S) [redacted] [redacted] b1 b2 b7E

[redacted] b4 b6 b7C b7D

RE: Special Project/SA [redacted] /Det. [redacted]

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b2 b7E b6 b7C

BY: [redacted]
Supervisory Special Agent

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

FBIHQ
935 Pennsylvania Avenue N.W.
Washington, DC 20535
Room 4944

For the following telephone numbers:

[redacted]

b7D
b6
b7C

b2
b7E1

(S)

b1
b2
b7E

b4
b6
b7C
b7D

RE: Special Project/SA

b6
b7C

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

b2
b7E
b6
b7C

BY:
Supervisory Special Agent

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[redacted]

mh/ksr/cak

b4
b7D
b6
b7C
b2
b7E

MAR-19-2003 14:56 FBI [redacted]

SECRET

[redacted] b2 b7E

DATE: 06-30-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-30-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(S) [redacted] [redacted] b1 b2 b7E

[redacted] b4 b6 b7C b7D

RE: Special Project/SA [redacted]

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U. S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b2 b7E b6 b7C

By: [redacted]
Supervisory Special Agent

SECRET

/cak

b4
b7D
b6
b7C
b2
b7E

b2
b7E

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

(S)

b1
b2
b7E

b4 ALL INFORMATION CONTAINED
b6 HEREIN IS UNCLASSIFIED EXCEPT
b7C WHERE SHOWN OTHERWISE
b7D

RE: Special Project/SA

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

b2
b7E
b6
b7C

BY:
Supervisory Special Agent

 b2 b7E

/ksr/cak

b4
b7D
b6
b7C
b2
b7E

b2

U.S. Department of Justice

Federal Bureau of Investigation

(S) In Reply, File No. [redacted]

b1
b2
b7E

FBIHQ
935 Pennsylvania Avenue N.W.
Washington D.C. 20353
Room 4944
March 14, 2003

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

b4
b6
b7C
b7D

[redacted]

b7D
b6
b7C

RE [redacted]

[redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Due to exigent circumstances, it is requested that preceding 18 months of toll records for the referenced telephone number be provided. A subpoena requesting this information has been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Your assistance in this matter is greatly appreciated.

Sincerely,

Larry A. Mefford
As[redacted]nt Director in Charge

[redacted]

b6
b7C

By: [redacted]
Supervisory Special Agent

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

b2

U.S. Department of Justice

Federal Bureau of Investigation

(S) In Reply, Please Refer to
File No. [redacted]

b1 FBIHQ
b2 935 Pennsylvania Avenue N.W.
b7E Washington D.C. 20353
Room 4944
March 11, 2003

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

b4
b6
b7C
b7D

[redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

RE: [redacted]

[redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that preceding 18 months of toll records for the referenced telephone number be provided. A subpoena requesting this information has been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Your assistance is this matter is greatly appreciated.

Sincerely,

Larry A. Mefford
Assistant Director in Charge

[redacted]

b6
b7C

By: [redacted]
Supervisory Special Agent

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

X

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

b2

U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

FBIHQ
935 Pennsylvania Avenue N.W.
Washington, DC 20535
Room 4944
April 3, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / [redacted]

b6
b7C

[redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the below listed telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Your assistance in this matter is greatly appreciated.

Sincerely,
Larry A. Mefford
Assistant Director in Charge

[redacted]

b6
b7C

BY: [redacted]
Supervisory Special Agent

X

b2

FBIHQ
935 Pennsylvania Avenue N.W.
Washington, DC 20535
Room 4944

For the following telephone numbers:

[redacted]

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 28, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

By: [redacted]
(Signature)

[redacted]
(Print Name)

[redacted]
(Title)

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
Date: 5 / 27 / 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

b6
b7C

By: [redacted]
(Signature)

[redacted]
(Print Name)

[redacted]
(Title)

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 27, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C
Unit Chief
Communications Analysis Group

[redacted]

By: [redacted]
Supervisory Special Agent

X

b6
b7C
b7D

For the following telephone numbers:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 23, 2003

b4
b6
b7C
b7D

RE: Special Project /

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to as expeditiously as possible.

Sincerely,

b6
b7C

Unit Chief
Communications Analysis Group

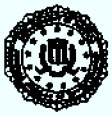
By:
Supervisory Special Agent

For the following telephone numbers:

[redacted]

b7D
b6
b7C

SECRET



U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.
(S) Enter Case Number [redacted]

b1
b2
b7E

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 22, 2003

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[redacted]

b4
b6
b7C
b7D

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

RE: Special Project / [redacted]

b6
b7C

[redacted]

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

[redacted]

By: [redacted]
Supervisory Special Agent

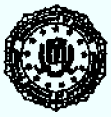
SECRET

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

[redacted]

b7D
b6
b7C



U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.
Enter Case Number

b1
b2
b7E

(S)

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 22, 2003

DATE: 06-26-2007
CLASSIFIED BY 65179dmh/ksr/maj
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

b4
b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

RE: Special Project /

b6
b7C

b4
b6
b7C
b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to as expeditiously as possible.

Sincerely,

b6
b7C

Unit Chief
Communications Analysis Group

By:
Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b7D
b6
b7C

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No. [redacted] b2 b6 b7C

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 22, 2003

[redacted] b4 b6 b7C b7D

RE: Special Project / [redacted] b6 b7C

[redacted] b4 b6 b7C b7D

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group

b6 b7C

By: [redacted]
Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

[redacted]

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.
Enter Case Number

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 22, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C
Unit Chief
Communications Analysis Group

[redacted] b6 b7C

By: [redacted]
Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.
Enter Case Number

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 22, 2003

b4
b6
b7C
b7D

[redacted]

RE: Special Project / [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted] b6 b7C
Unit Chief
Communications Analysis Group

[redacted] b6 b7C
By: [redacted]
Supervisory Special Agent

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.
Enter Case Number

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 20, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted]
Unit Chief
Communications Analysis Group b6 b7C

[redacted]

By: [redacted]
IOS

For the following telephone numbers:

[redacted]

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.
Enter Case Number

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 20, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C
Unit Chief
Communications Analysis Group

[redacted] b6 b7C

By: [redacted]
Supervisory Special Agent

X

For the following telephone numbers:

b7D
b6
b7C

b4
b6
b7C
b7D

Thanks for your help

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
May 14, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / SSA [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C
Unit Chief
Communications Analysis Group

[redacted] b6 b7C

By: [redacted]
Supervisory Special Agent

X

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
June 27, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / SSA [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b5 b6 b7C b7D

Sincerely,

[redacted] b6 b7C
Unit Chief
Communications Analysis Group

[redacted] b6 b7C

By: [redacted]
Supervisory Special Agent

For the following telephone numbers:

[redacted]

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
June 20, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / SSA [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C

Unit Chief
Communications Analysis Group

[redacted] b6 b7C

By: [redacted]
Supervisory Special Agent

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
June 20, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / SSA [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C

Unit Chief
Communications Analysis Group

[redacted] b6 b7C

By: [redacted]
Supervisory Special Agent

X

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
Date: 6 / 6 / 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

By: [redacted]
(Signature)

b6
b7C

[redacted]
(Print Name)

[redacted]
(Title)

U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers:

b7D
b6
b7C

DATE: 06-30-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-30-2032

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

(S) ❶ [redacted] b1 b2 b7E

❷ [redacted]
❸ [redacted]

DATE: 06 / 06/2003

[redacted] b4 b6 b7C b7D

RE: Special Project / ❹ SA [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C
(PRINT NAME)

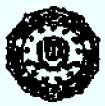
[redacted]
(Signature)

SA
(TITLE)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

SECRET

X



U.S. Department of Justice
Federal Bureau of Investigation

For the following telephone numbers: [redacted]

b7D
b6
b7C

thanks!

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
June 5, 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project / [redacted] b6 b7C

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible. b4 b6 b7C b7D

Sincerely,

[redacted] b6 b7C
Unit Chief
Communications Analysis Group

[redacted]

b6
b7C

By: [redacted]
Supervisory Special Agent

X

For the following telephone numbers:

b7D
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2007 BY 65179/dmh/ksr/cak

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.

FBIHQ
935 Pennsylvania Avenue NW
Washington, DC 20535
Room 4944
Date: 7 / 30 / 2003

[redacted]

b4
b6
b7C
b7D

RE: Special Project

[redacted]

Due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided. Subpoenas requesting this information have been submitted to the U.S. Attorney's Office who will process and serve them formally to [redacted] as expeditiously as possible.

b4
b6
b7C
b7D

Sincerely,

[redacted]

b6
b7C

Unit Chief
Communications Analysis Group

By: [redacted]
(Signature)

[redacted]
(Print Name)

Unit Chief
(Title)

b6
b7C

Faxed

For the following telephone numbers:

[redacted]

b7D
b6
b7C

United States person is not conducted solely on the basis of activities protected by the First Amendment of the Constitution of the United States. (The 1681v NSL standard is slightly different to reflect that it applies only to international terrorism investigations.) Prior to the 2001 USA PATRIOT Act, the standard for issuance of an NSL was that the target or the communication was tied to a foreign power.

b5

A request for an NSL has two parts. One is the NSL itself, and one is the EC approving issuance of the NSL. The authority to sign NSLs has been delegated to the Deputy Director, Executive Assistant Director and Assistant EAD for the National Security Branch; Assistant Directors and all DADs for CT/CI/Cyber; General Counsel; Deputy General Counsel for the National Security Law Branch; Assistant Directors in Charge in NY, D.C., and LA; and all SACs. The authority to certify and recertify the non-disclosure requirement of NSLs has also been delegated to those same persons. Persons acting in those capacities may not exercise such signature, certification or recertification authority.

THE NSL

All NSLs must be addressed to the specific company point of contact (many of which are listed on NSLB's website). All NSLs should identify the statutory authority for the request, the type of records requested, and provide identifying information to assist the company in processing the request. One change has been made to the opening paragraph; recipients are now "DIRECTED" to produce the information rather than simply "requested."

All NSLs require a certification that the records

sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities and that an investigation of a USP is not conducted solely on the basis of First Amendment rights (with the 1681v NSL certification being slightly different to reflect its application only to international terrorism investigations).

The major recent change in the format of the NSL derives from the newly enacted USA PATRIOT Improvement and Reauthorization Act of 2005 (2005 USA PATRIOT Act). The non-disclosure provision is no longer automatically included in the NSL. If the requesting party seeks to have a non-disclosure provision included in the NSL, there needs to be a certification in the NSL that the disclosure may endanger national security, interfere with a criminal, counter terrorism, or counterintelligence investigation, or interfere with diplomatic relations or endanger a life. Once the certification is made, the recipient is under an obligation not to disclose the fact of the request to anyone except those in the company that have a need to know and to legal counsel, if necessary. Further, as to those NSL which contain a non-disclosure provision, the NSL recipient is informed that he must convey the non-disclosure requirement to persons who have such a need to know, and that, if asked, he must inform the FBI of the names of those persons. In addition, the NSL recipient is informed that he may challenge that non-disclosure provision. In all NSLs, the recipient is informed of his right to challenge the NSL itself if compliance would be unreasonable, oppressive or otherwise unlawful, as well as the right of the FBI to enforce the NSL, including the non-disclosure provision, if there is one. The recipient is also informed that he may return the information to the FBI via federal express, secure fax, or personal delivery but not via regular mail or non-secure fax.

b5

NEW LANGUAGE OF THE MODEL NSLS

b2

The following is the new language that you will now see in model NSLs. The first three paragraphs are optional, to be used if there is a need for non-disclosure.

> *In accordance with [cite to pertinent statute], I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counter terrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 18 U.S.C. § 2709(c)(1) and (2) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.*
>
> *In accordance with [cite to pertinent statute], you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.*
>
> *In accordance with [cite to pertinent statute], if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this request.*
>
> *In accordance with [cite to pertinent statute], you have a right to challenge this request if compliance would be unreasonable, oppressive, or otherwise unlawful and the right to challenge the nondisclosure requirement set forth above.*
>
> *In accordance with [cite to pertinent*

statute], an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

COVER EC

The cover EC serves five functions.

1. It documents the predication for the NSL by stating why the information sought is relevant to an authorized investigation,
2. It documents the approval of the NSL by appropriate personnel,
3. It documents certification of the necessity for non-disclosure, when applicable,
4. It contains information needed to fulfill Congressional reporting requirements for each type of NSL (subject's USP status, type of NSL issued, and the number of phone numbers, email addresses, account numbers or individual records being requested in the NSL), and
5. It transmits the NSL to NSLB for reporting requirements, to CTD, CD, or Cyber for informational purposes, and, in the case of personal service, to the requesting squad or delivering field division for delivery.

The EC must reference an investigative case file, and not a control file, to which the information sought is relevant. See EC dated 2/23/2007, Guidance on the Reference of Investigative Case File Number in NSL-authorizing EC, 319X-HQ-A1487720-OGC, serial 326. The EC does not need to reference an NSLB file any longer. However, there must be a lead to NSLB, for informational and reporting purposes, and a lead to the relevant HQ operational unit, (CTD, CD, Cyber), for informational purposes. There does not need to be a hard copy of the EC or NSL sent to NSLB or the relevant HQ operational unit.

The requirement for certification for the need for a non-disclosure provision is the major change in the format of the EC. It derives from the USA PATRIOT Improvement and Reauthorization Act of 2005 in that the requesting party must affirmatively take steps to have a non-disclosure provision included in the NSL; it is not automatic anymore. If a non-disclosure provision is sought, the EC must set forth a factual predicate to require such a provision.

As a general matter, the certification must assert that disclosure may endanger national security, interfere with a criminal, counter terrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. More specifically, the manner in which those dangers may arise from disclosure of the issuance of an NSL could include:

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11. [redacted]

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12. [redacted]

13. [redacted]

This is not an exclusive list. Therefore, if there are other reasons for requesting a non-disclosure provision, those reasons should be set forth in the EC.

NEW LANGUAGE OF THE MODEL ECS

The following is the new language that you will now see in model ECs.

[Option 1 - Invoking Nondisclosure Requirement]

> *(U) In accordance with [cite to pertinent statute] I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counter terrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.*
>
> *(S) Brief statement of the facts justifying my certification in this case:*

[Option 2 - Declining to invoke the nondisclosure requirement]

> *(U) I, the senior official approving this*

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[redacted]

EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

VARIOUS GUIDANCES

Attached are guidances that relates to NSLs.

1. EC dated 5/27/2005, 319X-HQ-A1487720-OGC, serial 20, which authorizes the use of return dates.
2. EC dated 6/29/2005, 319X-HQ-A1487720-OGC, serial 24, which relates to use of restricted delivery services to serve NSLs.
3. EC dated 3/20/2006, 319X-HQ-A1487720-OGC, serial 213, which permits the FBI to serve NSLs by non-secure fax under certain conditions.
4. EC dated 4/11/2006, 319X-HQ-A1487720-OGC, serial 222, which relates to the FBI's reimbursement policy for NSLs.
5. EC dated 3/09/2006, 319X-HQ-A1487720-OGC, serial 210, which delegated NSL approval and certification authority.
6. EC dated 3/09/2007, 319X-HQ-A1487699-RMD, serial 17, which created the NSL "document type" in ACS.
7. NSL powerpoint, which include a summary of NSL information.
8. EC dated 4/4/2007, 319X-HQ-A1487720-OGC, Procedures for Redacting NSL Results

The relevant delegation of signature authority EC is the one issued on 3/09/2006, set forth above. This encompasses all signature delegations and takes precedent over all of the other delegations (and supercedes some). So please look to it to determine who has authority to sign NSLs. The EC dated 3/09/2006 also provides for delegation of the authority to certify that the non-disclosure provision is necessary with respect to a given NSL. Further, this delegation also provides authority with respect to the ability to recertify the need for non-disclosure were the non-disclosure to be challenged a year or more after service of the NSL. As has been DOJ policy for quite some time, a person in an acting position does not have the authority to sign NSLs. It follows that those in an acting position do not have authority to certify or recertify the non-disclosure provision, either. Although the

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3/09/2006 delegation contains all the relevant NSL delegations, it is not referenced in the model EC. This is a change from the previous model ECs.

If you need to view the statutory authority for these NSLs, copies of the ECPA, RFPA, and FCRA statutes can be found on the OGC main library website. In addition, the 2001 and 2005 Patriot Acts are also on the OGC main library website.

APPROVAL STANDARD FOR NSLS

NSLs are reviewed by CDCs at the field office level. At headquarters, they are reviewed by NSLB. At all levels, they must meet the legal standards set forth above, namely relevance to an authorized national security investigation. [redacted] Otherwise, any target with a telephone or a bank account is subject to an NSL. And that is not the standard for issuance of an NSL. The model EC now states that a full recitation of the reason for initiating and maintaining the investigation is necessary in order to justify an NSL. The reason is common sensical - there can be no reason to issue an NSL if the subject matter or issue to which it supposedly relates is not worthy of investigation or if the investigation is based solely on the exercise of First Amendment rights. [redacted] In other words, in order for an NSL to meet the legal standard set forth in the statutes, the reviewing party has to assure that there is a proper reason for investigating the target and not an improper reason, for instance, exercising First Amendment rights..

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Moreover, the legal review that is done by the CDCs is consistent with the factual review that should be done by SACs in certifying that the NSL is relevant to an authorized national security investigation and that the investigation is not based on the exercise of First Amendment rights by a U.S.P. An SAC can no more make the required certification than the CDC can make the required legal review if presented only with barebones information of the existence of an investigation and a target's telephone or bank account. Thus, the recitation of facts about the reason for initiating and maintaining an investigation serves to support

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both the SAC certification and the CDC legal review.

Thus, approval of an NSL needs to include a review of why the FBI is conducting the investigation. The fact that there is no legal review of the opening of an investigation does not preclude review of the reason for the investigation in the course of determining whether an NSL request meets the legal standard of the NSL statute.

NO EXIGENT LETTERS

The practice of using exigent letters to obtain NSL-type information prior to issuance of an NSL has been prohibited. See EC dated 3/1/2007, Telephone Inquiries; Emergency Disclosure Provision, 319X-HQ-A1487720-OGC, Serial 331. Instead, in emergency circumstances, a letter under 18 U.S.C. 2702 (which letters are also sometimes called "exigent letters" by the field but they differ from those that have been used at HQ because they do in fact reference 2702 and thus are acceptable) may be issued. The letter, a sample of which is attached to the above-referenced EC, describes the circumstances of the emergency and requests that the recipient make a determination that in fact "an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information." 18 U.S.C. § 2702(b)(8) and (c)(4). Both content and customer records are available under this statute. The disclosure does not need to be followed by legal process, although some recipients may require such process, and a promise in advance, in order to release the records.

REPORTING REQUIREMENTS

NSLB is required to report information about its NSL usage to Congress. Therefore, it is crucial that the portion of the EC that addresses reporting requirements is accurately addressed. While an EC may cover more than one target, more than one account, and more than one recipient, when all of the requests are related, the EC must break down the number of targeted phone numbers/email accounts/financial accounts that are addressed to each and every NSL recipient. Therefore, if there are three targets, ten accounts, and six recipients of an NSL, then the EC must state how many accounts are the subject of the NSL to recipient 1, to recipient 2, etc. It is not sufficient to tell NSLB that there are ten accounts and six recipients.

In addition, under the 2005 USA PATRIOT ACT, we must now report the USP status of the subject of the NSL request (as opposed to the target of the investigation to which the NSL is relevant). While the subject is often the target of the investigation, that may not always be the case. So the EC must reflect the USP status is of the subject of the request - the person whose information we are obtaining. If we are obtaining information about more than one person, the EC must reflect the USP status of each of those persons. (See the form ECs, which make clear that the USP status applies to the subject(s) of the request for information.)

Also, to make sure that NSLB is reporting the correct type of information that is being sought, please be sure that the EC is consistent as to the type of information that is being sought. Keep in mind that when asking for toll billing records or for transactional records, the information produced will include subscriber information. Thus, in that case, the EC need only state the request is for toll billing records or transactional records, and the reporting paragraph should be consistent and state that toll billing or transactional records are being sought for x number of accounts, and, if multiple recipients, from each of recipients #1, #2, etc.

DISSEMINATION OF NSL MATERIAL

Information obtained through the use of an NSL may be disseminated in accordance with general standards set forth in The Attorney General's Guidelines for FBI National Security Investigation and Foreign Intelligence Collection (NSIG). Dissemination is further subject to specific statutory limitations (e.g., toll record NSL statute, ECPA, 18 U.S.C. §2709, and financial record NSL statute, RFPA, 12 U.S.C. §3414(a)(5)(B), permit dissemination if per NSIG and information is clearly relevant to responsibilities of recipient agency; limited credit information NSL statute, FCRA, 15 U.S.C. §1681u, permits dissemination to other federal agencies as may be necessary for the approval or conduct of an FCI investigation; no special statutory rules for dissemination under full credit report NSL statute, FCRA, 15 U.S.C. §1681v).

Although the requesting EC is generally classified because it provides reasons for the investigation and the need for the NSL, the NSLs themselves are not classified, nor is the material received in return from NSLs classified. That information may be used in criminal proceedings without any declassification

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POCS FOR NSL RECIPIENTS

Attached also please find a list of the names and addresses of appropriate offices/persons to whom NSLs should be addressed.

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Since OGC generally does not have contact with these entities, we rely on the field to let us know when these points of contact are outdated or when new entities come into play for which POCs would be useful . So please let us know when you run across POC information that headquarters and other field offices might find useful.

FINANCIAL INSTITUTION NSLS

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Until such time as the standard RFPA NSL has been amended to reflect the above, if you run into this problem with a financial institution, please contact your CDC or NSLB.

MISCELLANEOUS

If you come across useful information on other NSL-related topics, please email or call [redacted] of NSLB (202-324[redacted] and we will add it to this website. Further, if there are modifications or additions to our Point of Contact listings, please notify [redacted] of NSLB.

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Last modified at 05/03/2007 06:54 AM

USER TIPS LEGAL NOTICE

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

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

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

1076786

Dear **[MR./MRS./MS.] [LAST NAME]**:

Pursuant to Executive Order 12333, dated December 4, 1981, and 15 U.S.C. § 1681v of the Fair Credit Reporting Act (as amended), you are hereby directed to provide the Federal Bureau of Investigation (FBI) with a copy of a consumer credit report and all other information contained in your files for the below-listed consumer(s):

NAME(S):

ADDRESS(ES): **[if available]**

DATE(S) OF BIRTH: **[if available]**

SOCIAL SECURITY NUMBER(S): **[if available]**

In accordance with Title 15, U.S.C. § 1681v, I certify that the information sought is necessary to conduct an authorized investigation of, or intelligence or counterintelligence activities or analysis related to, international terrorism.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 15 U.S.C. § 1681v(c)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 15 U.S.C. §

[MR./MRS./MS.] [COMPLETE NAME]

1681v(c)(1) and (3) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 15 U.S.C. § 1681v(c)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 15 U.S.C. § 1681v(c)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

[MR./MRS./MS.] [COMPLETE NAME]

Your cooperation in this matter is appreciated.

Sincerely,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/ SPECIAL AGENT IN CHARGE]

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

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

DEAR [MR./MRS./MS.] [LAST NAME]:

1076786

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 15, United States Code (U.S.C.), Section 1681u(b) (the Fair Credit Reporting Act, as amended), you are hereby directed to provide the Federal Bureau of Investigation (FBI) the names, address, former addresses, places of employment, or former places of employment of the below-named consumer(s):

NAME(S):

ADDRESS(ES): **[if available]**

DATE(S) OF BIRTH: **[if available]**

SOCIAL SECURITY NUMBER(S): **[if available]**

PLEASE DO NOT PROVIDE THE FULL CREDIT REPORT, AS THAT IS NOT BEING REQUESTED OR SOUGHT.

In accordance with Title 15, U.S.C., Section 1681u(b), 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 to the Constitution of the United States.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 15 U.S.C. § 1681u(d)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 15 U.S.C. § 1681u(d)(1) and (3) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 15 U.S.C. § 1681u(d)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 15 U.S.C. § 1681u(d)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN], depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2007

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-06-2007

1076786

Drafted By: **[LAST FIRST MIDDLE NAME: INITIALS]**

(U) **Case ID #:** ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) (NSLCII) Approves the issuance of an Fair Credit Reporting Act (FCRA) Section 1681u(b) National Security Letter (NSL) for consumer identifying information; provides reporting data; and, if necessary, transmits the NSL for delivery to the credit reporting company.

(U) ~~(S)~~ **Derived From : G-3**

~~SECRET~~

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

Declassify On: [10~~-25 years~~ based on ~~information~~ in the EC

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2007]**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2007]**, addressed to **[COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service]**, requesting consumer identifying information relating to the consumer listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. This consumer identifying information is being requested to **[Fully state the relevant of the requested records to the investigation]**.

(U) ~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks consumer identifying information for **[NUMBER OF]** individual(s) from **[credit reporting company #1]**; **[NUMBER OF]** individual(s) from **[credit reporting company #2]**, etc. **[If there are requests from multiple reporting companies for the same person, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to give as much information as you can, for congressional reporting purposes.]**

(U) Arrangements should be made with the credit reporting company to provide the records **[personally to an employee of the DELIVERING DIVISION** or **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The credit reporting company should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

(U)
To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2007]**

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 15 U.S.C. § 1681u(d), I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) (S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received herein rom a credit reporting company may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, subject to the following statutory limitation. Dissemination of such information is limited to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

(U) Any questions regarding the above can be directed to the **[CASE AGENT, telephone number (000) 000-0000.]**

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2007]**

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE -if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

(U) Please take special note that the reply to this request should **not** generate receipt of a **full** credit report and that **only a summary or redacted** credit report should be accepted.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2007

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFIE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179DMH/KSR/JW
ON 06-06-2007

1076786

(U) **Drafted By:** **[LAST FIRST MIDDLE NAME: INITIALS]**

Case ID #: (~~S~~) **[CASE FILE NUMBER]** (Pending)

(U) **Title:** (~~S~~) **[SUBJECT]**
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

(U) **Synopsis:** (~~S~~) (NSLFIL) Approves the issuance of an Fair Credit Reporting Act Section 1681u(a) National Security Letter (NSL) for financial institution listings; and, if necessary, transmits the NSL for delivery to the credit reporting company.

(U) (~~S~~) **Derived From :** ~~G-3~~

SECRET

To: **[DELIVERING DIVISION]** **From: [DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

Declassify On: ~~[10-25 years based on information in the EC]~~

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2007]**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2007]**, addressed to **[COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service]**, requesting the names and addresses of financial institutions at which the listed consumer maintains or has maintained an account.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation of the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency.]** This financial institution information is being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) ~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks the financial institution listings for **[NUMBER OF]** individual(s) from **[credit reporting company #1]**; **[NUMBER OF]** individual(s) from **[credit reporting company #2]**, etc. **[If there are requests from multiple reporting companies for the same person, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to give as much information as you can, for congressional reporting purposes.]**

(U) Arrangements should be made with the credit reporting company to provide the records **[personally to an employee of the DELIVERING DIVISION** or **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The credit reporting company should neither send the records through routine mail delivery nor utilize the name of the subject of the request in any telephone calls to the FBI.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
(U) Re: (S) [CASE FILE NUMBER, 00/00/2007]

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 15 U.S.C. § 1681u(d), I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) (S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received herein from a credit reporting company may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, subject to the following statutory limitation. Dissemination of such information is limited to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the

(U) To: **[DELIVERING DIVISION]** **From: [DRAFTING DIVISION]**
Re: (~~S~~) **[CASE FILE NUMBER, 00/00/2007]**

military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000.]**

(U) To: **[DELIVERING DIVISION]** **From: [DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

(U) Please take special note that the reply to this request should **not** generate receipt of a **full** credit report and that **only a summary or redacted** credit report should be accepted.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2007

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-06-2007

1076786

(U) **Drafted By:** **[LAST FIRST MIDDLE NAME: INITIALS]**

Case ID #: (S) **[CASE FILE NUMBER]** (Pending)

(U) **Title:** (S) **[SUBJECT]**
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

(U) **Synopsis:** (S) (NSLCOM) Approves the issuance of a Fair Credit Reporting Act (FCRA) Sections 1681u(a) and (b) combination National Security Letter (NSL) for financial institution listings and consumer identifying information; provides reporting data; and, if necessary, transmits the NSL for delivery to the credit reporting company.

SECRET

(U) To: **[DELIVERING DIVISION]** **From: [DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2007]**

(U) (S) **Derived From : G-3**
Declassify On: [10-25 years based on information in the EC]

(U)

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2007]**

(U) **Reference:** (S) **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2007]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting the names and addresses of financial institutions at which the listed consumer maintains or has maintained an account and requesting consumer identifying information relating to the consumer.

(U) **Details:** (S) A **[FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation of the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency.]** This financial institution information and consumer identifying information are being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) (S) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks the financial institution listings for **[NUMBER OF]** individual(s) from **[credit reporting company #1]**; **[NUMBER OF]** individual(s) from **[credit reporting company #2]**, etc. **[If there are requests from multiple reporting companies for the same person, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to give as much information as you can, for congressional reporting purposes.]** In addition, for mandatory reporting purposes, the enclosed NSL seeks the consumer identifying information for **[NUMBER OF]** individual(s) from **[credit reporting company #1]**; **[NUMBER OF]** individual(s) from **[credit reporting company #2]**, etc. **[If there are requests from multiple reporting companies for the same person, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the**

(U) To: **[DELIVERING DIVISION]** **From: [DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2007]**

subject of the investigation. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the credit reporting company to provide the records **[personally to an employee of the DELIVERING DIVISION** or **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The credit reporting company should neither send the records through routine mail delivery nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 15 U.S.C. § 1681u(d), I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

(U) To: **[DELIVERING DIVISION]** **From: [DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

[Include the next 2 paragraphs in all ECs.]

(U) Information received herein from a credit reporting company may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, subject to the following statutory limitation. Dissemination of such information is limited to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000.]**

(U) To: **[DELIVERING DIVISION]** **From: [DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

(U) Please take special note that the reply to this request should **not** generate receipt of a **full** credit report and that **only a summary or redacted** credit report should be accepted.

♦♦

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 DMH/KSR/JW

1076786

DEAR [MR./MRS./MS.] [LAST NAME]:

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) (the Fair Credit Reporting Act, as amended), 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(s) maintains or has maintained an account:

NAME(S):

ADDRESS(ES): **[if available]**

DATE(S) OF BIRTH: **[if available]**

SOCIAL SECURITY NUMBER(S): **[if available]**

PLEASE DO NOT PROVIDE THE FULL CREDIT REPORT, AS THAT IS NOT BEING REQUESTED OR SOUGHT.

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 to the Constitution of the United States.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 15 U.S.C. § 1681u(d)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 15 U.S.C. § 1681u(d)(1) and (3) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 15 U.S.C. § 1681u(d)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 15 U.S.C. § 1681u(d)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within {xxxx} business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN], depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(Rev 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2007

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM] **Attn:** **[UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: **[DRAFTING DIVISION]**
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-06-2007

1076786

(U) **Drafted By:** **[LAST FIRST MIDDLE NAME: INITIALS]**

Case ID #: ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) (NSLFCR) Approves the issuance of an Fair Credit Reporting Act (FCRA) Section 1681v National Security Letter (NSL) for a full credit report in an international terrorism investigation; provides reporting data; and, if necessary, transmits the NSL for delivery to the credit reporting company.

(U) ~~(S)~~ **Derived From :** ~~G-3~~

~~SECRET~~

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

Declassify On: ~~[10-25 years based on information in the EC]~~

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2007]**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery system or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service]**, requesting a full consumer credit report and all information in its files relating to the consumer listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY]** international terrorism investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because ***[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]***. This full credit report is being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) ~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For reporting purposes, the enclosed NSL seeks the consumer credit report of **[NUMBER OF]** individual(s) from **[credit reporting company #1]**; **[NUMBER OF]** individual(s) from **[credit reporting company #2]**, etc. **[If there are requests from multiple reporting companies for the same person, please state. Provide the USP status of all the persons about whom the requests are seeking information, including the subject of the investigation. In other words, do your best to give as much information as you can, for congressional reporting purposes.]**

(U) Arrangements should be made with the credit reporting company to provide the records **[personally to an employee of the DELIVERING DIVISION** or **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The credit reporting company should neither send the records through routine mail delivery nor utilize the name of the subject of the request in any telephone calls to the FBI.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 15 U.S.C. § 1681v(c), I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received herein from a credit reporting company may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection.

(U) Any questions regarding the above can be directed to the **[CASE AGENT, telephone number (000) 000-0000.]**

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**

(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2007]**

LEAD(s):

Set Lead 1: (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 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE- if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

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

DEAR [MR./MRS./MS.] [LAST NAME]:

1076786

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 15, United States Code (U.S.C.), Sections 1681u(a) and 1681u(b)(the Fair Credit Reporting Act, as amended), 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(s) maintains or has maintained an account and to provide the names, address, former addresses, places of employment, or former places of employment of the below-named consumer(s):

NAME(S):

ADDRESS(ES): **[if available]**

DATE(S) OF BIRTH: **[if available]**

SOCIAL SECURITY NUMBER(S): **[if available]**

PLEASE DO NOT PROVIDE THE FULL CREDIT REPORT, AS THAT IS NOT BEING REQUESTED OR SOUGHT.

In accordance with Title 15, U.S.C., Sections 1681u(a) and 1681u(b), 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 to the Constitution of the United States.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 15 U.S.C. § 1681u(d)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 15 U.S.C. § 1681u(d)(1) and (3) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 15 U.S.C. § 1681u(d)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 15 U.S.C. § 1681u(d)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN], depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-

secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 016-OGC-Log - Ponies

Federal Bureau of Investigation

OIG'S PATRIOT ACT REVIEW

DOCUMENT REQUEST: DOJ-OIG REQUEST of JULY 27, 2006

SUBJECT: Any list or log OGC maintains of the various changes and revisions to the NSL "ponies" posted on NSLB's Intranet web site

FBI TRACKING # : OIG REQ-PAR (07-27-06) - ITEM #8

PACKET: #1

{AUGUST 3, 2006}

DATE	TYPE of DOCUMENT	SUBJECT	TOTAL PAGES	BATE STAMP #s
UNDATED	COVER	COVER TO RESONSE #7	1	001
b6 b7C 08/02/06	[redacted] to FBI_ALL CDCS	FW: MODEL NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	3	002-004
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	5	005-009
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	5	010-014
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	5	015-019
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	5	020-024
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	4	025-028
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	4	029-032

DATE	TYPE of DOCUMENT	SUBJECT	TOTAL PAGES	BATE STAMP #s
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	5	033-037
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	5	038-042
00/00/06	EC to OGC	PONY OF EC OF NSL ECS (DOCUMENTS 1,3,5,7,9,11,13, AND 15 ON OUR WEBSITE)	4	043-046
TOTAL PAGES			[illegible]	

Response to #8
No log kept by OGC but these are
the latest changes.

[redacted] (OGC) (FBI)

From: [redacted] (OGC) (FBI)
Sent: Wednesday, August 02, 2006 11:29 AM
To: FBI_ALL_CDCs
Cc: [redacted] (OGC)(FBI) [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) [redacted] JR (OGC) (FBI) [redacted] (OGC) (FBI) [redacted] (ALL) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (GTMO) (FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (FBI) [redacted] (OGC) (FBI) [redacted] (OGC) (FBI) [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (FBI) [redacted] (OGC) (FBI) [redacted] (CD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI) [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (GTMO) (FBI) [redacted] (OGC) (FBI) [redacted] (OGC) (FBI)
Subject: FW: model NSL ECs (documents 1,3,5,7,9,11,13, and 15 on our website)

b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

(8 attachments) 8/2/06

[redacted]

b6
b7C

Here is the latest set of model NSL EC changes that were made to our website today.

These are the changes -

1) making sure that we had correct portion markings, since they had been inconsistent before;

b6
b7C

2) making sure that we had a paragraph with the applicable NSIG and statutory dissemination rules;

3) expanding the reporting paragraph to reflect previous emails about the need for full reporting as to the number of requests for each recipient of the NSL.

4) changing all dates to 2006

5) making sure all relevant paragraphs indicate we can serve by fax and receive by secure fax.

[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, August 01, 2006 3:31 PM
To: HQ_DIV04_FBIHOME
Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject:

b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Please replace eight documents on our website - http://ogc.fbinet.fbi/nslb/nsl/

[redacted] gnore an email I sent you a few days ago to make certain changes on these documents.

b6
b7C

Thanks. [redacted]

telephone
ibscriber ECJuly200.

1

toll record
Cjuly2006.wpd (28.

3

email
;july2006.wpd (19 K

5

:ransactional record
ECJuly200...

7

RFPA
jJuly2006.wpd (19 K

9

1681u(a)
iuly2006.wpd (21 Kl

11

1681u(b) ECjuly 2006.wpd (21 K...

13

1681v July2006.wpd (20 K

15

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

(01/26/1998)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFICE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[SQUAD] [X]

[DELIVERING DIVISION] (if using personal service) **Attn:** SSA [SQUAD SUPERVISOR]
[SQUAD] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

Case ID #: (S) [CASE FILE NUMBER] (Pending)

Title: (S) [SUBJECT]
[AKA] [ALIAS (IF APPLICABLE)]
IT/FCI - [FOREIGN POWER];
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL) for telephone subscriber information; provides reporting

SECRET

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2006]**

data; and, if necessary, transmits the NSL for delivery to the wire communications service provider.

(S) **Derived From: G-3**
Declassify On: [10 years from date of EC]

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2006]**

Reference: (S) **[CASE FILE NUMBER Serial XXX]**

Enclosures: (U) Enclosed for **[DELIVERING DIVISION of OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting telephone subscriber information.

Details: (S) A **[FULL/PRELIMINARY] [INTERNATIONAL TERRORISM/FOREIGN COUNTERINTELLIGENCE]** investigation of subject, a **[U.S. PERSON/NON-USPER]**, was authorized in accordance with Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. This telephone subscriber information is being requested to **[Fully state the relevance of the requested records to the investigation]**.

(S) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on **[NUMBER OF]** telephone number(s) from **[telephone company #1]**; the **[NUMBER OF]** telephone number(s) from **[telephone company #2]**, etc.

(U) Arrangements should be made with the wire communications service provider to provide the records **[personally to an employee of the DELIVERING DIVISION** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The wire communications

service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs]

(U) Information received from a wire communication service provider may be disseminated in accordance with the Attorney

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2006]**

General Guidelines on National Security Investigations and Foreign Intelligence Collection and, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2006]**

LEAD (s):

Set Lead 1:

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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3:

[DELIVERING DIVISION - if using personal service]

AT [CITY, STATE]

(U) Deliver the enclosed NSL as indicated above. Upon receipt of requested information, **[DELIVERING DIVISION]** is requested to submit results to the **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

(01/26/1998)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFICE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA [SQUAD SUPERVISOR]
(if using personal service) [Squad] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

Case ID #: (S) [CASE FILE NUMBER] (Pending)

Title: (S) [SUBJECT]
[AKA] [ALIAS IF APPLICABLE]
[IT/FCI - FOREIGN POWER];
[OO: OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL) for toll billing records; provides reporting data; and,

SECRET

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2006]**

if necessary, transmits the NSL for delivery to the wire communications service provider.

~~(S)~~ **Derived From: G-3**
Declassify On: [10 years from date of EC]

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2006]**

Reference: ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosures: (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service]**, requesting the name, address, length of service and local and long distance toll billing records for the phone number(s) listed.

Details: ~~(S)~~ A **[FULL/PRELIMINARY] [INTERNATIONAL TERRORISM/FOREIGN COUNTERINTELLIGENCE]** investigation of subject, a **[USPER/NON-USPER]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. These toll billing records are being requested to **[Fully state the relevance of the requested records to the investigation]**.

~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks local and long distance toll billing records for **[NUMBER OF]** telephone number(s) from **[telephone company #1]**; **[NUMBER OF]** telephone number(s) from **[telephone company #2]**, etc. **[In the case of multiple phone numbers to the same telephone company, if you know how many different persons attach to those phone numbers, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP**

status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the wire communications service provider to provide the records **[personally to an employee of the DELIVERING DIVISION** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The wire communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2006]**

the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received from a wire communication service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

LEAD (s):

Set Lead 1:

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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3:

[DELIVERING DIVISION - if using personal service]

[AT [CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the wire communications service provider, [DELIVERING DIVISION] is requested to submit results to the [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

♦♦

(01/26/1998)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFICE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA [SQUAD SUPERVISOR]
(if using personal service) [Squad] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

Case ID #: (S) [CASE FILE NUMBER] (Pending)

Title: (S) [SUBJECT]
[AKA] [ALIAS IF APPLICABLE]
[IT/FCI - FOREIGN POWER];
[OO: OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL) for toll billing records; provides reporting data; and,

SECRET

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

if necessary, transmits the NSL for delivery to the wire communications service provider.

(S) **Derived From: G-3**
Declassify On: [10 years from date of EC]

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2006]**

Reference: (S) **[CASE FILE NUMBER Serial XXX]**

Enclosures: (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting the name, address, length of service and local and long distance toll billing records for the phone number(s) listed.

Details: (S) A **[FULL/PRELIMINARY] [INTERNATIONAL TERRORISM/FOREIGN COUNTERINTELLIGENCE]** investigation of subject, a **[USPER/NON-USPER]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. These toll billing records are being requested to **[Fully state the relevance of the requested records to the investigation]**.

(S) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks local and long distance toll billing records for **[NUMBER OF]** telephone number(s) from **[telephone company #1]**; **[NUMBER OF]** telephone number(s) from **[telephone company #2]**, etc. **[In the case of multiple phone numbers to the same telephone company, if you know how many different persons attach to those phone numbers, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP**

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the wire communications service provider to provide the records **[personally to an employee of the DELIVERING DIVISION** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The wire communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2006]**

the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received from a wire communication service provider may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

LEAD (s):

Set Lead 1:

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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3:

[DELIVERING DIVISION - if using personal service]

[AT [CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the wire communications service provider, [DELIVERING DIVISION] is requested to submit results to the [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

♦♦

(01/26/1998)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFICE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[SQUAD] [X]

[DELIVERING DIVISION] **Attn:** SSA [SQUAD SUPERVISOR]
(if using personal service) [SQUAD] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000)]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST, FIRST, MIDDLE NAME: INITIALS]

Case ID #: (S) [CASE FILE NUMBER] (Pending)

Title: (S) [SUBJECT]
[AKA] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO:[OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL) for email subscriber information; provides reporting

SECRET

data; and, if necessary, transmits the NSL for delivery to the electronic communications service provider.

(S) **Derived From: G-3**
Declassify On: [10 years from date of EC]

FULL/PRELIMINARY Investigation Instituted: (S) **[00/00/2006]**

Reference: (S) **[CASE FILE NUMBER Serial XXX]**

Enclosures: (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through a restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting the name, address, and length of service for the e-mail address holder(s) listed.

Details: (S) A **[FULL/PRELIMINARY]** **[INTERNATIONAL/FOREIGN COUNTERINTELLIGENCE]** investigation of the subject, a **[USPER/NON-USPER]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining an investigation of the subject; barebones facts will not suffice and will cause the request to be rejected for lack of legal sufficiency]**. This electronic subscriber information is being requested to **[Fully state the relevance of the requested records to the investigation]**.

(U) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on **[NUMBER OF]** **[e-mail/IP address(es)]** from **[ISP #1]**; **[NUMBER OF]** **[e-mail/IP address(es)]** from **[ISP #2]**, etc.

(U) Arrangements should be made with the electronic communication service provider to provide the records **[personally to an employee of the DELIVERING division** OR **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The electronic communication service provider should neither send the records

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2006]**

through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs]

(U) Information received from an electronic communications service provider may be disseminated in accordance with the Attorney General Guidelines on National Security

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2006]**

Investigations and Foreign Intelligence Collection and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2006]**

LEAD (s):

Set Lead 1:

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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3:

[DELIVERING DIVISION - fif using personal service]

AT [CITY, STATE]

(U) Deliver the enclosed NSL as indicated above. Upon receipt of the information requested, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

(Rev. 08-28-2000)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000)000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: **[LAST, FIRST, MIDDLE: INITIALS]**

Case ID #: ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

Title: ~~(S)~~ **[SUBJECT]**
[AKA [ALIAS] (IF APPLICABLE)
[FCI/IT - FOREIGN POWER]
[OO: OFFICE OF ORIGIN]

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

SECRET

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

(S) Derived From : G-3
Declassify On: [10 Years from date of EC]

[FULL/PRELIMINARY] Investigation Instituted: (S) [00/00/2006]

Reference: (S) [CASE FILE NUMBER SERIAL XXX]

Enclosure(s): (U) Enclosed for [DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax] is an NSL dated [00/00/2006], addressed to [COMPANY POC NAME], [TITLE, (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting the names, addresses, lengths of service, and electronic transactional records for the [e-mail/IP] address holder(s) listed.

Details: (S) A [FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM] investigation of subject, a [U.S. PERSON/NON-U.S. PERSON], was authorized in accordance with the Attorney General Guidelines because [Give a full explanation of the justification for opening and maintaining the investigation on the subject. Barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]. These electronic communications transactional records are being requested to [Fully state the relevance of the requested records to the investigation].

(S) This electronic communication documents the [APPROVING OFFICIAL's] approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks electronic communication transactional records on [NUMBER OF] [e-mail/IP address(es)] from [ISP #1]; [NUMBER OF] [e-mail/IP address(es)] from [ISI #2], etc. [In the case of multiple addresses to the same ISP, if you know how many different persons attach to those addresses, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the electronic communications service provider to provide the records [personally to an employee of the DELIVERING division OR through use of a delivery service or secure fax to OFFICE OF ORIGIN] within [NUMBER OF] business days of receipt of this request. The electronic communications service provider should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

DISCLOSURE PROVISIONS

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received from an electronic communications service provider may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear.

Set Lead 3: (Action)

[DELIVERING DIVISION - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the electronic communication service provider, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFICE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[SQUAD] [X]

[DELIVERING DIVISION] (if using personal service) **Attn:** SSA [SQUAD SUPERVISOR]
[SQUAD] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME, IF APPLICABLE]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST, FIRST MIDDLE: INITIALS]

Case ID #: (S) [CASE FILE NUMBER] (Pending)

Title: (S) [SUBJECT]
[AKA] [ALIAS, IF APPLICABLE]
[IT/FCI - FOREIGN POWER]
[OO: OFFICE OF ORIGIN]

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

(S) Derived From : G-3
Declassify On: [10 years from date of EC]

SECRET

To: [CTD/CD] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

[FULL/PRELIMINARY] Investigation Instituted: (S) 00/00/2006

Reference: (S) [CASE FILE NUMBER SERIAL XXX]

Enclosure(s): (U) Enclosed for [DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service] is an NSL dated [00/00/2006], addressed to [COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting financial records of the customer listed.

Details: (S) A [FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM] investigation of subject, a [U.S. PERSON/NON-U.S PERSON], was authorized in accordance with the Attorney General Guideline because [Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]. These financial records are being requested to [Fully state the relevance of the requested records to the investigation].

(S) This electronic communication documents the [APPROVING OFFICIAL's] approval and certification of the enclosed NSL. For mandato reporting purposes, the enclosed NSL seeks financial records for [NUMBER OF] [individual(s)/account(s)] from [financial institution #1]; [NUMBER OF] [individual(s)/accounts] from [financial institution #2], etc. [In tl case of multiple accounts to the same financial institution, if you know how many different persons attach to those accounts, please state. If request is for person(s) other than the subject of the investigation or i addition to the subject of the investigation, please state USP status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the financial institution to provide the records [personally to an employee of the DELIVERING DIVISION OR through use of a delivery service or secure fax to OFFICE OF ORIGIN] within [NUMBER OF] business days of receipt of this request. The financial institution should neither send the records through routine mai service nor utilize the name of the subject of the request in any telephone calls to the FBI.

DISCLOSURE PROVISIONS

[Option 1 - Invoking Nondisclosure Requirement]

To: [CTD/CD] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that tl FBI has sought or obtained access to the information sought by this lette may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification ir this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosu requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received from an electronic communications service provider may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

To: [CTD/CD] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING DIVISION - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the financial institution, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFIE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA [SQUAD SUPERVISOR]
(if using personal service) [Squad] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST FIRST MIDDLE NAME: INITIALS]

Case ID #: (S) [CASE FILE NUMBER] (Pending)

Title: (S) [SUBJECT]
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (S) Approves the issuance of an FCRA Section 1681u(a) National Security Letter (NSL) for financial institution listings; provides reporting data; and, if necessary, transmits the NSL for delivery to the credit reporting company.

SECRET

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

(S) Derived From : G-3
Declassify On: [10 years from date of EC]

[FULL/PRELIMINARY] Investigation Instituted: (S) [00/00/2006]

Reference: (S) [CASE FILE NUMBER Serial XXX]

Enclosure(s): (U) Enclosed for [DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax] is an NSL dated [00/00/2005], addressed to [COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting the names and addresses of financial institutions at which the listed consumer maintains or has maintained an account.

Details: (S) A [FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM] investigation of subject, a [U.S. PERSON/NON-U.S. PERSON], was authorized in accordance with the Attorney General Guidelines because [Give a full explanation of the justification for opening and maintaining the investigation of the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency.] This financial institution information is being requested to [Fully state the relevance of the requested records to the investigation].

(S) This electronic communication documents the [APPROVING OFFICIAL's] approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks the financial institution listings for [NUMBER OF] individual(s) from [credit reporting company #1]; [NUMBER OF] individual(s) from [credit reporting company #2], etc. [If there are requests from multiple reporting companies for the same person, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]

(U) Arrangements should be made with the credit reporting company to provide the records [personally to an employee of the DELIVERING DIVISION or through use of a delivery service or secure fax to OFFICE OF ORIGIN] within [NUMBER OF] business days of receipt of this request. The credit reporting company should neither send the records through routine mail delivery nor utilize the name of the subject of the request in any telephone calls to the FBI.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all Ecs.]

(U) Information received herein from a credit reporting company may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, subject to the following statutory limitation. Dissemination of such information is limited to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

(U) Any questions regarding the above can be directed to [CASE AGENT, telephone number (000) 000-0000.]

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, [DELIVERING DIVISION] is requested to submit results to [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFICE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[Squad] [X]

[DELIVERING DIVISION] (if using personal service) **Attn:** SSA [SQUAD SUPERVISOR]
[Squad] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST FIRST MIDDLE NAME: INITIALS]

Case ID #: (S) [CASE FILE NUMBER] (Pending)

Title: (S) [SUBJECT]
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an FCRA Section 1681u(b) National Security Letter (NSL) for consumer identifying information; provides reporting data; and, if necessary, transmits the NSL for delivery to the credit reporting company.

SECRET

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

~~(S)~~ **Derived From : G-3**
Declassify On: [10 years from date of EC]

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2006]**

Reference: ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting consumer identifying information relating to the consumer listed.

Details: ~~(S)~~ A **[FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/ INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. This consumer identifying information is being requested to **[Fully state the relevant of the requested records to the investigation]**.

~~(S)~~ This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks consumer identifying information for **[NUMBER OF]** individual(s) from **[credit reporting company #1]**; **[NUMBER OF]** individual(s) from **[credit reporting company #2]**, etc. **[If there are requests from multiple reporting companies for the same person, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP status of those persons. In other words, do your best to give as much information as you can, for congressional reporting purposes.]**

(U) Arrangements should be made with the credit reporting company to provide the records **[personally to an employee of the DELIVERING DIVISION** or **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The credit reporting company should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received herein rom a credit reporting company may be disseminated in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, subject to the following statutory limitation. Dissemination of such information is limited to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2006]**

(U) Any questions regarding the above can be directed to the **[CASE AGENT, telephone number (000) 000-0000.]**

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE -if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, [DELIVERING DIVISION] is requested to submit results to [DRAFTING DIVISION] and [OFFICE OF ORIGIN, if applicable].

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn: SSA [SQUAD SUPERVISOR]**
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn: SA [CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn: SSA [SQUAD SUPERVISOR]**
(if using personal service) **[Squad] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

Drafted By: [LAST FIRST MIDDLE NAME: INITIALS]

Case ID #: (S) **[CASE FILE NUMBER]** (Pending)

Title: (S) **[SUBJECT]**
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an FCRA Section 1681v National Security Letter (NSL) for a full credit report in an international terrorism investigation; provides reporting data; and, if necessary, transmits the NSL for delivery to the credit reporting company.

SECRET

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

(S) **Derived From : G-3**
Declassify On: [10 years after the date of EC]

[FULL/PRELIMINARY] Investigation Instituted: (S) **[00/00/2006]**

Reference: (S) **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery system or fax]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting a full consumer credit report and all information in its files relating to the consumer listed.

Details: (S) A **[FULL/PRELIMINARY]** international terrorism investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining the investigation on the subject; barebones facts will not suffice and will cause the request to be rejected for legal insufficiency]**. This full credit report is being requested to **[Fully state the relevance of the requested records to the investigation]**.

(S) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For reporting purposes, the enclosed NSL seeks the consumer credit report of **[NUMBER OF]** individual(s) from **[credit reporting company #1]**; **[NUMBER OF]** individual(s) from **[credit reporting company #2]**, etc. **[If there are requests from multiple reporting companies for the same person, please state. If request is for person(s) other than the subject of the investigation or in addition to the subject of the investigation, please state USP status. In other words, do your best to give as much information as you can, for congressional reporting purposes.]**

(U) Arrangements should be made with the credit reporting company to provide the records **[personally to an employee of the DELIVERING DIVISION** or **through use of a delivery service or secure fax to OFFICE OF ORIGIN]** within **[NUMBER OF]** business days of receipt of this request. The credit reporting company should neither send the records through routine mail delivery nor utilize the name of the subject of the request in any telephone calls to the FBI.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

DISCLOSURE PROVISIONS

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 18 U.S.C. § 2709(c) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs.]

(U) Information received herein from a credit reporting company may be disseminated in accordance with the Attorney General Guidelines on National Security Investigations and Foreign Intelligence Collection

(U) Any questions regarding the above can be directed to the **[CASE AGENT, telephone number (000) 000-0000.]**

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2006]

LEAD(s):

Set Lead 1: (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 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) At [Unit] Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE- if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD - SECTION 1

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET 05/03/2007

Total Deleted Page(s) ~ 48
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Page 33 ~ b2, b7E
Page 39 ~ b2, b4, b6, b7C, b7D, b7E
Page 40 ~ b2, b4, b6, b7C, b7D, b7E
Page 41 ~ b2, b4, b6, b7C, b7D, b7E
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Page 52 ~ b2, b4, b6, b7C, b7D, b7E
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Page 54 ~ b2, b4, b6, b7C, b7D, b7E
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Page 56 ~ b2, b4, b6, b7C, b7D, b7E
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Page 77 ~ b2, b4, b6, b7C, b7D, b7E
Page 78 ~ b2, b4, b6, b7C, b7D, b7E
Page 79 ~ b2, b4, b6, b7C, b7D, b7E
Page 80 ~ b2, b4, b6, b7C, b7D, b7E

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Page 81 ~ b2, b4, b6, b7C, b7D, b7E
Page 82 ~ b2, b4, b6, b7C, b7D, b7E
Page 83 ~ b2, b4, b6, b7C, b7D, b7E
Page 84 ~ b2, b4, b6, b7C, b7D, b7E

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X    Deleted Page(s)     X
X No Duplication Fee     X
X    for this Page       X
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(Rev. 03-09-2006)

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-07-2007

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn:** [UNIT]

[REQUESTING OFFICE] **Attn:** SSA [SQUAD SUPERVISOR]
SA [CASE AGENT]

[OFFICE OF ORIGIN] **Attn:** SA [CASE AGENT]
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA [SQUAD SUPERVISOR]
[Squad] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: [ADIC NAME (IF APPLICABLE)]
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

(U) **Drafted By:** [LAST FIRST MIDDLE NAME: INITIALS]

Case ID #: ~~(S)~~ [CASE FILE NUMBER] (Pending)

(U) **Title:** ~~(S)~~ [SUBJECT]
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an FCRA Section 1681u(a) National Security Letter (NSL) for financial institution listings; provides reporting data; and transmits the NSL for delivery to the consumer reporting agency.

(U) ~~(S)~~ **Derived From:** G-3

~~SECRET~~

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
(U) Re: (S) [CASE FILE NUMBER, 00/00/2005]

Declassify On: [10 Years from Date of EC]

(U) FULL/PRELIMINARY Investigation Instituted: 00/00/2005

(U) Reference: (S) [CASE FILE NUMBER Serial XXX]

Enclosure(s): (U) Enclosed for [DELIVERING DIVISION] is an NSL dated [00/00/2006], addressed to [COMPANY POC NAME], [TITLE (if available)], [COMPANY NAME], [COMPANY ADDRESS - NO P.O. BOX], [CITY, STATE - NO ZIP CODE if using personal service], requesting the names and addresses of financial institutions at which the listed consumer maintains or has maintained an account.

(U) Details: (S) A [FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/INTERNATIONAL TERRORISM] investigation of subject, a [U.S. PERSON/NON-U.S. PERSON], was authorized in accordance with the Attorney General Guidelines because [GIVE A FULL EXPLANATION OF THE JUSTIFICATION FOR OPENING AND MAINTAINING THE INVESTIGATION ON THE SUBJECT; BAREBONES FACTS WILL NOT SUFFICE AND WILL CAUSE THE REQUEST TO BE REJECTED FOR LEGAL INSUFFICIENCY]. This financial institution information is being requested to [FULLY STATE THE RELEVANCE OF THE REQUESTED RECORDS TO THE INVESTIGATION].

(U) This electronic communication documents the [APPROVING OFFICIAL's] approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks the financial institution listings for [NUMBER OF] individual(s) from [CONSUMER REPORTING AGENCY A]; [NUMBER OF] individual(s) from [CONSUMER REPORTING AGENCY B], etc. [If you know how many credit report consumers are USPs, please state.]

(U) The enclosed NSL will be personally delivered by [DELIVERING DIVISION].

(U) Arrangements should be made with the consumer reporting agency to provide the records [personally to an employee of the DELIVERING DIVISION] within [NUMBER OF] business days of receipt of this request. The consumer reporting agency should neither send the records through routine mail delivery nor utilize the name of the subject of the request in any telephone calls to the FBI.

(U) Information received from a consumer reporting agency may not be disseminated outside the FBI, except to other Federal agencies in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection and only as may be necessary for the

(U) To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2005]

conduct of a foreign counterintelligence investigation, or where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000]**.

NONDISCLOSURE PROVISION [NEW REQUIREMENT]

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking nondisclosure requirement]

(U) In accordance with 15 U.S.C. § 1681u(d) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) (S) Brief statement of the facts justifying my certification in this case:

OR

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
Re: ~~(S)~~ [CASE FILE NUMBER, 00/00/2005]

(U)

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: (~~S~~) **[CASE FILE NUMBER, 00/00/2005]**

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179 DMH/KSR/JW

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

DEAR [MR./MRS./MS.] [LAST NAME]:

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) (the Fair Credit Reporting Act, as amended), 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(s) maintains or has maintained an account:

NAME(S):

ADDRESS(ES): [if available]

DATE(S) OF BIRTH: [if available]

SOCIAL SECURITY NUMBER(S): [if available]

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 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.

[MR./MRS./MS.] [COMPLETE NAME]

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 15 U.S.C. § 1681u(d)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 15 U.S.C. § 1681u(d)(1) and (3) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 15 U.S.C. § 1681u(d)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 15 U.S.C. § 1681u(d)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful and the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

[MR./MRS./MS.] [COMPLETE NAME]

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(Rev. 03-09-2006)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
[Squad] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-07-2007

(U) **Drafted By:** **[LAST FIRST MIDDLE NAME: INITIALS]**

Case ID #: ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an FCRA Section 1681u(b) National Security Letter (NSL) for consumer identifying information; provides reporting data; and transmits the NSL for delivery to the consumer reporting agency.

(U) ~~(S)~~ **Derived From : ~~G-3~~**
Declassify On: [10 Years from Date of EC]

~~SECRET~~

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
(U) Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2005]**

(U) **FULL/PRELIMINARY Investigation Instituted: 00/00/2005**

(U) **Reference:** ~~(S)~~ **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting consumer identifying information relating to the consumer listed.

(U) **Details:** ~~(S)~~ A **[FULL/PRELIMINARY] [FOREIGN COUNTERINTELLIGENCE/INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[GIVE A FULL EXPLANATION OF THE JUSTIFICATION FOR OPENING AND MAINTAINING THE INVESTIGATION ON THE SUBJECT; BAREBONES FACTS WILL NOT SUFFICE AND WILL CAUSE THE REQUEST TO BE REJECTED FOR LEGAL INSUFFICIENCY]**. This consumer identifying information is being requested to **[FULLY STATE THE RELEVANCE OF THE REQUESTED RECORDS TO THE INVESTIGATION]**.

(U) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks consumer identifying information for **[NUMBER OF]** individual(s)from **[CONSUMER REPORTING AGENCY A]**; **[NUMBER OF]** individual(s) from **[CONSUMER REPORTING AGENCY B]**; etc. **[If you know how many credit report consumers are USPs, please state.]**

(U) The enclosed NSL will be personally delivered by **[DELIVERING DIVISION]**.

(U) Arrangements should be made with the consumer reporting agency to provide the records **[personally to an employee of the DELIVERING DIVISION]** within **[NUMBER OF]** business days of receipt of this request. The consumer reporting agency should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

(U) Information received from a consumer reporting agency may not be disseminated outside the FBI, except to other Federal agencies in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection and only as may be necessary for the conduct of a foreign counterintelligence investigation, or where the information concerns a person subject to the Uniform Code of

To: [DELIVERING DIVISION] From: [DRAFTING DIVISION]
(U) Re: (S) [CASE FILE NUMBER, 00/00/2005]

Military Justice, to appropriate authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation

(U) Any questions regarding the above can be directed to the **[CASE AGENT, telephone number (000) 000-0000]**.

NONDISCLOSURE PROVISION [NEW REQUIREMENT]

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking nondisclosure requirement]

(U) In accordance with 15 U.S.C. § 1681u(d) I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) (S) Brief statement of the facts justifying my certification in this case:

OR

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2005]**

(U)

LEAD(s):

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the consumer reporting agency, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179 DMH/KSR/JW

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

DEAR [MR./MRS./MS.] [LAST NAME]:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 15, United States Code (U.S.C.), Section 1681u(b) (the Fair Credit Reporting Act, as amended), you are hereby directed to provide the Federal Bureau of Investigation (FBI) the names, address, former addresses, places of employment, or former places of employment of the below-named consumer(s):

NAME(S):

ADDRESS(ES): [if available]

DATE(S) OF BIRTH: [if available]

SOCIAL SECURITY NUMBER(S): [if available]

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 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.

[MR./MRS./MS.] [COMPLETE NAME]

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 15 U.S.C. § 1681u(d)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 15 U.S.C. § 1681u(d)(1) and (3) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 15 U.S.C. § 1681u(d)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 15 U.S.C. § 1681u(d)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful and the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

[MR./MRS./MS.] [COMPLETE NAME]

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(Rev. 03-09-2006)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[Squad] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
[Squad] [X]

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME (IF APPLICABLE)]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-08-2007

(U) **Drafted By:** **[LAST FIRST MIDDLE NAME: INITIALS]**

Case ID #: ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[A.K.A.] [ALIAS (IF APPLICABLE)]
[IT/FCI - FOREIGN POWER]
OO: [OFFICE OF ORIGIN]

Synopsis: (U) Approves the issuance of an FCRA Section 1681v National Security Letter (NSL) for a full credit report in an international terrorism investigation; provides reporting data; and transmits the NSL for delivery to the consumer reporting agency.

(U) ~~(S)~~ **Derived ~~From~~ : G-3**

~~SECRET~~

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2005]**

Declassify On: [10 Years from Date of EC]

(U) **FULL/PRELIMINARY Investigation Instituted: 00/00/2005**

(U) **Reference:** (S) **[CASE FILE NUMBER Serial XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION]** is an NSL dated **[00/00/2006]**, addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting a full consumer credit report and all information in its files relating to the consumer listed.

(U) **Details:** (S) A **[FULL/PRELIMINARY]** international terrorism investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[GIVE A FULL EXPLANATION OF THE JUSTIFICATION FOR OPENING AND MAINTAINING THE INVESTIGATION ON THE SUBJECT; BAREBONES FACTS WILL NOT SUFFICE AND WILL CAUSE THE REQUEST TO BE REJECTED FOR LEGAL INSUFFICIENCY]**. This full credit report is being requested to **[FULLY STATE THE RELEVANCE OF THE REQUESTED RECORDS TO THE INVESTIGATION]**.

(U) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For reporting purposes, the enclosed NSL seeks **[NUMBER OF]** of credit reports from **[CONSUMER REPORTING AGENCY A]**, **[NUMBER OF]** credit reports from **[CONSUMER REPORTING AGENCY B]**, etc. **[If you know how many credit report consumers are USPs, please state.]**

(u) The enclosed NSL will be delivered personally by **[DELIVERING DIVISION]**.

(U) Arrangements should be made with the consumer reporting agency to provide the records **[personally to an employee of the DELIVERING DIVISION]** within **[NUMBER OF]** business days of receipt of this request. The consumer reporting agency should neither send the records through routine mail delivery nor utilize the name of the subject of the request in any telephone calls to the FBI.

(U) Information received from a consumer reporting agency may be disseminated to an agency of the United States Government in accordance with the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection.

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: ~~(S)~~ **[CASE FILE NUMBER, 00/00/2005]**

(U) Any questions regarding the above can be directed to the **[CASE AGENT, telephone number (000) 000-0000]**.

NONDISCLOSURE PROVISION [NEW REQUIREMENT]

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking nondisclosure requirement]

(U) In accordance with 15 U.S.C. § 1681v I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) ~~(S)~~ Brief statement of the facts justifying my certification in this case:

OR

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

(U) To: **[DELIVERING DIVISION]** From: **[DRAFTING DIVISION]**
Re: (S) **[CASE FILE NUMBER, 00/00/2005]**

LEAD(s):

Set Lead 1: (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 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING OFFICE]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the credit reporting company, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

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

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

Dear [MR./MRS./MS.] [LAST NAME]:

Pursuant to Executive Order 12333, dated December 4, 1981, and 15 U.S.C. § 1681v of the Fair Credit Reporting Act (as amended), you are hereby directed to provide the Federal Bureau of Investigation (FBI) with a copy of a consumer credit report and all other information contained in your files for the below-listed consumer(s):

NAME(S):

ADDRESS(ES): **[if available]**

DATE(S) OF BIRTH: **[if available]**

SOCIAL SECURITY NUMBER(S): **[if available]**

In accordance with Title 15, U.S.C. § 1681v, I certify that the information sought is necessary to conduct an authorized investigation of, or intelligence or counterintelligence activities or analysis related to, international terrorism.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement), then include the language in the following 3 paragraphs in the NSL.]

In accordance with 15 U.S.C. § 1681v(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or

physical safety of a person. Accordingly, 15 U.S.C. § 1681v(1) and (3) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 15 U.S.C. § 1681v(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 15 U.S.C. § 1681v(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful and the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter **[personally to a representative of the [DELIVERING DIVISION]** OR **through use of a delivery service to [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this letter.

Any questions you have regarding this letter should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service]**. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

[MR./MRS./MS.] [COMPLETE NAME]

Your cooperation in this matter is appreciated.

Sincerely,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN
CHARGE/
SPECIAL AGENT IN CHARGE]

(Rev. 03-09-2006)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 00/00/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

[COUNTERTERRORISM/ COUNTERINTELLIGENCE/CYBER] **Attn: [UNIT]**

[REQUESTING OFFICE] **Attn:** SSA **[SQUAD SUPERVISOR]**
SA **[CASE AGENT]**

[OFFICE OF ORIGIN] **Attn:** SA **[CASE AGENT]**
[SQUAD] [X]

[DELIVERING DIVISION] **Attn:** SSA **[SQUAD SUPERVISOR]**
(if using personal service) **[SQUAD] [X]**

From: [DRAFTING DIVISION]
[APPROVING OFFICIAL]
Contact: [CASE AGENT, telephone number (000) 000-0000]

Approved By: **[ADIC NAME, IF APPLICABLE]**
[SAC NAME]
[ASAC NAME]
[CDC NAME]
[SSA NAME]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 06-08-2007

(U) **Drafted By:** **[LAST, FIRST MIDDLE: INITIALS]**

Case ID #: ~~(S)~~ **[CASE FILE NUMBER]** (Pending)

(U) **Title:** ~~(S)~~ **[SUBJECT]**
[AKA] [ALIAS, IF APPLICABLE]
[IT/FCI - FOREIGN POWER]
[OO: OFFICE OF ORIGIN]

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

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: "[10 years from date of EC]"**~~

SECRET

(U) To: [CTD/CD] From: [DRAFTING DIVISION]
Re: (S) [CASE FILE NUMBER, 00/00/2005]

FULL/PRELIMINARY Investigation Instituted: (S) 00/00/2005

(U) **Reference:** (S) **[CASE FILE NUMBER SERIAL XXX]**

Enclosure(s): (U) Enclosed for **[DELIVERING DIVISION or OFFICE OF ORIGIN, depending on whether service is personal or through restricted delivery service]** is an NSL dated [00/00/2005], addressed to **[COMPANY POC NAME]**, **[TITLE (if available)]**, **[COMPANY NAME]**, **[COMPANY ADDRESS - NO P.O. BOX]**, **[CITY, STATE - NO ZIP CODE if using personal service]**, requesting financial records of the customer listed.

(U) **Details:** (S) A **[FULL/PRELIMINARY]** **[FOREIGN COUNTERINTELLIGENCE/INTERNATIONAL TERRORISM]** investigation of subject, a **[U.S. PERSON/NON-U.S. PERSON]**, was authorized in accordance with the Attorney General Guidelines because **[GIVE A FULL EXPLANATION OF THE JUSTIFICATION FOR OPENING AND MAINTAINING THE INVESTIGATION ON THE SUBJECT; BAREBONES FACTS WILL NOT SUFFICE AND WILL CAUSE THE REQUEST TO BE REJECTED FOR LEGAL INSUFFICIENCY]**. These financial records are being requested to **[FULLY STATE THE RELEVANCE OF THE REQUESTED RECORDS TO THE INVESTIGATION]**.

(U) (S) This electronic communication documents the **[APPROVING OFFICIAL's]** approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks financial records for **[NUMBER OF]** individual(s).

(U) Arrangements should be made with the financial institution to provide the records **[personally to an employee of the DELIVERING DIVISION** OR **through use of a delivery service to OFFICE OF ORIGIN]** within [NUMBER OF] business days of receipt of this request. The financial institution should neither send the records through routine mail service nor utilize the name of the subject of the request in any telephone calls to the FBI.

[Certification and Activation of the Nondisclosure Requirement: There is no longer an automatic prohibition that prevents the recipient of a National Security Letter from disclosing that the FBI has requested the information. To activate the nondisclosure requirement, the senior FBI official approving this EC must use Option 1 below and include in the EC (but not in the NSL) a brief statement of facts that justify the nondisclosure requirement. Option 2 is to be used in all cases where Option 1 is not used.]

[Option 1 - Invoking Nondisclosure Requirement]

(U) In accordance with 12 U.S.C. § 3414(a) I, the senior official approving this EC, certify that a disclosure of the fact that

(U) To: [CTD/CD] From: [DRAFTING DIVISION]
Re: (~~S~~) [CASE FILE NUMBER, 00/00/2005]

the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(U) (~~S~~) Brief statement of the facts justifying my certification in this case:

[Option 2 - Declining to invoke the nondisclosure requirement]

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

[Include the next 2 paragraphs in all ECs]

(U) Information received from a financial institution may be disseminated to an agency of the United States only if such information is clearly relevant to the authorized responsibilities of such agency.

(U) Any questions regarding the above can be directed to **[CASE AGENT, telephone number (000) 000-0000].**

LEAD(s):

To: [CTD/CD] From: [DRAFTING DIVISION]
(U) Re: (S) [CASE FILE NUMBER, 00/00/2005]

Set Lead 1: (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 2: (Info)

[COUNTERTERRORISM/COUNTERINTELLIGENCE/CYBER]

AT WASHINGTON, DC

(U) At **[Unit]** Read and Clear

Set Lead 3: (Action)

[DELIVERING DIVISION - if using personal service]

[AT CITY, STATE]

(U) Deliver the attached NSL as indicated above. Upon receipt of information from the financial institution, **[DELIVERING DIVISION]** is requested to submit results to **[DRAFTING DIVISION]** and **[OFFICE OF ORIGIN, if applicable]**.

♦♦

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

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY,STATE, ZOP CODE]
[MONTH DAY, YEAR]

[MR./MRS/MS.] [COMPLETE POC NAME]
[TITLE, IF AVAILABLE]
[COMPANY NAME]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

DEAR [MR./MRS./MS.] [LAST NAME]:

Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 12, United States Code (U.S.C.), Section 3414(a)(5), you are hereby directed to produce to the Federal Bureau of Investigation (FBI) all financial records pertaining to the customer(s) and/or accounts listed below:

NAME(S) [if available]

ACCOUNT NUMBER(s): [if available]

SOCIAL SECURITY NUMBER(S): [if available]

DATE(S) OF BIRTH: [if available]

[FOR PERIOD FROM INCEPTION TO PRESENT]

or

[FOR PERIOD FROM [SPECIFIC DATE] TO [SPECIFIC DATE]

or [PRESENT]]

Please see the attachment following this request for the types of information that your financial institution might consider to be a financial record.

In accordance with Title 12, U.S.C. Section 3414(a)(5)(A), I certify that the requested records are sought for foreign counterintelligence investigation purposes 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

[MR./MRS./MS./ COMPLETE NAME]

activities protected by the First Amendment to the Constitution of the United States.

In accordance with Title 12, U.S.C., Section 3403(b), I certify that the FBI has complied with all applicable provisions of the Right to Financial Privacy Act.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement) then include the language in the following 3 paragraphs in the NSL.]

In accordance with 12 U.S.C. § 3414(a)(5)(D), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 12 U.S.C. § 3414(a)(5)(D) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 12 U.S.C. § 3414(a)(5)(D)(iii), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 12 U.S.C. § 3414(a)(5)(D)(iv), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this request.

[Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this request if compliance would be unreasonable, oppressive, or otherwise unlawful and the right to challenge the nondisclosure requirement set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure

[MR./MRS./MS./ COMPLETE NAME]

requirement, may result in the United States bringing an enforcement action.

You are requested to provide records responsive to this request **[personally to a representative of the [DELIVERING DIVISION]**_OR **through use of a delivery service to the [OFFICE OF ORIGIN]** OR **through secure fax]** within [xxxx] business days of receipt of this request.

Any questions you have regarding this request should be directed only to the **[[DELIVERING DIVISION]** OR **[OFFICE OF ORIGIN],_depending on whether service is personal or through a delivery service or fax]**. Due to security considerations, you should neither send the records through routine mail service nor disclose the substance of this request in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/
SPECIAL AGENT IN CHARGE]

(Rev. 01-31-2003)

SECRET/ORCON/NOFORN//FISA

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY **Date:** 09/27/2006

To: General Counsel **Attn:** Julie Thomas
Deputy General Counsel, NSLB

From: Counterterrorism
CXS/ECAU/Room 4343
Contact: IA Best D. Analyst, 202/your phone

Approved By: Billy Joseph Jr
Frahm Charles E
Love Jennifer Smith
Wall Thomas S
Sheldon Kristen L
Your SSA

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-08-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-08-2032

Drafted By: Analyst Best D:bda

(U) b1 **Case ID #:** (S) [redacted] (Pending)
(S) File number which is a PI or FF (Pending)

(U) **Title:** (S) ELECTRONIC COMMUNICATIONS ANALYSIS
NATIONAL SECURITY/PATRIOT ACT LETTER MATTERS

(U) (S) Title of file number which is a PI or FF

Synopsis: (U) Requests the issuance of an Electronic Communications Privacy Act ("ECPA") National Security Letter (NSL) for subscriber and transactional records information.

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

(U) **Full Investigation Initiated:** XX/XX/200X
or
(U) **Preliminary Investigation Initiated:** XX/XX/200X, set to expire XX/XX/200X.

Administrative: (S) This document is classified SECRET/ORCON/NOFORN//FISA. Portions of this document carrying classification markings may not be incorporated into any criminal affidavit, criminal court proceeding or unclassified

SECRET/ORCON/NOFORN

To: General Counsel From: Counterterrorism
Re: (S) [redacted] 09/27/2006 b1

investigative file. The information in this document is intended to be used for lead or background purposes only.

[redacted] b2 b7E

(U) (S) [redacted] b2 b7E

(U) (S) [redacted] b1

Details: (S) A **[FULL/PRELIMINARY] [INTERNATIONAL/FOREIGN COUNTERINTELLIGENCE]** investigation of XX, the subject of the captioned case, a **[USPER/NON-USPER]**, was authorized in accordance with the Attorney General Guidelines because **[Give a full explanation of the justification for opening and maintaining an investigation of the subject; barebones facts will not suffice and will cause the request to be rejected for lack of legal sufficiency]**.

(U) (S) Articulate the connection between the email address you are requesting an NSL upon and the subject listed above.

(U) (S) ECAU requests a NSL be issued to for the email address XXXX in order to **[Fully state the relevance of the requested records to the investigation]**. This email address was verified and preserved on XX/XX/200X.

(U) (S) It is requested that NSLB issue a NSL to XXX for subscriber and transactional records pertaining to the email address XXXX.com.

To: General Counsel From: Counterterrorism
Re: (S) [redacted] 09/27/2006 b1

(U) ~~(S)~~ It is further requested that NSLB ensure the records obtained from XXX are submitted to FBIHQ, CTD/CXS/ECAU, Room 4343, IA Best D. Analyst.

To: General Counsel From: Counterterrorism
Re: (S) [redacted] 09/27/2006 b1

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) (S) This electronic communication requests NSLB prepare a National Security Letter (NSL) to obtain subscriber and transactional records associated with the email address XX, which was verified and preserved on XX/XX/2006. The NSL should be directed to XX (name of the ISP) at address of ISP. Results of the NSL should be submitted to FBIHQ, CTD/CXS/ECAU, Room 4343, IA Best D. Analyst.

♦♦

SECRET

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

October 20, 2006

(S)

[redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-07-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-07-2032

b1
b6
b7C
b7D

Re: [redacted]

(S)

[redacted]

Sincerely,

b6
b7C

[redacted]
Unit Chief
Communications Analysis Unit

By:

Supervisory Special Agent

SECRET

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD/CD/ Volume 1

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description - COVER SHEET

Total Deleted Page(s) ~ 16
Page 22 ~ b2, b7E
Page 23 ~ Duplicate Court document /CC:Docket # 96-115
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[Code of Federal Regulations]
[Title 47, Volume 3]
[Revised as of October 1, 2005]
From the U.S. Government Printing Office via GPO Access
[CITE: 47CFR42.6]

[Page 6]

TITLE 47--TELECOMMUNICATION

CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION (CONTINUED)

PART 42_PRESERVATION OF RECORDS OF COMMUNICATION COMMON CARRIERS--Table
of Contents

Sec. 42.6 Retention of telephone toll records.

Each carrier that offers or bills toll telephone service shall retain for a period of 18 months such records as are necessary to provide the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time and length of the call. Each carrier shall retain this information for toll calls that it bills whether it is billing its own toll service customers for toll calls or billing customers for another carrier.

[51 FR 39536, Oct. 29, 1986]

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-07-2007 BY 65179 DMH/KSR/JW

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Telecommunications Act of 1996	)	CC Docket No. 96-115
	)	
Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	)	
	)	
Petition for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information	)	RM-11277

COMMENTS OF THE UNITED STATES
DEPARTMENTS OF JUSTICE AND HOMELAND SECURITY

I. Introduction

The United States Department of Justice ("DOJ")[1] and the United States Department of Homeland Security ("DHS")[2] (collectively, "the Departments") hereby submit these comments on the Commission's *Notice of Proposed Rulemaking* ("*Notice*") in the above-captioned docket.[3] The Departments submit these comments to assist the Commission in its development of further rules protecting the privacy of customer

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[1] DOJ includes its constituent components, including the Federal Bureau of Investigation ("FBI") and the Drug Enforcement Administration ("DEA").

[2] DHS includes its constituent law enforcement components, including the United States Secret Service and Immigration and Customs Enforcement.

[3] *In the Matter of Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Petition for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information*, Notice of Proposed Rulemaking, CC Docket No. 96-115, RM-11277, FCC 06-10 (rel. Feb. 14, 2006).

proprietary network information ("CPNI") without sacrificing lawful access to important information that helps solve crimes, prevent terrorist attacks, and safeguard our national security.

This proceeding was initiated primarily in response to a Petition for Rulemaking filed by the Electronic Privacy Information Center ("EPIC") that raised concerns about the sufficiency of carrier practices related to CPNI.[4] Among other things, EPIC recommended that the Commission adopt rules requiring that call detail records be destroyed when they are no longer needed for billing or dispute purposes or, in the alternative, requiring carriers to "de-identify" identification data from the transactional records.[5] In the *Notice*, the Commission requested comment on "whether CPNI records should eventually be deleted, and if so, for how long such records should be kept."[6] In exploring the potential negative consequences of a record destruction mandate, the Commission has asked whether "deleting CPNI or removing personal identification conflict with other priorities, such as . . . law enforcement."[7]

The answer to the above question is an unequivocal "yes," and we urge the Commission to explore ways to resolve the issues EPIC has raised in ways that preserve lawful access to communications records and other CPNI. For law enforcement, such CPNI is an invaluable investigative resource, the mandatory destruction of which would severely impact the Departments' ability to protect national security and public safety.

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4 Petition of the Electronic Privacy Information Center for Rulemaking to Enhance the Security and Authentication Standards for Access to Customer Proprietary Network Information, CC Docket No. 96-115 (filed Aug. 30, 2005) ("EPIC Petition").

5 *See* EPIC Petition at 11-12.

6 *Notice* ¶ 20.

7 *Id.*

As reflected in prior Commission filings on CPNI issues, the Departments fully support the Commission's goal of protecting the privacy and security of CPNI through rules prescribing the proper use and handling of that very sensitive information.[8] But while measures are needed to prevent *improper* access to this sensitive information, such measures should not work to limit properly authorized officials from lawfully accessing CPNI in order to solve and prevent crimes and to protect national security and public safety. In crafting any solution to the problems raised by the EPIC Petition, the Departments urge the Commission to reject imposing a mandate to destroy invaluable information used by the Departments in many of their most important investigations.[9]

II. The Commission's Rules Should Focus On Proper Security For All CPNI, Not On A Mandatory Destruction Requirement That Fails To Protect Some Records And Frustrates Lawful Access To Others.

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[8] *See, e.g.*, Reply Comments of the United States Department of Justice and the Federal Bureau of Investigation, *In the Matter of Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, Third Further Notice of Proposed Rulemaking, CC Docket No. 96-115 at 4, n. 8 (filed Nov. 19, 2002); Comments of the Federal Bureau of Investigation, *In the Matter of Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, Notice of Proposed Rulemaking, CC Docket No. 96-115 (filed Jul. 9, 1997); Comments of the Federal Bureau of Investigation, *In the Matter of 1998 Biennial Regulatory Review of International Common Carrier Regulations*, Notice of Proposed Rulemaking, IB Docket No. 98-118 (filed Aug. 13, 1998).

[9] EPIC's alternative recommendation – record de-identification – is also an unworkable option with respect to law enforcement's lawful access to such records. De-identification would separate the data that identify a particular caller or recipient (e.g., name, address, numbers called, etc.) from the general transaction records. Because the data that identifies a particular caller or recipient is often the critical portion of the call record for investigatory purposes, an irreversible de-identification approach would undermine the usefulness of the information provided pursuant to legal access. Accordingly, mandating the de-identification of such records would be the equivalent of mandating their destruction for law enforcement investigatory purposes. A de-identification approach should therefore be rejected for the same reasons.

A mandatory destruction requirement is the wrong approach for two reasons. First, because not all records would be immediately destroyed, efforts are better focused on proper security for the records while they are maintained. Second, and more importantly, the inability to produce records in response to lawful authority would have a significant negative impact on national security and public safety. Accordingly, the Departments urge the Commission to focus on security measures to protect all CPNI against *unauthorized* access rather than a rule that would also preclude lawfully authorized access.

As the Commission recognized when it explicitly asked about the impact of EPIC's records destruction proposal on other concerns, CPNI has other valid uses, such as fraud prevention and the protection of a carrier's own network.[10] Another legally authorized use is to investigate crime and protect national security and public safety. The Departments seek lawful access to CPNI in connection with investigations of all kinds – from child pornography to illegal drug trafficking, counter-intelligence, espionage, and more. In fact, as the FBI has previously advised the Commission, lawfully-obtained CPNI is used in virtually every federal, state, and local investigation of consequence.[11] Such CPNI is critically important not only in solving crimes but also in preventing crimes and even saving lives.[12] As discussed below, the same is true in the national security and

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[10] The Departments submit that, beyond any retention period required by law, carriers should be free to retain voluntarily CPNI for other legal and appropriate purposes, such as protecting their networks and mitigating fraud.

[11] *See* Comments of the Federal Bureau of Investigation, *in re Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115 (filed Jul. 9, 1997) at 5.

[12] *Id.*

espionage contexts, where lawfully-obtained CPNI has enabled law enforcement and national security agencies to prevent terrorist acts and acts of espionage.[13] The courts have likewise long recognized the importance of telephone records to the administration of justice – both to law enforcement in the investigation and prosecution of serious offenses, such as illegal drug trafficking and organized crime, and to defendants in establishing an alibi defense.[14] Thus, a mandatory destruction requirement – particularly one tied to a point in time completely unrelated to these purposes, i.e., when records cease to be "needed for billing or dispute purposes" – would inevitably result in the loss of critical information to many such investigations and cases.[15]

Moreover, a mandatory records destruction regime would be particularly inappropriate, because it could hinder efforts to counter international terrorism. Lawful access to communications records is a critical tool in the fight against global terrorism. Such records, when combined with other investigative information, can be used to establish the movements and identities of known and suspected terrorists. Mobile phone records, for example, were instrumental in tracking down the perpetrators of the Madrid

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13 *Id.* at 6-7.

14 *See, e.g. U.S. v. Hanardt*, 173 F. Supp. 2d 801 (N.D. Ill. 2001) (phone records helped establish defendant's "long-time connection to Chicago organized crime"); *U.S. v. Scala*, 388 F. Supp. 2d 396 (S.D.N.Y. 2005) (cellular phone records showed numerous calls between defendant and known organized crime figures); *Reporters Committee for Freedom of the Press v. AT&T*, 593 F.2d 1030, 1036-37 (D.C. Cir. 1978) (noting that "toll-billing records have become an invaluable law enforcement aid" and that information from toll-billing records has been used by state and federal law enforcement officials in criminal investigations and prosecutions for over 50 years). *See also Butler v. State*, 716 S.W.2d 48 (Tex. Crim. App. 1986) (telephone toll record was the key factor in establishing alibi defense).

15 We note that any mandatory data destruction requirement would also largely negate the utility of the existing data preservation scheme under 18 U.S.C. § 2703(f); if the data relating to a specific investigation has been destroyed, there will be nothing for providers to preserve in response to a request from law enforcement.

bombings that killed 191 and injured approximately 1,800 people on March 11, 2004.[16] The National Commission on Terrorist Attacks Upon the United States also relied on telephone records in numerous instances to establish the movements and contacts of the 9/11 hijackers before their terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001.[17]

It is precisely these kinds of concerns that motivated the Commission to abandon its former rules requiring data destruction and adopt its current rules that require the maintenance of certain categories of CPNI. Prior to 1986, the Commission's Part 42 carrier record-keeping rules required, among other things, that carriers (1) macerate or destroy the legibility of records the contents of which are forbidden by law to be divulged to unauthorized persons,[18] and (2) retain telephone toll records for six months.[19] As part of a comprehensive review by the Commission of its Part 42 rules and in response to a related request by DOJ to extend the telephone toll record retention period specified therein, the Commission (among other things) eliminated the records destruction

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16 *See* "Madrid Bombing 'Manager' in Court," BBC News (June 3, 2005), viewable at http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/england/berkshire/4607175.stm (telephone records used to show bombing "manager" had been in contact with people involved in the Madrid bombings).

17 *See The 9/11 Commission Report* (released Jul. 22, 2004) at 217, 515 n.26, 522 n.68.

18 *See In the Matter of Revision of Part 42, Preservation of Records of Communication Common Carriers*, Notice of Proposed Rulemaking, 1985 FCC LEXIS 2945 ¶¶ 13, 23 (1985) ("*Part 42 NPRM*") (discussing the record destruction requirement contained in the then-current version of Section 42.6 of the Commissions rules, 47 C.F.R. § 42.6 (Destruction of Records) (1985)).

19 *See Part 42 NPRM* ¶ 18 (discussing the toll record retention requirement contained in the then-current version of Section 42.9 of the Commissions rules, 47 C.F.R. § 42.9 (List of Records) (1985)).

requirement and extended the toll record retention period to 18 months.[20] In granting DOJ's request, the Commission specifically recognized that an extension of the retention period was warranted in order to "support successful investigations and prosecutions . . . ."[21] In extending the retention period, the Commission – with DOJ's input – refined and narrowed the specific information that law enforcement stated it would need to support its investigative efforts at that time.[22]

In addition to the Commission's own prior acknowledgment of the difficulties a destruction requirement presents, recent experience in other countries further highlights the problems created by such requirements. The establishment of a data destruction regime in the European Union ("EU") a number of years ago has been found to be incompatible with protection of public safety and national security. In response, the EU recently adopted a Directive – binding on all of its member countries – that will have the effect of mandating all "providers of publicly available communications services" to

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20 *See In the Matter of Revision of Part 42, Preservation of Records of Communication Common Carriers*, Report and Order, 1986 WL 290829, 60 Rad. Reg. 2d (P&F) 1529 ¶¶ 4, 23-27, 38, 41-42 (1986) ("*Part 42 Order*"). DOJ's request was supported by the Advisory Committee for United States Attorneys, the FBI, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Postal Service, and the Immigration and Naturalization Service. *See Part 42 NPRM* ¶ 18.

21 *See Part 42 Order* ¶ 41.

22 *See Part 42 Order* ¶ 43. The specific information that DOJ indicated law enforcement would need at that time includes the name, address, and telephone number of the caller; telephone number called; the date, time, and length of the call; and automatic message accounting tapes. *Id.* The list of law enforcement-required information was incorporated into Section 42.6 of the Commission's rules and remains listed therein today. *See* 47 C.F.R. § 42.6 (2006).

store and retain communications data for up to two years.[23] In acknowledging the need for data retention requirements, the EU Parliament and Council recognized that:

> retention of data has proved to be such a necessary and effective investigative tool for law enforcement in several Member States, and in particular concerning serious matters such as organised crime and terrorism, it is necessary to ensure that retained data are made available to law enforcement authorities for a certain period, subject to the conditions provided for in this Directive.[24]

EPIC's recommended data destruction mandate would cause the Commission to regress to a course it has long since rejected. If anything, reliance on telephone call records as an investigative resource to protect public safety and national security has only increased and become more critical in the almost twenty years since the Commission revised Section 42.6 of its rules to extend the telephone records retention period.[25] Notwithstanding this increased reliance on such records, however, the efficacy of the Commission's current Section 42.6 requirement to meet law enforcement needs has been significantly eroded.

While the risks are clear and many, the benefit from a mandatory destruction requirement is largely unclear and certainly limited. The mandatory destruction of some

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[23] *See* Council Directive, 2006/24/EC, 2006 O.J. (L 105) 54, Article 6 ("Directive"), viewable at http://europa.eu.int/eur-lex/lex/JOHtml.do?uri=OJ:L:2006:105:som:en:html. *See also* Miriam H. Wugmeister and Karin Retzer, *Data Retention – Implications for Business*, 7 NO. 2 Privacy & Info. L. Rep. 7 (2006).

[24] *See* Directive at 4 ¶ 9.

[25] Moreover, as the Commission notes in the *Notice*, carriers themselves have already expressed concern about potential conflicts with Commission rules that require that call records and other CPNI be kept for at least a minimum period of time. *See Notice* ¶ 20 (noting carriers' comments that destroying records might conflict with the Commission's Part 42 record-keeping rules, 47 C.F.R. §42.01-11).

CPNI does nothing to address a significant portion of CPNI, specifically information needed for billing disputes, which will still need to be secured.[26] In fact, the material retained will most likely be the most recent records and hence possibly the most useful for data brokers. Rather than expending effort on promulgating rules with significant omissions, the Commission should instead focus its efforts, and those of carriers, on appropriate security measures that ensure that any access to such records is done only with valid legal authority. As the Department of Justice has urged the Commission for years, one large step in that direction would be to require that CPNI of U.S. customers of domestic services be stored exclusively within the United States.[27]

In opposing and pointing out the inadequacies of a data destruction regime, the Departments do not thereby imply that the current CPNI rules are adequate effectively to meet law enforcement's needs or protect public safety and national security. As noted above, the Departments have previously asked the Commission to strengthen the security of these records in a number of ways.[28] Further, developments in the world and in the communications marketplace since the Commission's last examination of these rules have highlighted the limited scope of the Commission's rules. Today, many modern

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[26] The statute of limitations in Section 415 of the Communications Act for billing disputes is two years. 47 U.S.C. § 415. The nature of Section 415 necessarily compels carriers to maintain all potentially relevant documents needed in connection with resolving actions concerning recovery of lawful charges or damages.

[27] *See* Reply Comments of the United States Department of Justice and the Federal Bureau of Investigation, *In the Matter of Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, Third Further Notice of Proposed Rulemaking, CC Docket No. 96-115 at 4, n.8 (filed Nov. 19, 2002).

[28] *See id. See also* Comments of the United States Department of Justice, *In the Matter of IP-Enabled Services*, Notice of Proposed Rulemaking, WC Docket No. 04-36 (filed May 28, 2004).

communications service providers maintain sensitive records about their customers' private communications, yet these new carriers have not been made subject to the rules that have traditionally governed CPNI.[29] In addition, as carriers covered by the Commission's existing rules have increasingly moved away from classic billing models, in which charges are itemized and billed by type of service, to non-measured, bundled, and flat-rate service plans, some carriers have claimed that call records under such new plans are not covered by Section 42.6 because they are not "toll records." Therefore, these carriers have argued that no records need be retained. This has significantly diminished the availability of call records that were historically made available to law enforcement, pursuant to lawful process, as traditional "billing records" under the Commission's rules. While it is recognized that changes in the communications industry over the past decade have resulted in changes in the record retention practices of such providers, it must also be acknowledged that the nature and immediacy of the threat confronting public safety and national security has significantly changed and evolved such that the need lawfully to access these critical records has increased, not diminished.

As a consequence of these changes, the Departments believe it is necessary to re-examine the Commission's existing rules which no longer fulfill critical public safety or national security needs in three key respects: 1) the scope of carriers and providers

[29] *Id.* To the extent that the *Notice* requests comment on whether any requirements that the Commission might adopt in the present rulemaking should extend to VoIP or other IP-enabled service providers, the Departments refer to their May 28, 2004 comments on this subject.

covered; 2) the scope of information and records covered, and; 3) the duration of retention of information and records.[30]

The critical role that communications records play in the Departments' most important investigations and the serious consequences for public safety and national security which result from the unavailability of such records cannot be understated. The Attorney General recently underscored this point when he noted that the investigation and prosecution of child predators depends critically on the availability of evidence that is often in the hands of Internet service providers. He observed that this evidence will be available to law enforcement only if the providers retain the records for a reasonable amount of time. Consequently, the Attorney General asked experts at the Department of Justice to examine how the failure of some Internet service providers to keep such records has hampered the Department's efforts to investigate and prosecute child predators.[31] In recognition of the importance of this issue, the Departments each will be evaluating how the availability of different categories of data held by different types of modern communications carriers impacts the Departments' respective missions. In addition, the Attorney General has pledged to reach out personally to leading service providers and other industry leaders to solicit their input and assistance. As these efforts develop, the Departments expect to have further views on how long data should be held, what data should be retained, and which carriers should have such obligations.

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[30] It should be noted that whereas the Commission has limited the retention period for toll records to 18 months, the statute of limitations for many federal felony crimes is five years, during which time law enforcement needs for relevant evidence continue. The Commission should explore, with further input from law enforcement, the degree to which the existing 18-month rule should be extended.

[31] *See* Prepared Remarks of Attorney General Alberto R. Gonzales at the National Center for Missing and Exploited Children (NCMEC) in Alexandria, Virginia, on April 20, 2006, available at http://www.usdoj.gov/ag/speeches/2006/ag_speech_060420.html.

III. Any Notice Requirement Adopted by the Commission Should Include A Provision Requiring Advance Notice to Law Enforcement and, Where Appropriate, Delayed Notice To The Consumer.

The EPIC Petition also suggested that carriers should be required to notify affected customers when there has been an improper disclosure of CPNI.[32] In the *Notice*, the Commission went further and asked for comments regarding "the costs and benefits of routinely notifying customers after any release of their CPNI."[33] While the Departments strongly support prompt victim notification in the case of security breaches, we believe any rule requiring such notification should also require that carriers first notify law enforcement authorities and, where appropriate, allow law enforcement to request a reasonable delay in notification to the consumer where such notification might harm related law enforcement investigative efforts. In addition, any requirement that customers routinely be notified of disclosures of their CPNI should make clear that it does not alter the rules already established by Congress regarding the circumstances under which a customer must be notified of law enforcement access to customer records.

Requiring advance notice to law enforcement of security breaches, together with the option of delaying consumer notification, can serve several important goals. First, anecdotal evidence suggests that many CPNI breaches go unreported to law enforcement. Only by prompt investigation of such breaches can the offenders be identified and punished. Thus, required reporting to law enforcement will deter further breaches of CPNI security. Second, where deemed necessary by law enforcement, a reasonable delay can help preserve evidence critical to the investigation of misappropriation of CPNI. If a carrier suffering an intrusion or theft must immediately announce the security breach to

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[32] *See* EPIC Petition at 11.

affected customers and to the public, the persons responsible may be tipped off that law enforcement is investigating their crime. Criminals would then have the opportunity to destroy evidence, change their behavior, and otherwise jeopardize the investigation and avert justice. Indeed, the approach outlined above is the one taken by a variety of proposed legislation currently under consideration by Congress.[34]

The Commission's questions regarding routine notification of <u>any</u> access to CPNI, even when no security breach is suspected, raise additional issues.[35] There may be good reasons that a carrier may want to disclose CPNI without notifying its customer, e.g., during the course of a fraud investigation. But if the Commission does decide to go beyond notification of actual security breaches, it should at a minimum make clear that any new requirements do not alter the balance struck by Congress for when law enforcement access to customer records must be disclosed. *See* 18 U.S.C. 2701 *et seq.* Because Congress has already established a structure for customer notification of law enforcement access to customer records, the Commission should exclude disclosure of CPNI to law enforcement from any routine notification requirement.

IV. Conclusion

For the reasons stated herein, the Departments urge the Commission not to adopt rules mandating the destruction of call records and similar CPNI, a vitally important investigative resource for protecting public safety and national security. Such a rule would undoubtedly hinder the Departments' ability to carry out their respective public

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33 *Notice* ¶ 23.

34 *See, e.g.*, Data Accountability and Trust Act, H.R. 4127, 109th Cong. (2005); Personal Data Privacy and Security Act of 2005, S. 1789, 109th Cong. (2005).

35 *Notice* ¶ 23.

safety and national security responsibilities. Additionally, the Departments suggest that any new rules requiring customer notification in the case of improper CPNI disclosure include a requirement that carriers provide prompt notice to law enforcement and an opportunity for law enforcement to request delayed notification to the consumer. We appreciate the Commission's recognition and support of the Departments' important mission in these areas.

Dated: April 28, 2006

Respectfully submitted,

THE UNITED STATES DEPARTMENT OF JUSTICE

/s/ Laura H. Parsky
Laura H. Parsky
Deputy Assistant Attorney General
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Room 2113
Washington, D.C. 20530
(202) 616-3928

and

/s/ Elaine N. Lammert
Elaine N. Lammert
Deputy General Counsel
Office of the General Counsel
Federal Bureau of Investigation
United States Department of Justice
J. Edgar Hoover Building
935 Pennsylvania Avenue, N.W.
Room 7435
Washington, D.C. 20535
(202) 324-1530

and

/s/ Michael L. Ciminelli

Michael L. Ciminelli
Deputy Chief Counsel
Office of Chief Counsel
Drug Enforcement Administration
United States Department of Justice
Washington, D.C. 20537
(202) 307-8020

and

THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY

/s/ Stewart A. Baker

Stewart A. Baker
Assistant Secretary for Policy
United States Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528
(202) 282-8030

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From: [redacted] (OGC) (FBI)
Sent: Thursday, September 07, 2006 9:45 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: NSL enforcement issue\\ Billing Records \ 47 CFR 42.6 \ HIPPA

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Unit Chief
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: [redacted]
Unclassified Fax: [redacted]
Secure Fax: [redacted]

DATE: 06-09-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-09-2032

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Sent: Wednesday, September 06, 2006 7:34 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); LAMMERT, ELAINE N. (OGC) (FBI)
Subject: RE: NSL enforcement issue\\ Billing Records \ 47 CFR 42.6 \ HIPPA

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CPNINPRMCOMMENTS(4-28-06FINAL)... 47 CFR 42-6_Tel Billing Record...

PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT PRIOR OGC APPROVAL

[redacted]
Associate General Counsel - Unit Chief
Science & Technology Law Unit
b6 **Engineering Research Facility**
b7C [redacted]
Quantico, VA 22135
Tel. [redacted]
Fax

DATE: 06-09-2007
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b6 **From:** [redacted] (OGC) (FBI)
b7C **Sent:** Wednesday, September 06, 2006 12:22 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: NSL enforcement issue

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b7C **Sent:** Wednesday, September 06, 2006 11:52 AM
To: [redacted] (OGC) (FBI)

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Subject: RE: NSL enforcement issue

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Julie

-----Original Message-----
b6 **From:** [redacted] (OGC) (FBI)
b7C **Sent:** Tuesday, September 05, 2006 6:05 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: NSL enforcement issue

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b7C **Sent:** Tuesday, September 05, 2006 3:11 PM
To: [redacted] (OGC) (FBI)
Subject: RE: NSL enforcement issue

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Julie

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, September 01, 2006 8:06 AM
To: [redacted] (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI) [redacted] (FBI)
Subject: NSL enforcement issue

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[Code of Federal Regulations]
[Title 47, Volume 3]
[Revised as of October 1, 2005]
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[CITE: 47CFR42.6]

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TITLE 47--TELECOMMUNICATION

CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION (CONTINUED)

PART 42_PRESERVATION OF RECORDS OF COMMUNICATION COMMON CARRIERS--Table
of Contents

Sec. 42.6 Retention of telephone toll records.

Each carrier that offers or bills toll telephone service shall retain for a period of 18 months such records as are necessary to provide the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time and length of the call. Each carrier shall retain this information for toll calls that it bills whether it is billing its own toll service customers for toll calls or billing customers for another carrier.

[51 FR 39536, Oct. 29, 1986]

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DATE 06-09-2007 BY 65179 DMH/KSR/JW

MessageFrom: [redacted] (OGC) (FBI)
Sent: Thursday, August 04, 2005 8:40 AM
To: [redacted] (OGC) (FBI); [redacted] (OI) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (CTD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] L (OGC) (FBI)
Cc: BOWMAN, MARION E. (OI) (FBI); [redacted] (OGC)(FBI)
Subject: FW: 2709 Attachment

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DATE 06-08-2007 BY 65179 DMH/KSR/JW

[redacted]
Unit Chief
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: [redacted]
Unclassified Fax: [redacted]
Secure Fax: [redacted]

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-----Original Message-----
From: [redacted] (OGC)(FBI)
Sent: Wednesday, August 03, 2005 11:10 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: 2709 Attachment

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FYI

[redacted]
Assistant General Counsel
National Security Law Branch
Office of General Counsel FBI
[redacted] Voice
Pager
Secure Fax
Fax

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From: [redacted] (OGC) (FBI)
Sent: Thursday, December 14, 2006 1:11 PM
To: [redacted] (OGC) (FBI); [redacted] (DI) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

b5

Subject: FW: Draft NSL EC [redacted]

UNCLASSIFIED
NON-RECORD

You should read the attached EC.

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b7C
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[redacted]
Unit Chief
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU II [redacted]
Unclassified Fax: (202) [redacted]
Secure Fax: (202 [redacted]

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DATE 06-09-2007 BY 65179 DMH/KSR/JW

-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Wednesday, December 13, 2006 12:48 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: Draft NSL EC [redacted]

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UNCLASSIFIED
NON-RECORD

I made some edits and asked a question.

Julie

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, December 11, 2006 4:29 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Draft NSL EC [redacted]

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[redacted]

NSLmiscellaneousEC
.wpd (24 KB)...

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UNCLASSIFIED

UNCLASSIFIED

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From: [redacted] (OGC) (FBI)
Sent: Thursday, September 07, 2006 9:45 AM
To: [redacted] (OGC) (FBI); [redacted] (DI) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: NSL enforcement issue\\ Billing Records \ 47 CFR 42.6 \ HIPPA

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NON-RECORD

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WHERE SHOWN OTHERWISE

fyi

[redacted]

Unit Chief
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) [redacted]
Unclassified Fax: (202) [redacted]
Secure Fax: (202) [redacted]

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b2

DATE: 06-09-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-09-2032

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 06, 2006 7:34 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); LAMMERT, ELAINE N. (OGC) (FBI)
Subject: RE: NSL enforcement issue\\ Billing Records \ 47 CFR 42.6 \ HIPPA

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[redacted]

CPNINPRMCOMMENTS(4-28-06FINAL)... 47 CFR 42-6_Tel Billing Record...

PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT PRIOR OGC APPROVAL

[redacted]
Associate General Counsel - Unit Chief
Science & Technology Law Unit
Engineering Research Facility
[redacted]
Quantico, VA 22135
Tel. [redacted]
Fax [redacted]

b6
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-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 06, 2006 12:22 PM
To: [redacted] (OGC) (FBI) [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: NSL enforcement issue

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UNCLASSIFIED
NON-RECORD

(S) [redacted]

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-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Wednesday, September 06, 2006 11:52 AM
To: [redacted] (OGC) (FBI)

b6
b7C

Subject: RE: NSL enforcement issue

UNCLASSIFIED
NON-RECORD

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Julie

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, September 05, 2006 6:05 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: NSL enforcement issue

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UNCLASSIFIED
NON-RECORD

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-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Tuesday, September 05, 2006 3:11 PM
To: [redacted] (OGC) (FBI)
Subject: RE: NSL enforcement issue

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UNCLASSIFIED
NON-RECORD

b5

Julie

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, September 01, 2006 8:06 AM
To: [redacted] (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (FBI)
Subject: NSL enforcement issue

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From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 06, 2006 4:15 PM
To: [redacted] (OGC) (FBI); [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: NSL enforcement issue

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[redacted] brings up very important issues on NSLs.

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WHERE SHOWN OTHERWISE

Unit Chief
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) [redacted]
Unclassified Fax: (202) [redacted]
Secure Fax: (202) [redacted]

DATE: 06-09-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-09-2032

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 06, 2006 12:22 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: NSL enforcement issue

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b7C

UNCLASSIFIED
NON-RECORD

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-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Wednesday, September 06, 2006 11:52 AM

SECRET

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To: [redacted] (OGC) (FBI)
Subject: RE: NSL enforcement issue

UNCLASSIFIED
NON-RECORD

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[redacted]

Julie

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, September 05, 2006 6:05 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: NSL enforcement issue

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UNCLASSIFIED
NON-RECORD

b5

[redacted]

-----Original Message-----
From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Tuesday, September 05, 2006 3:11 PM
To: [redacted] (OGC) (FBI)
Subject: RE: NSL enforcement issue

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UNCLASSIFIED
NON-RECORD

b5

[redacted]

Julie

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, September 01, 2006 8:06 AM
To: [redacted] (OGC) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (FBI)
Subject: NSL enforcement issue

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SENSITIVE BUT UNCLASSIFIED
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From: [redacted] (OGC) (FBI)
Sent: Tuesday, August 08, 2006 5:19 PM
To: [redacted] (OGC) (FBI); [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

b5

Subject: FW: [redacted]

Importance: High

SECRET//ORCON,NOFORN
RECORD NSL

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WHERE SHOWN OTHERWISE

I will discuss this at our unit meeting.

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b7C
b2

[redacted]
Unit Chief
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) [redacted]
Unclassified Fax: (202) [redacted]
Secure Fax: (202) [redacted]

DATE: 06-09-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-09-2032

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, August 08, 2006 2:57 PM
To: THOMAS, JULIE F. (OGC) (FBI); CAPRONI, VALERIE E. (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

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b5

Subject: [redacted]
Importance: High

SECRET//ORCON,NOFORN
RECORD NSL

(S) Julie & Valerie--- I have been advised by SAC Art Cummings [redacted]

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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence

Investigations
DECLASSIFICATION EXEMPTION 1
SECRET//ORCON,NOFORN

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET//ORCON,NOFORN

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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b7C

Precedence: ROUTINE **Date:** 12/15/2006

To: Can Valerie signout an all Division EC?
Attn: ADIC/SAC
CDC

From: Office of the General Counsel
National Security Law Branch
Contact: [redacted]

b6
b7C

Approved By:
Caproni Valerie E
Thomas Julie F

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DATE 06-19-2007 BY 65179 DMH/KSR/JW

Drafted By: [redacted] pik

Case ID #: (U) 319X-HQ-A1487720-OGC

1073946

Title: (U) LEGAL ADVICE AND OPINIONS;
UPLOADING OF NSL RETURN INFORMATION

Synopsis: (U) Provides guidance to the field as to the need to review NSL return information prior to uploading the information into FBI databases.

Details: (U)

It has come to the attention of the Office of General Counsel, National Security Law Branch (NSLB), that there may be occasions in which NSL information has been uploaded into Telephone Applications and other databases prior to having been reviewed by any FBI personnel. This is particularly likely to occur if the information is received in electronic form. However, a problem arises if the information that was received is not responsive to the NSL and thus, not relevant to an authorized national security investigation, or, alternatively, if there was a mistake by the FBI in the NSL such that the records are responsive but not relevant to an authorized investigation. Such deficiencies in the NSL return information may never be discovered, or, discovered too late to prevent the use of information that the FBI did not properly collect. Therefore, it is imperative that the records be reviewed before uploading to assure that they are relevant to an authorized national security investigation. Thereafter, if the records were properly obtained,

they may be uploaded into a database. If there is a problem with the manner in which they were obtained, other steps need to be taken.[1]

Any questions about this matter may be directed to AGC [redacted] at 571 [redacted]

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1- Ms. Caproni
1- Ms. Thomas
1- [redacted]

[1] If the records were not properly obtained, i.e., there was a mistake by the carrier or the FBI in the NSL process, then the records should be sequestered with the CDC, and a potential IOB reported to NSLB. Thereafter, in its responsive EC, NSLB will indicate the proper disposition of the records. If the records were in fact properly obtained (e.g., the records are covered by the attachment, if not the body of the NSL)), they may be retained and uploaded. If the records were not properly obtained but are relevant to an authorized investigation (e.g., exceed the time frame of the NSL but pertain to the subject of the NSL), the records should remain sequestered until another NSL is issued to cover those records. If the records were not properly obtained and are not relevant to an authorized investigation, the CDC is expected to contact the owner of the records and determine if the entity wants the records returned to it or destroyed by the FBI. For a full explanation of the manner in which NSL records should be maintained for IOB purposes, see EC, dated 11/16/2006, 278-HQ-C1229736, serial 2570.

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTO | CD | Volume 15

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

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DATE 06-12-2007 BY 65179 DMH/KSR/JW

Good morning Mr. Chairman, Ranking Member Smith, and Members of the Committee. It is my pleasure to appear before you today to discuss the recent report by Department of Justice's Office of the Inspector General (OIG) regarding the FBI's use of national security letters (NSLs). The OIG's report is a fair report that acknowledges the importance of NSLs to the ability of the FBI to conduct the national security investigations that are essential to keeping the country safe. Importantly, the OIG found no deliberate or intentional misuse of the national security letter authorities, Attorney General Guidelines or FBI policy. Nevertheless, the OIG review identified several areas of inadequate auditing and oversight of these vital investigative tools, as well as processes that were inappropriate. Although not intentionally, we fell short in our obligations to report to Congress on the frequency with which we use this tool and in the internal controls we put into place to make sure that it was used only in accord with the letter of the law. Director Mueller concluded from the OIG's findings that we must redouble our efforts to ensure that there is no repetition of the mistakes of the past in the use of these authorities and I share his commitment. I would also like to acknowledge the role of Congress and the effectiveness of congressional oversight in surfacing the deficiencies raised in this audit, which was called for in the USA PATRIOT Improvement and Reauthorization Act. The report made ten recommendations in response to the findings, designed to provide both the necessary controls over the issuance of NSLs and the creation and maintenance of accurate records. The FBI fully supports each recommendation and concurs with the Inspector General that, when implemented, these reforms will ensure full compliance with both the letter and the spirit of the authorities entrusted to the Bureau.

National Security Letters

National Security Letters generally permit us to obtain the same sort of documents from third party businesses that prosecutors and agents obtain in criminal investigations with grand jury subpoenas. Unlike grand jury subpoenas, however, NSL authority comes through several distinct statutes and they have specific rules that accompany them. NSLs have been instrumental in breaking up cells like the "Portland Seven," the "Lackawanna Six," and the "Northern Virginia Jihad." Through the use of NSLs, the FBI has traced sources of terrorist funding, established telephone linkages that resulted in further investigation and arrests, and arrested suspicious associates with deadly weapons and explosives. NSLs allow the FBI to link terrorists together financially, and pinpoint cells and operatives by following the money.

The NSL authority used most frequently by the FBI is that provided by the Electronic Communications Privacy Act (ECPA). Through an ECPA NSL, the FBI can obtain subscriber information for telephones and electronic communications and can obtain toll billing information and electronic communication transaction records. Significantly, the FBI cannot obtain the content of communications through an ECPA NSL. Although the exact numbers of ECPA NSLs remains classified, it is the most common NSL authority used.

Pursuant to the Right to Financial Privacy Act (RFPA), the FBI also has the authority to issue NSLs for financial records from a financial institution. RFPA NSLs are used commonly in connection with investigations of potential terror financing.

Pursuant to the Fair Credit Reporting Act, the FBI has the authority to issue three different, but related, types of NSLs to credit reporting agencies: an NSL pursuant to 15 U.S.C. 1681u(a) for the names of financial institutions with which the subject has or has had an account; an NSL pursuant to 15 U.S.C. 1681u(b) for consumer identifying information (name, address, former

addresses, employment and former employment); an NSL pursuant to 15 U.S.C. 1681v for a full credit report. Of all the FBI's NSL authorities, only the last of the FCRA authorities is restricted to use only in international terrorism cases.

Finally, the FBI has the authority to issue NSLs pursuant to the National Security Act in the course of investigations of improper disclosure of classified information by government employees.

For the first 3 types of NSLs (ECPA, RFPA, FCRA) the NSL must include a certification by an authorized FBI employee that the material is being sought for an authorized national security investigation. That certification is slightly different in the case of a FCRA NSL for a full credit report, where the certification required is that the information is relevant to an international terrorism investigation.

The authority to issue an NSL lies at a senior level within the FBI. An NSL can be issued only by an official who ranks not lower than Special Agent in Charge or Deputy Assistant Director. All such officials are career government employees who are members of the Senior Executive Service. Procedurally, an agent or analyst seeking an NSL must prepare a document (an electronic communication or EC) in which the employee lays out the factual predicate for the request. The factual recitation must be sufficiently detailed so that the approving official can determine that the material sought is relevant to an investigation. Additionally, it needs to provide sufficient information concerning the underlying investigation so that reviewing officials can confirm that the investigation is adequately predicated and not based solely on the exercise of First Amendment rights. Finally, the EC includes a "lead" to the Office of the General Counsel (OGC) for purposes of Congressional reporting.

<u>OIG Report</u>

As directed by Congress, we endeavored to declassify as much information as possible concerning our use of NSLs in order to allow the maximum amount of public awareness of the extent of our use of the NSL tool consistent with national security concerns. To that end, for the first time the public has a sense of the frequency with which the FBI makes requests for data with national security letters. In the period covered by the report, the number of NSL requests has ranged from approximately 40,000 to 60,000 per year and we have requested information on less than 20,000 persons per year. For a variety of reasons that will be discussed below, those numbers are not exact. Nevertheless, they, for the first time, allow the public to get some sense of the order of magnitude of these requests; there are a substantial number of requests, but we are not collecting information on hundreds of thousands of Americans.

There are three findings by the OIG that are particularly disturbing, and it is those three findings that I wish to address this morning: (1) inaccurate reporting to Congress of various data points we are obligated to report relative to NSLs; (2) the use of so-called exigent letters that circumvented the procedures required by ECPA; and (3) known violations (both previously self-reported by FBI and not previously reported) of law and policy with regard to usage of NSLs.

Congressional Reporting

A finding of the report that particularly distresses me is the section that addresses the inaccuracies of the numbers we report to Congress. That responsibility lies with my division, and we did not do an acceptable job. The process for tabulating NSLs simply did not keep up with the volume. Although we came to that realization prior to the OIG report and are working on a technological solution, that realization came later than it should have.

At some point several years before my tenure at the FBI began, our process for tracking NSLs for Congressional reporting purposes shifted from a totally manual process, where NSL data was written on index cards, to a standalone Access database. This database is referred to in the OIG report as the OGC database. While the OGC database was a giant technological step forward from 3 x 5 index cards, it is not an acceptable system given the significant increase in use of NSLs since 9/11. First and foremost, the OGC database is not electronically connected to ACS, the system from which we derive the data. Instead, there is a manual interface between ACS and the OGC database. An OGC employee is responsible for taking every NSL lead that is sent to OGC and manually entering the pertinent information into the OGC database. Nearly a dozen fields must be manually entered, including the file number of the case in which the NSL was issued (typically 15 digits and alphanumeric identifiers).

Approximately a year ago we recognized that our technology was inadequate and began developing an automated system to improve our ability to collect this data. The system, in addition to improving data collection, will automatically prevent many of the errors in NSLs that we will discuss today. We are building an NSL system to function as a workflow tool that will automate much of the work that is associated with preparing NSLs and the associated paperwork. The NSL system is designed to require the user to enter certain data before the workflow can proceed and requires specific reviews and approvals before the request for the NSL can proceed. Through this process, the FBI can automatically ensure that certain legal and administrative requirements are met and that required reporting data is accurately collected. For example, by requiring the user to identify the investigative file from which the NSL is to be issued, the system will be able to verify the status of that file to ensure that it is still open and current (e.g. request date is within six months

of the opening or an extension has been filed for the investigation) and ensure that NSLs are not being requested out of control or administrative files. The system will require the user to separately identify the target of the investigative file and the person whose records are being obtained through the requested NSL, if different. This will allow the FBI to accurately count the number of different persons about whom we gather data through NSLs. The system will also require that specific data elements be entered before the process can continue, such as requiring that the target's status as a United States Person or non-United States Person be entered. The system will not permit requests containing logically inconsistent answers to proceed.

The NSL system is being designed so that the FBI employee requesting an NSL will enter data only once. For example, an agent or analyst who wishes to get telephone toll billing records will only have to prompt the system that he is seeking an ECPA NSL for toll records and type the telephone number once. The system will then automatically populate the appropriate fields in the NSL and the authorizing EC. The system will then generate both the NSL and the authorizing EC for signature, thereby ensuring that the two documents match exactly and minimizing the opportunity for transcription errors that give rise to unauthorized collections that must be reported to the Intelligence Oversight Board (IOB). Agents and analysts will still be required to provide the narrative necessary to explain why the NSL is being sought, the factual basis for making a determination that the information is relevant to an appropriately predicated national security investigation, and the factual basis for a determination whether the NSL should include a non-disclosure provision. In addition, this system will have a comprehensive reporting capability.

We began working with developers on the NSL system in February 2006 and we are optimistic that we will be able to pilot it this summer and roll it out to all field offices by the end of

the year. At that point, I will be confident the data we provide to Congress in future reports is as accurate as humanly possible.

In the meantime, we are taking several steps to correct the numbers we have previously reported. First, we are making data corrections in our database. Through a computer program, we have identified all entries that must be erroneous because there is an apparent error in the entry (e.g., there are more NSLs reported than requests; the date shows a year that is impossible (203)). We are manually reviewing those entries and making corrections. We have also started a random sampling of ten percent of the total entries in the OGC database which contains approximately 64,000 entries. Those entries will be manually checked against ACS. We will determine whether there is a significant difference between the entries in our database and the actual information in ACS. To the extent there is a difference, that will be the factor that will be used to correct our prior reporting. While not yielding an exact count, we believe that to be a statistically appropriate way of correcting prior reporting. We have discussed this methodology with the OIG and will offer it the opportunity to review our work. We are striving to have corrected reports to Congress as soon as possible.

As with the other shortcomings identified by the OIG, there was no finding of an intent to deceive Congress concerning our use of NSLs. In fact, as noted, we identified deficiencies in our system for generating data prior to the initiation of the OIG's review and flagged the issue for Congress almost one year ago. While we do not know the extent of the inaccuracies in past reporting, we are confident that the numbers will not change by an order of magnitude.

Exigent Letters

The next significant finding of the OIG involved the use within one unit at Headquarters of so-called "exigent letters." These letters, which numbered in excess of 700, were provided to

telephone companies with requests for toll billing information regarding telephone numbers. All of the letters stated that there were exigent circumstances. Many of the letters stated that federal grand jury subpoenas had been requested for the records even though in fact no such request for grand jury subpoenas had been made, while others promised future national security letters. From an audit and internal control perspective, the FBI did not document the nature of the emergency circumstances that led it to ask for toll records in advance of proper legal process, did not keep copies of all of the exigent letters it provided to the telephone companies, and did not keep records showing that it had subsequently provided either the legal process promised or any other legal process. Further, based on interviews the OIG conducted, some employees indicated that there was not always any emergency relating to the documents that were sought.

OGC has been working with the affected unit to attempt to reconcile the documentation and to ensure that any telephone record we have in an FBI database was obtained because it was relevant to an authorized investigation and that appropriate legal process has now been provided. As of late last week, there were still a small handful of telephone numbers that had not been satisfactorily tied to an authorized investigation. If we are unable to determine the investigation to which those telephone numbers relate, they will be removed from our database and destroyed.

The OIG rightfully objected to the FBI obtaining telephone records by providing a telephone carrier with a letter that states that a federal grand jury subpoena had been requested when that was untrue. It is unclear at this point why that happened. The Director has ordered a special inspection in order to better understand the full scope of internal control lapses.

We also concur with the OIG that it is inappropriate to obtain records on the basis of a purported emergency if, in fact, there is no emergency. We continue to believe, however, that providers had

the right to rely on our representation that there was an emergency and that the "exigent letters" - had they been issued only when there was an exigent circumstance and had they correctly identified the legal process that would follow - would have been an appropriate tool to use.

In response to the obvious internal control lapses this situation highlights, changes have already been made to ensure that this situation does not recur. Any agent who needs to obtain ECPA-protected records on an emergency basis must now do so pursuant to 18 U.S.C. 2702. Section 2702(c)(4) permits a carrier to provide information regarding its customers to the government if the provider in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency. A request for disclosure pursuant to that statute generally must be in writing and must clearly state that the disclosure without legal process is at the provider's option. The letter request must also set out the basic facts of the emergency so that the provider can make some assessment whether it concurs that there is an emergency.

Intelligence Oversight Board Process

The OIG also examined misuse of NSLs that had been reported (and some that had not been reported) as part of the IOB process. As this committee knows, pursuant to Executive Order 12863 the President has an Intelligence Oversight Board that receives from the agencies in the intelligence community reports of intelligence activities that the agency believes may have been unlawful or contrary to Executive Order or Presidential Directive. This language is interpreted by the FBI and DOJ 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 if such provision is designed to ensure the protection of individual rights.

The FBI requires its employees to report any violations of law or policy about which they are aware. We encourage employees to err on the side of reporting so that we can be sure that all violations are appropriately reported. In terms of process, all potential violations (called PIOBs - or potential intelligence oversight board violations) are reported to OGC. Lawyers within OGC are responsible for "adjudicating" the violation - that is, determining whether the PIOB is an actual Intelligence Oversight Board violation. If it is, a report is made to the IOB, a copy is provided to DOJ and a copy is provided to the FBI's Inspection Division. If the violation involved intentional misconduct, the Inspection Division will determine whether the matter should be referred to the Office of Professional Responsibility for discipline.

The OIG found that from 2003 through 2005, the FBI had self-reported 26 potential violations involving NSL authorities. Of the 26, OGC adjudicated 19 to be violations and reported them. The OIG agreed with each of those determinations. Of the 7 PIOBs that OGC determined were not violations, the OIG agreed with all but one. As to the one determination about which we disagreed, upon re-review, the FBI concurred with the OIG that it was a violation that should have been reported and it has since been reported to the IOB. These 20 violations included: third party errors (4), NSLs issued when the authority for the investigation had lapsed (3), obtaining ECPA-protected records without any legal process (3) and obtaining a full credit report in a counterintelligence case (1).

The OIG also found, however, a number of potential IOBs in the files it examined that had not been reported to OGC for adjudication. Although press accounts of the reports have implied that the OIG found massive abuses of the NSL authorities by the FBI, a careful read of the report reflects a different set of facts. The OIG examined 293 NSLs - a reasonably small sample. The sample was

a judgmental sample and the size was chosen because the audit was extremely labor intensive. We do not suggest that the sample was not a fair sample (although it was not random), but only that it is questionable from a statistical standpoint to attempt to extrapolate from a very small sample to an entire population. Moreover, there was wide variation in the number of purported unreported violations from different field offices. The OIG found 8 potential violations that were unreported in files in both the Philadelphia and Chicago field offices, but only 2 unreported potential violations from files in New York and 4 from San Francisco. We are doing additional follow-up work, but the wide variance between field offices may be a function of the very small sample, or it may indicate that the percentages of potential errors detected are not constant across all field offices.

Setting aside questions about whether the sample is representative, I urge you to look closely at the numbers before arriving at the conclusion that there is a systemic problem concerning the use of NSLs. Of the 293 NSLs the OIG examined, 22 (7%) were judged to have potential unreported IOB violations associated with them. Moreover, of that 7%, 10 - or almost 50% - were third party errors -- that is, the NSL recipient provided the FBI information we did not seek. Only 12 of the NSLs examined - 4% - had mistakes that the OIG rightfully attributes to the FBI.

Examining the 12 potential errors that were rightfully attributed to the FBI reveals a continuum of seriousness relative to the potential impact on individual rights. Four (or just over 1% of the sample) were serious violations. Specifically, two of the violations involved obtaining full credit reports in counterintelligence investigations (which is not statutorily authorized), one involved issuing an NSL when authorization for the investigation to which it related had lapsed, and one involved issuing an NSL for information that was arguably content, and therefore not available pursuant to an NSL. (In the latter case, the ISP on which the NSL was served declined to produce

the requested material so there was, in fact, no collection of information to which we were not entitled.) The balance of the 12 potential violations identified by the OIG do not, in our view, rise to the same level of seriousness as those 4. The remaining 8 involve errors that are best characterized as arising from a lack of attention to detail, and did not result in the FBI seeking or obtaining any information to which it was not entitled. Those 8 potential violations involved errors such as using the wrong certification language in an NSL (although the appropriate certification is not materially different) and having the NSL and the EC seeking the NSL not entirely consistent. We do not excuse such lack of attention to detail, but we do not believe that such mistakes result in or cause a risk to civil liberties.

In short, approximately 1% of the NSLs examined by the OIG had significant errors that were attributable to FBI actions and that had not been, but should have been, reported as PIOBs.

While a 1% error rate is not huge, it is unacceptable, and we have taken steps to reduce that error rate. First, we are very concerned that of all the potential IOBs involving mistakes in NSLs attributable to the FBI (whether previously reported or not), 3 involved the same mistake: namely, issuing an NSL for a full credit report in a counterintelligence investigation. In order to ensure that this particular error is fully rectified, the FBI ordered all field offices to examine all counterintelligence files in which Fair Credit Report NSLs have been issued since January 1, 2002 in order to ascertain whether the file contains a full credit report. If it does, the credit report must be removed from the file, sequestered with the field office's attorney, and a PIOB must be reported to OGC. The results from that search are due to headquarters by April 16, 2007.

Several other steps we have taken will, we believe reduce the likelihood that the FBI will commit the other mistakes in the future. First, as indicated previously, the FBI is developing an

automated system to prepare NSLs and their authorizing ECs. That system will reduce to zero mistakes such as having the wrong certification language or inconsistency between the NSL and the EC. It will also ensure that the investigative file out of which the NSL is being issued is open. Finally, it will ensure that an NSL for a full credit report cannot be issued out of a counterintelligence file.

Other changes to FBI policy have been made that we believe will facilitate better handling of IOBs and also reduce errors that lead to IOBs. First, last fall we provided comprehensive advice to the field regarding its responsibility towards information obtained as a result of third party errors. That guidance requires all such information to be sequestered and reported to OGC as a PIOB. If the "over collected" information is irrelevant to the investigation (e.g., the telephone company transposed a number and provided us records on the wrong telephone account), then it will be destroyed or returned. No such information should be entered into FBI databases. If the information is relevant to the investigation but simply not within the four corners of the NSL, then the information must be sequestered until a new NSL has been issued for the extra data. After the new NSL has been issued, the information can be entered into FBI databases.

Secondly, we have collected all the rules and policies on NSLs into one document which will be disseminated to the field. Those rules now mandate that, until the deployment of the automated NSL system, all NSLs and ECs be prepared from the exemplars that are provided on OGC's website. That should eliminate many of the mistakes identified by the OIG.

All of these rules will, of course, only reduce or eliminate errors if they are followed. The OIG's report has highlighted for us that there must be some sort of auditing function - above and beyond the IOB process - to systematically ensure that these rules, as well as others that govern our

activities in national security investigations are followed. The FBI has historically been very good at establishing policy and setting rules, but we have not been as proactive as we should have been in establishing internal controls and auditing functions.

The full parameters of the compliance program have not been set, although these aspects have been: the Inspection Division with participation of DOJ's National Security Division and Privacy and Civil Liberties Office is in the process of a special inspection of NSL usage in all 56 field offices and headquarters. That inspection should uncover any other significant problems with our use of this tool but should also tell us whether there are variances between offices in terms of the numbers and types of errors. The results of the inspection will then inform the program that the Attorney General announced of having teams of DOJ lawyers, FBI lawyers and the Inspection Division periodically audit field offices' use of NSLs. That process will begin in April and should result in at least 15 offices being audited this year. We are also considering other proactive compliance programs in order to develop a program that ensures, to the maximum extent possible, that the rules and policies designed to protect privacy and civil liberties are faithfully adhered to by all of our employees, that we promptly identify and correct any violations of law or policy, and that any information collected erroneously is removed from FBI databases and destroyed. In addition, a working group co-chaired by the Office of the Director of National Intelligence and the CPCLO has been convened to examine how NSL-derived information is used and retained by the FBI. The FBI and DOJ's National Security Division will have a representative on this working group. We welcome the Committee's input as we move forward on these initiatives.

The FBI is acutely aware that the only way that we can achieve our mission of keeping the country safe is if we are trusted by all segments of the American public. With events like the

London terror attacks of 2 years ago and the Canadian plot to use fertilizer bombs to destroy buildings in Canada in 2006, we have all become worried about the risk of a catastrophic attack from home grown terrorists. Our single best defense against such an attack is the eyes and ears of all Americans -- but particularly of those segments of the population in which the risk of radicalization is at its highest. We need people in those communities to call us when they hear or see something that looks amiss. We know that we reduce the probability of that call immeasurably if we lose the confidence of those segments of the population. That is one of the reasons that we are looking for ways to assure all Americans that we are respectful of individual rights, including privacy rights, and that we use the tools that have been provided to us consistent with the rules set out by Congress.

I appreciate the opportunity to appear before the Committee and look forward to answering your questions. Thank you.

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CONGRESSIONAL TRANSCRIPTS

March 20, 2007
House Judiciary Committee Holds Hearing on FBI Patriot Act Misuse

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CONYERS:

Good morning. Committee will come to order.

We're here for a hearing on the inspector general's independent report on the FBI's use of national security letters.

Nearly six years ago, in the immediate aftermath of September 11th, the Department of Justice told us that they needed significantly enhanced authority, while promising the members of this committee in no uncertain terms that these new tools would be carefully and appropriately used.

Two years ago, when the Patriot Act was reauthorized, they promised us there was not a single instance in which the law had been abused.

Now, to underscore the importance of the reasons that we're holding this hearing, many of us remember the times in the past when the power of our government has been abused: in one war, led to the suspension of habeas corpus; another war, the notorious Palmer raids; in World War II, the internment of Japanese Americans; in the Vietnam War, the secret spying and enemy list.

In my view, we are now in a period where we risk a continuation of these deplorable acts and effect genuine harm to the Constitution and the rule of law.

One week ago, the inspector general told us that the exact opposite was true of the promise that had been made that there was not a single instance when the Patriot Act was being reauthorized that the law had been abused.

One tool in particular, the national security letters -- essentially, secret subpoenas issued without any court review -- was used repeatedly to invade the privacy of law-abiding Americans outside the law and proper legal process.

This was a serious breach of trust. The department had converted this tool into a handy shortcut to illegally gather vast amounts of private information while at the same time significantly underreporting its activities to Congress.

CONYERS:

We learned that the number of national security letter requests had increased from 8,500 in the year 2000 to in excess of 143,000 from the three-year period between 2003 and 2005.

The Department of Justice consistently provided inaccurate information to Congress concerning the national security letters, failing to identify at least 4,600 security letter requests to us.

The security letters were routinely issued without proper authorization, and outside statutory and regulatory requirements.

The inspector general found that more than 60 percent of the investigatory files they looked at included one or more violations of FBI policy.

But worse, the inspector general found even more widespread abuses concerning the so-called exigent letters, that is emergency requests for telephone and other data. An exigent letter, as opposed to a national security letter, is meant to obtain information in an extreme emergency, like a kidnapping when the bureau has already sought subpoenas for the requested information. But the FBI issued these letters in nonemergencies as a means to bypass the requirements of the national security letter procedure.

And so, as if it wasn't troubling enough, in many instances the bureau attempted to issue after-the-fact national security letters to cover their tracks on their use of exigent letters.

The inspector general specifically found that the exigent letters were ordinarily issued when there was no emergency present, and very often when there was not even a pending investigation.

More often than not, the letters were issued based on promises that subpoenas were in the process of being issued when that was not the case, and even though some subpoenas were never issued at all.

CONYERS:

The Federal Bureau of Investigation made numerous factual misstatements in the letters, which were frequently issued in violation of the statute as well as the attorney general and FBI guidelines.

The recordkeeping was so poor that it was impossible for the I.G. to document how and why all these problems occurred.

And what disturbs me most is that the abuse and misuse of these security letters is not an isolated instance. It appears to be apparent of a pattern which the Department of Justice has violated not only our trust, but the very laws which they are charged with enforcing.

And so I hope -- from the approval of the notorious torture memos to warrantless and illegal surveillance to wrongful smearing of able U.S. attorneys, this Department of Justice has squandered its reputation for independence and integrity.

The attorney general needs to understand that with power comes responsibility and with authority must come accountability.

I would like now to turn to the distinguished gentleman from Texas, the ranking member of this committee, Mr. Lamar Smith.

SMITH:

Thank you, Mr. Chairman.

Mr. Chairman, I appreciate your holding this hearing on the inspector general's report on the FBI's use of national security letters. The inspector general should be commended for conducting a thorough audit as directed by Congress in the Patriot Act reauthorization.

The report raises concerns as to the FBI's internal recordkeeping and guidelines for the use of NSLs in terrorism and espionage investigations.

It is clear from the report that these deficiencies are the result of the poor implementation and administration of national security letter authority. In other words,

the problem is enforcement of the law, not the law itself. Timely corrective measures by the FBI and effective oversight by the Justice Department and Congress will ensure proper use of this important law.

The inspector general's report found that the FBI's database for tracking NSLs significantly underestimated the number of NSL requests, resulting in inaccurate reports to Congress on the FBI's use of NSLs.

From 2003 to 2005, the FBI issued a total of 143,074 NSLs. This compares to 739 exigent letters to three telephone companies issued contrary to national security investigation guidelines. The exigent letters represent 1/200th of the national security letters issued.

Although the use of these unauthorized letters is disconcerting, the FBI discontinued this practice last year.

The inspector general makes two other very important findings.

First, there is no evidence that anyone at the FBI intended to violate the law or internal policy. This is a significant finding because it confirms that FBI agents acted in good faith and sought to comply with the law, even as they worked under severe time constraints and with an urgent desire to thwart terrorist activities.

Second, as detailed by the inspector general, NSLs are a critical tool in fighting terrorism and keeping our country safe. The information acquired through NSLs is valuable to international terrorism and espionage investigations and has allowed the FBI and intelligence agencies to identify terrorists and spies, the sources of their financing, and their plans to attack or harm our national security.

SMITH:

In addition, the FBI shares important information gathered through NSLs with other intelligence agencies, joint terrorism task forces, and state and local law enforcement agencies.

To do their job, the FBI must be able to collect important information about suspected terrorists and spies while complying with the law and freely share such information with key partners.

In response to extensive oversight efforts conducted last Congress, the Patriot Reauthorization Act added critical new safeguards. For instance, an NSL recipient can challenge the request in court, nondisclosure orders require supervisory approval, and the recipient may disclose the NSL to an attorney.

I applaud the administration's response to the inspector general's report and expect the administration to follow through on its promise to act quickly to remedy the deficiencies identified by the inspector general.

Mr. Chairman, on September 11th, 2001, the United States was attacked. More than 3,000 people lost their lives. Members of Congress overwhelmingly approved important new counterterrorism tools for our nation's law enforcement personnel and updated existing authorities to meet the terrorist threat.

We must continue to demonstrate responsible leadership on the NSLs and other important national security issues.

Of course, we need to be vigilant to make sure these problems are fixed, that the inspector general's recommendations are implemented, and that our civil liberties and privacy are protected.

Mr. Chairman, I'll yield back the balance of my time.

CONYERS:

And I thank the gentleman for his statement.

I'd like now to recognize the chairman of the Constitution Subcommittee, Jerry Nadler, for two and one-half minutes.

NADLER:

Thank the chairman.

I'd like to thank Chairman Conyers for holding this important hearing on the FBI abuses of national security letters. We are here today in response to the Department of Justice inspector general report that found widespread abuses of the FBI's authority to issue national security letters.

And NSL can be issued to third party, such as a health insurance company or an Internet service provider, ordering them to reveal all their information about you and your transactions, and the third party is prohibited from telling you or anyone else about the order. That's the so-called gag order provision.

So you cannot object to an NSL directed at your information in court, as you could to a subpoena, because you don't know about it. And the third party may have no interest in going to court to protect your rights or your privacy.

While last year's reauthorization of the Patriot Act did make some changes to the NSL provisions, these changes were essentially meaningless. For example, the court is now authorized to modify or set aside the gag order only if it finds there is no reason to believe that disclosure would endanger national security, diplomatic relations, or anyone's life or safety. But the court must accept the government's assertion of harm as conclusive, so this protection is meaningless.

Some of us had predicted that the unrestricted authority of the FBI to issue NSLs would be abused. And unfortunately our worst fears have now been realized.

The I.G.'s audit found the NSLs have been used by the FBI to collect and retain private information about American citizens who are not reasonably suspected of being involved in terrorism.

During the last Congress, we predicted that unchecked power would lead to rampant abuse. That's why I proposed the Stop Self-Authorized Secret Searches Act two years ago. This bill would have restored some pre-Patriot Act provisions: that an NSL could not be issued unless the FBI made a factual, individualized showing that the records sought pertain to a suspected terrorist or spy. It would have given the recipient of a national security letter an opportunity to obtain legal counsel, the right to challenge the letter, and a nondisclosure requirement -- a real right to challenge it.

NADLER:

It would have given notice to the target of the NSL if the government later seeks to use the records obtained from the NSL against him or her in a subsequent proceeding. And it would have given the target an opportunity to receive legal counsel and challenge the use of those records.

The bill would also have authorized the FBI to obtain documents that it legitimately needs while protecting the privacy of law-abiding American citizens.

The abuses by the DOJ and the FBI are proving that these legislative fixes are a necessary check on the investigatory power. We do not trust government always to be run by angels, especially not this administration.

It is not enough to mandate that the FBI fix internal management problems and recordkeeping, because the statute itself authorizes the unchecked collection of information on innocent Americans. Congress must act now to fix the statute authorizing the abuses revealed in the I.G. report and to hold those responsible for these abuses and violations accountable.

Thank you. I yield back.

CONYERS:

Thank you.

The chair recognizes the distinguished gentleman from Arizona, the ranking minority member of the Constitution Subcommittee, Trent Franks, for two and one-half minutes.

FRANKS:

Well, thank you, Mr. Chairman.

Mr. Chairman, today our task is a vital one: to check and balance our sister branch of government through oversight and to ensure citizens' rights are being properly safeguarded.

Today's subject is somewhat delicate because we must all walk a fine line. In our grave and critical responsibility to prevent jihadist attacks upon American citizens, we must also be careful to strike the proper balance between vigilance and fighting the enemy on the one side of the scales and the preservation of citizens' rights on the other.

The report of the inspector general that we review today is hopeful. We see that while there are human imperfections in the FBI's operation, there was an overall finding that the FBI is indeed carrying out its duties responsibly, there being no evidence of any intentional or deliberate act to violate the law; and that NSLs are performing their vital function as a valuable tool in national security investigations.

FRANKS:

To put today's hearing in perspective, we should keep in mind that the issuance of NSLs under the Patriot Act is a relatively new process, given that the Patriot Act is only a few years old and that this new use of NSLs will necessarily require a careful examination of their best and most appropriate use in this early period.

Certainly, we will have to work out the kinks, given that we are most likely in the business of fighting terror for a long time to come.

While the FBI's practices have had their shortcomings, it appears that these are problems that can be easily resolved. And this is good news. Many of the issues that we must review today are administrative in nature and, to some extent, unavoidable.

Government is a human institution, and it is therefore, by definition, imperfect. Those of us who have run corporations know that a perfect audit is a very rare occurrence, particularly on the first go-around.

Most business do internal audits -- perhaps many, many internal audits -- to discover where human judgment has fallen short and where to improve before being audited by an outside source.

This is an arduous but necessary task, and one that I hope we do well here today, and prospectively.

The FBI has vowed that it will make all the adjustments that Mr. Gonzales and Ms. Caproni have recommended. We look forward to the realization of this goal.

And with that, I thank the witnesses for joining us today, and we look forward to hearing your testimony.

And thank you, Mr. Chairman.

CONYERS:

Thank you.

The chair recognizes the distinguished gentleman from Virginia, Bobby Scott, chairman of the Crime Subcommittee, for two and a half minutes.

SCOTT:

Thank you, Mr. Chairman.

Mr. Chairman, we all believe that it's important to be aggressive in fighting terrorism, and also aggressive in maintaining privacy and freedoms. And I don't believe we should operate on the premise that we always give up freedom in order to obtain security.

SCOTT:

But for us to provide appropriate oversight, we have to have accurate information. Unfortunately, there are indications that we have received clearly inaccurate reports after the significant use of secret, invasive processes that do not appear to be necessary to advance terrorism-related investigations.

Whether it's a secret NSA wiretapping in violation of the FISA law or inappropriate use of the national security letters, we are discovering that what is actually occurring is quite different from what we were being told. And we cannot evaluate the ongoing need for NSA (sic) letters without accurate information.

There's also a clear indication of intentional misuse of the word "exigent" letters to telephone companies as emergency information when, in fact, no emergency existed. Somebody obviously knew this was a problem. There were, in fact, reports to Congress and oversight boards. And we need to find out who these people are.

With these disturbing indications, Mr. Chairman, I hope the testimony of the witnesses today will reveal who is responsible for these abuses and who should be held accountable for false reports to the Congress.

Thank you, Mr. Chairman. I yield back.

CONYERS:

Thank you so much.

Another Virginian, the ranking minority member of the Crime Subcommittee, Mr. Randy Forbes?

FORBES:

Mr. Chairman, I'd like to thank you and the ranking member, Congressman Smith, for holding this important hearing today and also for our witnesses for being here.

You know, the subject matter of this hearing makes for great theater, but when the show is over, we have the task of finding the facts and making sure the proper balance is struck and implemented to protect our citizens.

That we will do. And hopefully we will do it without the negativism and the emotionalism that seems so prevailing in public policy today. Pounding our fists makes great sound bites, but it does not stop terrorists or protect the privacy rights of our citizens.

It's clear that national security letters are important tools in international terrorism and espionage investigations conducted by the FBI. The inspector general's report, which details the audit of 77 case files in four field offices, shows a disturbing pattern: In 60 percent of those cases, the FBI's files were found to in violation of the FBI's internal control policies for issuing national security letters.

FORBES:

While the audit conducted concluded that there was no evidence of any intentional or deliberate act to violate the law, it's also clear that changes need to be made to the FBI's procedures so that they reflect the scope and intent of the law rather than the evolution of general practice.

I look forward to hearing from the FBI about what procedures were in place during the time of the inspector general's audit; and how, given the inadequacies identified by the inspector general, the FBI plans to correct this.

Mr. Chairman, I yield back the balance of my time.

CONYERS:

Thank you.

All other opening statements will be included in the record.

Mr. Glenn A. Fine, inspector general at the Department of Justice, a post held since he was confirmed by the Senate on December 15th, 2000. Mr. Fine's worked for the department's Office of Inspector General in a variety of capacities since January 1995. He's had several years in private practice, and also served as an assistant United States attorney in Washington, D.C.

We're also privileged to have with us the general counsel of the Federal Bureau of Investigation, Ms. Valerie Caproni, a position she's held since August 2003.

Prior to that, Ms. Caproni served as an assistant United States attorney in the Eastern District of New York, as a supervisor at the Securities and Exchange Commission, and also worked in private practice.

All your statements will be made a part of the record in their entirety. And we will have a five-minute time for each of you.

CONYERS:

And we ask Inspector General Glenn A. Fine to begin our testimony.

Welcome to the committee.

FINE:

Mr. Chairman, Congressman Smith and members of the Committee on the Judiciary, thank you for inviting me to testify about two reports issued by the Department of Justice Office of the Inspector General, regarding the FBI's use of national security letters and its use of Section 215 orders to obtain business records.

The Patriot Reauthorization Act required DOIG to examine the FBI's use of these authorities. And on March 9th, we issued reports detailing our findings.

Today I will summarize the key findings from our reviews, focusing my comments on the national security letter report.

Under five statutory provisions, the FBI can use national security letters -- NSLs -- to obtain, without review by a court, records such as customer information from telephone companies, Internet service providers, financial institutions and consumer credit companies.

Although most of the statutory provisions regarding NSLs existed prior to the enactment of the Patriot Act, the act significantly broadened the FBI's authority to use NSLs in two primary ways.

First, it eliminated the requirement that the information sought must pertain to a foreign power or an agent of a foreign power, and substituted the standard that the information requested must be relevant to or sought for an investigation to protect against terrorism or espionage.

Second, the Patriot Act significantly expanded approval authority for NSLs beyond a limited number of FBI headquarters officials to the heads of all FBI field officers.

Our review examined the FBI's use of NSLs from 2003 through 2005. The OIG will conduct another review, examining the FBI's use of NSLs in 2006, which we are required to issue by the end of this year.

In sum, our review found widespread and serious misuse of the FBI's national security letter authorities.

In many instances, the FBI's misuse violated NSL statutes, attorney general guidelines, or the FBI's own internal policies.

FINE:

We also found that the FBI did not provide adequate guidance, adequate controls or adequate training on the use of these sensitive authorities.

Before describing the main findings of our report, however, I believe it is important to provide context for these findings.

First, we recognize the significant challenges the FBI was facing during the period covered by our review. After the September 11th terrorist attacks, the FBI implemented

major organizational changes while responding to continuing terrorist threats and conducting many counterterrorism investigations both internationally and domestically.

Second, it is also important to recognize that in most, but not all of the cases we examined, the FBI was seeking information it could have obtained properly through national security letters if it had followed applicable statutes, guidelines and internal policies.

Third, we did not find that the FBI employees sought to intentionally misuse NSLs or sought information that they knew they were not entitled to obtain. Instead, we believe the misuses and the problems we found generally were the product of mistakes, carelessness, confusion, sloppiness lack of training, lack of adequate guidance and lack of adequate oversight.

I do not believe that any of my observations, however, excuses the FBI's misuse of national security letters.

When the Patriot Act enabled the FBI to obtain sensitive information through NSLs on a much larger scale, the FBI should have established sufficient controls and oversight to ensure the proper use of those authorities. The FBI did not do so.

The FBI's failures, in my view, were serious and unacceptable.

I would now like to highlight our review's main findings.

Our review found that after enactment of the Patriot Act, the FBI's use of national security letters increased dramatically.

In 2000, the last full year prior to passage of the Patriot Act, the FBI issued approximately 8,500 NSL requests. After the Patriot Act, the number of NSL requests increased to approximately 39,000 in 2003, approximately 56,000 in 2004, and approximately 47,000 in 2005.

In total, during the three-year period, the FBI issued more than 143,000 NSL requests.

FINE:

However, we believe that these numbers, which are based on information from the FBI's database, significantly understate the total number of NSL requests.

During our file reviews in four FBI field offices, we found additional NSL requests in the files than were contained in the FBI database. In addition, many NSL requests were not included in the department's reports to Congress.

Our review also attempted to assess the effectiveness of national security letters. NSLs have various uses, including to develop links between subjects of FBI investigations and other individuals and to provide leads and evidence to allow FBI agents to initiate or close investigations.

Many FBI headquarters and field personnel from agents in the field to senior officials told the OIG that NSLs are indispensable investigative tools in counterterrorism and counterintelligence investigations, and they provided us with examples and evidence of the importance to these investigations.

The OIG review also examined whether there were any improper or illegal uses of NSL authorities. From 2003 through 2005, the FBI identified 26 possible intelligence violations involving its used of NSLs.

We visited four FBI field offices and reviewed a sample of 77 investigative case files and 293 NSLs. We found 22 possible violations that had not been identified or reported by the FBI.

We have no reason to believe that the number of violations we identified in the field offices was skewed or disproportionate to the number of violations in other files. This suggests that the large number of NSL-related violations throughout the FBI have not been identified or reported by FBI personnel.

In one of the most troubling findings, we determined that the FBI improperly obtained telephone toll billing records and subscriber information from three telephone companies pursuant to over 700 so- called exigent letters. These letters generally were signed by personnel in the Communications Analysis Unit, the CAU, a unit of the Counterterrorism Division in FBI headquarters.

The exigent letters were based on a form letter used by the FBI's New York Field Division in the criminal investigations related to the September 11th attacks.

FINE:

Our review found that the FBI sometimes used these exigent letters in non-emergency circumstances. In addition, the FBI failed to ensure that there were authorized investigations to which the requests could be tied.

The exigent letters also inaccurately represented that the FBI had already requested subpoenas for the information when in fact it had not. The FBI also failed to ensure that NSLs were issued promptly to telephone companies after the exigent letters were sent.

Rather, in many instances, after obtaining records from the telephone companies, the FBI issued national security letters months after the fact to cover the information obtained.

We concluded that the FBI's use of these exigent letters inappropriately circumvented the requirements of the NSL statute and violated attorney general guidelines and FBI policies.

In response to our report, we believe that the department and the FBI are taking our findings seriously. The FBI concurred with all our recommendations and the department's National Security Division will be actively engaged in oversight of the FBI's use of NSLs.

In addition, the FBI's Inspection Division has initiated audits of a sample of NSLs issued by each of its 56 field offices.

The FBI is also conducting a special investigation on the use of exigent letters to determine how and why the problems occurred.

The OIG will continue to review the FBI's use of national security letters. In addition to issuing a second report on the use of NSLs in 2006, we intend to monitor the actions that the FBI and the department are taking to address the problems we found in that review.

Finally, I want to note that the FBI and the department cooperated fully with our reviews, agreed to declassify information in the report, and appear to be committed to addressing the problems we identified.

We believe that significant efforts are necessary to ensure that the FBI's use of national security letters is conducted in full accord with the statutes, attorney general guidelines and FBI policy.

That concludes my testimony. And I would be pleased to answer any questions.

CONYERS:

Thank you, Attorney General (sic).

Will the person in the back row standing up please sit down or leave this committee room?

I'm now pleased to welcome the general counsel for the Federal Bureau of Investigation, Ms. Valerie Caproni.

CAPRONI:

Thank you.

Good morning, Mr. Chairman, Ranking Member Smith and members of the committee.

It's my pleasure to appear before you today to discuss the recent report by the Department of Justice Office of Inspector General regarding the FBI's use of national security letters.

I've submitted a detailed written statement, and, in the interest of time, will stress only a few points.

The I.G.'s report is a fair report that acknowledges the importance of national security letters to the ability of the FBI to keep the country safe and the difficult environment in which our employees have been working since 9/11.

The I.G. found no deliberate or intentional misuse of the national security letter authorities, A.G. guidelines or FBI policy. Nevertheless, the I.G. review identified several areas of inadequate auditing and oversight of these vital investigative tools, as well as processes that were simply inappropriate.

The FBI fully supports each of the I.G.'s recommendations and have implemented other remedial steps not proposed by the I.G. Collectively, these reforms will ensure full compliance with both the letter and the spirit of the law.

NSLs generally permit us to obtain the basic building blocks of an investigation from third-party businesses. Unlike grand jury subpoenas used in criminal cases, however, national security letter authority comes from several distinct statutes and they have very specific rules that accompany them.

The NSL authority used most frequently by the FBI is that provided by the Electronic Communications Privacy Act, or ECPA. Through an ECPA NSL, the FBI can obtain subscriber information for telephones and electronic communications. It can obtain toll billing information and electronic communication transaction records.

Significantly, the FBI cannot obtain the content of communications through an ECPA NSL. That requires a court order.

ECPA NSLs are by far the most common NSL that we use.

CAPRONI:

Pursuant to the Right to Financial Privacy Act and the Fair Credit Reporting Act, we also have the authority to issue different types of national security letters.

The authority to issue an NSL lies at a senior level within the FBI. It can only be issued by an official who ranks not lower than special agent in charge or deputy assistant director. All such officials are career government employees.

And before an NSL can be issued, such employees must certify that the information sought is relevant to an authorized national security investigation.

As directed by Congress, in connection with the I.G.'s report, we endeavor to declassify as much information as possible, in order to maximize the transparency of our use of this important national security tool.

To that end, for the first time, the public has a real sense of the frequency with which the FBI uses national security letters.

In the period covered by the report, the number of NSL requests -- that's not letters; remember that one letter can have multiple requests -- has ranged from approximately 40,000 to 60,000 per year. And we have requested information on fewer than 20,000 persons per year.

For a variety of reasons that will be discussed below, those numbers are not exact. Nevertheless, for the first time, the public can get a sense of the order of magnitude of these requests.

There are three findings by the I.G. that were particularly disturbing to me, and it is those three findings that I wish to address at some length this morning: first, inaccurate reporting to Congress; second, the use of so-called exigent letters; and third, violations of law and policy with respect to the usage of NSLs.

I am particularly distressed by the fact that the I.G. found significant inaccuracies in the numbers that we report to Congress. The responsibility to gather the data for congressional reporting lies with my division, and we did not do an acceptable job. The processes we put in place for tabulating NSLs were inadequate, and we had no auditing process in place to catch errors.

Although we realized we had a problem prior to the I.G.'s report and we're working on a technological solution, that realization came later than it should have, and for that I bear responsibility.

CAPRONI:

At some point several years before I arrived at the FBI, our process for congressional reporting shifted from a totally manual process to a stand-alone database. While the OGC database was a giant technological step forward from 3x5 index cards, it quickly became an unacceptable system given the increase in our use of national security letters since 9/11.

The OGC database is not electronically connected to ACS, the system from which we derive the data. Instead, there's a manual interface between ACS and the database: An OGC employee is responsible for taking every NSL lead that is sent to OGC and manually entering the information into our database.

Nearly a dozen fields must be manually entered, including the file number of the case in which the NSL was issued, which is typically at least 15 digits and letters.

Needless to say, human error creeps in.

Approximately a year ago, when we were unable to tick and tie numbers in the database to previously reported numbers, we recognized that our technology was woefully inadequate. We began at that point to develop an automated system to improve our ability to collect this data.

That system, in addition to improving data collection, will automatically prevent many of the errors in NSLs that we will discuss today by automating much of the work associated with preparing NSLs.

The system will also allow us to automatically ensure that required reporting data is accurately collected.

The NSL system is being designed so that the FBI employee requesting an NSL will enter data only once.

For example, an agent or analyst who wishes to get telephone toll billing records will only have to tell the system that he is seeking an ECPA NSL for toll records and type the telephone number once.

The system will then automatically populate the appropriate fields in the NSL and the authorizing electronic communication. The system will ensure that the two documents match exactly and will minimize the opportunity for transcription errors that gave rise to unauthorized collections.

Agents and analysts will still be required to provide the narrative necessary to explain why the NSL is being sought, the factual basis for making a determination that the information is relevant to an appropriately predicated national security investigation, and the factual basis for any determination that the NSL should include a nondisclosure provision.

CAPRONI:

We're optimistic that we'll be able to pilot the system this summer and roll it out to all the field offices by the end of the year. At that point, I will be much more confident that in the future the data we provide to Congress is as accurate as humanly possible.

In the meantime, we're taking several steps to correct the numbers we previously reported. We've discussed our methodology with the I.G. and we will offer him the opportunity to review our work. We're striving to have the corrected reports to Congress as soon as possible.

The next significant finding of the I.G. I would like to discuss this morning involved the use within one unit at headquarters of so- called exigent letters. These letters, which numbered in excess of 700, were provided to telephone companies with requests for toll billing information.

All of the letters stated that there were exigent circumstances. And many stated that federal grand jury subpoenas had been requested for the records, even though, in fact, no such requests for grand jury subpoenas has been made.

From an audit and internal control perspective, the FBI did not document the nature of the emergency circumstances, did not keep copies of all of the exigent letters it provided to telephone companies, and did not keep records to track whether it had subsequently provided further legal process.

Moreover, some employees told the I.G. that there was not always an emergency relating to the documents that were sought.

OGC has been working with the affected unit to attempt to reconcile the documentation and to ensure that any telephone record that we have in an FBI database was obtained because it was relevant to an authorized investigation and that appropriate legal process has now been provided.

If we are unable to determine the investigation to which a number relates, they will be removed from our database, and the records will be destroyed.

The I.G. rightfully objected to the FBI obtaining telephone records with a letter that stated that a federal grand jury subpoena had been requested when that was untrue. It's unclear why that happened.

The director has ordered a special inspection in order to better understand the full scope of internal control failures and to make sure that in fact every record obtained pursuant to a so-called exigent letter has been appropriately connected to a national security investigation.

That review will also determine whether the practice discussed by the I.G. existed anywhere other than in the headquarters unit identified in the report.

In response to the obvious internal control lapses this situation highlights, changes have already been made to ensure that this situation does not recur. Any agent who needs to obtain ECPA- protected records on an emergency basis must do so pursuant to 18 USC Section 2702. 2702 permits a carrier to provide information regarding its customers to the government if the provider believes in good faith that there is a life-or-death-type emergency that requires disclosure of the record.

By FBI policy, a request for disclosure pursuant to that provision generally must be in writing and must clearly state that the disclosure without legal process is at the provider's option.

The emergency must also be documented to our files so that the use of the letter can be audited.

The policy allows for oral requests, but any oral requests have to be approved and documented to the file.

CAPRONI:

The I.G. also examined misuse of NSLs that had been reported and some that had not as part of the IOB process. As this committee knows, pursuant to executive order, the president has an Intelligence Oversight Board that receives from the intelligence community reports of intelligence activities that the agency believes may have been unlawful or contrary to executive order or presidential directive.

The I.G. found that from 2003 to 2005 the FBI had self-reported 26 potential violations involving NSL authorities. The I.G. also found, however, a number of potential IOBs in the files it examined that had not been reported to OGC for adjudication.

Although press accounts of this report have implied that the I.G. found massive abuses of the NSL authorities, a careful read of the report does not bear out the headlines.

The I.G. examined 293 NSLs; a reasonably small, nonrandom sample. We do not suggest that the sample was not a fair sample, but only point out that it's questionable from a statistical standpoint to attempt to extrapolate from a very small sample to an entire population.

Of the 293 NSLs the I.G. examined, 22 were judged to have a potential unreported violation associated with them. Of that 7 percent, 10, or almost 50 percent of that group, were third-party errors; that is, the NSL recipient provided the FBI with information that we did not seek.

CAPRONI:

Only 12 of the NSLs examined, or 4 percent of the total group, had mistakes that the I.G. rightfully attributes to the FBI.

Examining the 12 potential errors that were attributable to the FBI reveals a continuum of seriousness relative to the potential impact on individual rights.

Four of them, or just over 1 percent of the sample, were unquestionably serious violations. Specifically, two of the violations involved obtaining full credit reports in counterintelligence investigations, which is not statutorily authorized.

One involved issuing a national security letter when the authorization for the investigation to which it related had lapsed. And one involved issuing an NSL for information that was arguably content, and therefore not available pursuant to NSL.

The remaining eight potential errors involved lack of attention to detail, and did not involve the FBI seeking or obtaining any information to which it was not entitled.

We do not excuse lack of attention to detail. And I have admonished the lawyers in the field who review NSLs that they must be careful so that they can avoid this sort of error.

But we do believe that such mistakes pose different challenges and risks, in seeking information to which you are not entitled.

In short, approximately 1 percent of the NSLs examined by the I.G. had significant errors that were attributable to FBI actions and that had not been, but should have been, reported as potential IOB violations.

A 1 percent error rate is not acceptable, and we have taken steps to reduce it. Those steps are discussed at length in my written testimony, and I will not repeat them here.

But among the steps I do want to mention is the director's order to special inspection of all field officers' use of national security letters, an inspection that began on Friday.

We offered to fully brief the committee on the results of that inspection when it is complete.

Several of the actions we are taking involve changes to FBI rules and policy.

Rules will, of course, only eliminate errors if they are followed. The I.G.'s report has painfully demonstrated for us that, while establishing policy -- that while we are good at establishing policy and setting rules, we are not as good as we must be at establishing internal controls and auditing functions to make sure that the rules are followed.

CAPRONI:

The full parameters of an FBI-compliant program have not been set, and the inspection that is currently under way will clearly influence the parameters of the program.

In short order, however, the FBI will establish a vigorous multidisciplinary compliance program that assures as well as any compliance program can that our employees faithfully adhere to all of rules and policies, particularly those that are designed to protect privacy and civil liberties.

The FBI is acutely aware that the only way we can achieve our mission of keeping the country safe is if we are trusted by all segments of the American public.

With events like the London terror attack of two years ago, we were all worried about the risk of a catastrophic attack from homegrown terrorists. Our single best defense against such an attack is the eyes and ears of all Americans, but particularly in those segments of the population in which the risk of radicalization is at its highest.

We need people in those communities to call us when they hear or see something that looks a mess. We know that we reduce the probability of that call immeasurably if we lose the confidence of any part of the American public.

CONYERS:

Counsel, can you wind down at this point?

CAPRONI:

Yes, sir.

CONYERS:

All right.

CAPRONI:

We will put into place a compliance program to maximize the probability that we do not lose the confidence of the American public by dint of the sort of errors highlighted in this report.

I appreciate the opportunity to appear before the committee and look forward to answering your questions. Thank you.

CONYERS:

Well, General Counsel Caproni, I want to thank you for your candor and forthcomingness in coming before us today. And we will include the rest of your testimony, of course.

CONYERS:

Now, let me begin the questioning. And I thank both the witnesses.

Mr. Inspector General Fine, I'm curious as to how you've come to the conclusion that these errors that have been reported and that bring us to this chamber were either sloppy -- the results of sloppy book-keeping, recordkeeping or compliance with the law, but none of it was intentional.

How could that be if they've known about these excesses since the year 2004, their communications analysts unit warned them about it in early 2005, and we have something like at least over 700 exigent letters and somewhere in the neighborhood of 40,000 to 50,000 NSL letters for three years?

FINE:

Let me separate some of those issues.

I don't believe that they intended to go out and obtain information that they knew they could not obtain and said, "We're going to do it anyway."

I think what they did was complete carelessness, did not follow the rules, did not follow appropriate procedures, and obtained information that they could have obtained properly but by taking shortcuts.

Now, we didn't do a review to ask everybody what was in their mind and what exactly they did. But we saw instances where people just simply didn't follow the rules and didn't take appropriate action.

CONYERS:

But they were being warned.

FINE:

Yes.

CONYERS:

This didn't just come up recently. This goes back to 2004.

FINE:

In 2004, it is correct that attorneys in the Office of General Counsel had concerns about the exigent letters and weren't saying, "Stop it," but were saying, "We need to take different measures to issue these letters."

CONYERS:

Do you think that the law was so complicated that people in good faith just couldn't figure out what it was we were requiring?

FINE:

I think what they did was inappropriately take a model from another context and applied it to this context, which was wrong, it clearly was, and that they did not think carefully and they did not take appropriate actions.

Now, I know that the FBI is conducting a special inspection to look exactly at what everybody knew and when they knew it and why they took the actions that they did.

We didn't do that kind of review. We didn't ask everybody up and down the line. And it is possible that people had motivations that were inappropriate.

CONYERS:

There's no way we can tell. There's no way I can tell, but there's no way you can tell either.

FINE:

It is true that we did not do a performance review of every individual. So I think that's an appropriate point, Mr. Chairman, I really do.

And I do think it's incumbent upon the FBI to go back and look and see exactly what people were doing, at what stages, and why they did what they did, and take appropriate action to hold people accountable.

CONYERS:
Now, do you make a distinction between the national security letters and the exigent letters in terms of the severity of the offense that brings us here today?

FINE:
I do. I think the exigent letters were the most troubling aspect of this.

CONYERS:
And why is that?

FINE:
Because there's a process in the law to allow voluntary disclosures from these telephone companies if there is a true emergency. And we believe the FBI should have followed that voluntary process.

Instead, they went with these exigent letters, which they use in a different context, and applied it to this context, which, in our view, was inappropriate.

With regard to the national security letters, there were many of them, and many of them did comply with the requirements of the law we saw. And we tried to do a review to see how many didn't. We found a significant number didn't.

But with regard to the exigent letters as a whole, that whole practice was very troubling to us in and of itself.

CONYERS:
Now, are you satisfied with the steps that have been described here today by the general counsel in terms of how we clean this mess up?

FINE:
Well, we have been briefed by the department and the FBI about the steps they're taking. I think they are taking this seriously. But I'm not in a position right now to say, "I'm completely satisfied, I trust all this."

We need to see what happens with these steps, see whether they're concerted efforts over time, to see whether they really are adequately implemented.

So I can't say right now that it is -- they've done all they can.

FINE:
But I think they are taking important steps and taking this very seriously.

CONYERS:
All right. Thank you so much.

And I recognize Lamar Smith.

SMITH:

Thank you, Mr. Chairman.

Mr. Chairman, I'm hoping my first question won't count against my time.

Mr. Fine, I noticed in reading your bio that when you were a senior in college and co-captain of the basketball team, you were recruited by the San Antonio Spurs. They happen to be my hometown team.

My question is this: Don't you regret not playing for the Spurs...

(LAUGHTER)

... rather than becoming a Rhodes scholar and graduating from Harvard Law School?

CONYERS:

The gentleman's time has expired.

(LAUGHTER)

FINE:

Congressman, I was drafted in the 10th round by the San Antonio Spurs. And if I was maybe a little taller than 5'9", I might have had a chance to play.

So I don't really regret that my future was in the law, rather than professional basketball.

But I tell people who don't believe I actually played basketball when they see me at 5'9", before I started this job as the I.G., I was 6'9".

(LAUGHTER)

SMITH:

Very good answer.

Mr. Fine and Ms. Caproni, let me address a more serious question to both of you all, and it is this: We've unearthed these problems that are recognized and that are being dealt with. And some of the reasons for those problems have already been seen and the practice has been discontinued.

But my question is this: Do you all feel that the problem is with how the law was enforced rather than with the law itself? In other words, if the law were carried out as intended, doesn't that solve our problem?

Mr. Fine, first.

FINE:

You know, Congressman, I'm really not in a position to say what the law should be or if there should be modifications to the law.

My job is to look at the law and look at the application of the law and see the problems that occurred.

I do believe that if the FBI had assiduously and carefully applied the law, we wouldn't have seen as many problems as we have. And it really was unacceptable and inexcusable what happened here.

SMITH:

Ms. Caproni?

CAPRONI:

From our perspective, the problem is not with the law. Although, I would note that unlike other areas that our agents -- where they get these sorts of records, there are very specific rules and they have to wend through those rules. That, in my sense, is our responsibility as the lawyers to make sure that the agents understand what they can do and what they can't do.

CAPRONI:

Again, there is no doubt that the problem with the national security letters was a colossal failure on our part to have adequate internal controls and compliance programs in place.

The laws themselves provide us with a needed tool. And it's a tool that we should use responsibly.

SMITH:

OK, thank you.

Mr. Fine, Ms. Caproni, why are national letters of security -- national security letters important in our investigation of terrorism?

CAPRONI:

They are critical. They are -- national security letters provide us the basic building blocks that we need to build an investigation.

For those of you who had prior criminal AUSA experience -- and I know a number of you did -- you're used to issuing grand jury subpoenas to provide -- to obtain telephone records and banking records.

Frequently, in terrorism investigations, we don't have an open criminal investigation.

In fact, that was one of the things that the 9/11 Commission really encouraged us to do, and this committee encouraged us to do, and the intelligence committees, to move more -- when we're thinking about terrorism case, move from simply a criminal mindset to thinking in intelligence mindset.

So a national security letter is the tool that we use in order to get the basic building blocks of those investigations: again, like phone records for almost every terrorism, financial records when we're building terrorism financing cases.

So without national security letters, our national security investigations would really be stopped before they even got started.

SMITH:

OK, thank you.

Mr. Fine?

FINE:

I do think that they are important investigative tools. They can connect terrorist individuals with terrorist groups. They can find out where terrorist financing can occur. They're indispensable in counterintelligence investigations. And the FBI did tell us, from

folks in the field to headquarters, how important they were to the investigations, and showed us examples of that.

Having said that I think they're important, there needs to be important checks on these tools because they are obtrusive, and there is information that is obtained and retained for significant periods of time.

And so, while they are important investigative tools, there also needs to be appropriate checks on them as well.

SMITH:

Mr. Fine, in your conclusions -- it's the second one -- you say, "In most but not all of the cases we examined in this review, the FBI was seeking information that it could have obtained properly through national security letters."

SMITH:

What percentage would you guess is that? In other words, what percentage of the problems could have been resolved if they had obtained national security letters?

FINE:

We found instances -- a few instances where they obtained information inappropriately and could not have used a national...

SMITH:

How many of the 739 would you guess that is?

FINE:

Well, the 739 is hard to tell, because they could not tie them to appropriate investigations all the time; and there were many times where they couldn't tell if it was an emergency. So I don't know how many in the 739. That's the most troubling aspect of it.

With regard to the others, the national security letters and the files we reviewed, I'd say we found about seven where there were illegal uses of them where it was attempting to obtain information through confusion, through error, information that they were not entitled to obtain through a national security letter -- either an educational record or obtaining information -- a full credit report in a counterintelligence case, which they're not allowed to obtain; or not using an NSL.

SMITH:

You said seven times?

FINE:

Seven of the ones that we found. And we found in our -- well, seven of the individual ones. And, as you recall, we didn't do a review of every NSL that was issued. We did a small sample of them.

SMITH:

OK. Thank you, Mr. Fine.

Thank you, Mr. Chairman.

CONYERS:
Thank you very much.
The gentleman from New York, Jerry Nadler?

NADLER:
Thank you.
Ms. -- well, Mr. Fine, I suppose: You stated in your report that there were no intentional violations of NSL policy procedure; that these were basically carelessness, but there were no intentional violations. No crimes.

FINE:
Correct.

NADLER:
OK.
But we also read in the report that agents intentionally went around the statute to provide phony information requests to telephone companies based on false statements. For example, the FBI's Communications Analysis Unit went around the NSL statute because it felt that the statute was insufficient, and contracted with the telephone companies to access information directly.
These contracts were approved by the Office of General Counsel and exploited by issuing exigent or emergency letters which -- well, let me ask the general counsel.
What is the statutory basis for an exigent letter? As far as I can tell, there is no basis for it.

CAPRONI:
Well, under 2702, we have the authority to get records from a phone company in an emergency circumstance without a national security letter.
The exigent letters were undoubtedly an inappropriate shortcut to the process, though.

NADLER:
Well, under 2702, if you were going to get information in an emergency, what do you have to do?

CAPRONI:
You simply have to tell the carrier that there's an emergency, explain -- we recommend that you explain to the carrier what the emergency is.

CAPRONI:
And it's then up to the carrier to decide whether or not to provide us records.
So it's not a compulsive system.

NADLER:

It's not a compulsive. But, of course, the carrier has no particular interest in protecting -- if you're looking at my records or you want my records, for example, the phone company has no particular interest in protecting my privacy rights, and I never find out about it, so I can't go to court to protect them. Correct?

CAPRONI:
I don't represent the carriers, but I would disagree with the theory that they have no particular interest in protecting your records. In fact...

NADLER:
What is their interest?

CAPRONI:
In fact, the carriers were diligent in making sure that any record they gave to us they subsequently obtained a national security letter for.

NADLER:
But wait a minute. But Mr. Fine's report says that in many, many instances, hundreds of instances, that never happened.

CAPRONI:
As of right now there are still some numbers that have not received national security letters to back up the requests.

NADLER:
Well, back up years later after the report. But that's backfilling. In other words -- and that's certainly not evidence that the phone companies were diligent in seeking these things. That's saying that after this report was done someone said, "Wow, we got a problem on our hands. We better go get these letters four years later, or three years later." So that's not evidence of what we're talking about.

CAPRONI:
Respectfully, even though I'm not defending their practice, it is not the case that it was only after Mr. Fine's report came out that they were attempting to make sure that the paperwork documentation was appropriate for every record they obtained.
And let me also say...

NADLER:
And you think the paperwork documentation should be done and appropriate.

CAPRONI:
And if it's not, the records are going to come out of our database and be destroyed.

NADLER:
And in this morning's Washington Post it says, "Under past procedures, agents sent exigent circumstances letters to phone companies seeking toll records by asserting there

was an emergency. Then they were expected to issue a grand jury subpoena or national security letter which legally authorized the collection after the fact. Agents often did not follow up with that paperwork, the inspector general's investigation found." That we know.

The new instructions -- which according to The Washington Post were just issued to the FBI -- tell agents there is no need to follow up with national security letters or subpoenas. The agents are also told that the new letter template is the preferred method -- preferred method in emergences, but that they may make requests orally, with no paperwork sent to phone companies.

So in other words, it appears from this morning's Washington Post that instructions are now being given to the FBI not to bother with any backup documentation after an oral request to the phone companies for records invading people's privacy.

CAPRONI:

No. Quite the contrary.

The instructions are that if they get information based on an oral request -- and just to give an example of why that -- when that might be appropriate. If a child has been kidnapped and the ransom call comes in...

(CROSSTALK)

NADLER:

Oh, I don't -- obviously, in those -- I'm not questioning the need in an emergency like that for getting records right away. Obviously.

(CROSSTALK)

CAPRONI:

... get them on an oral request.

NADLER:

I don't doubt it.

What I'm questioning is that, according to today's Washington Post, the opposite of what the two of you are saying is the case and that now they seem to be saying, "Well, we'll take care of this lack of follow-up by documentation by simply declaring it unnecessary."

CAPRONI:

No, Congressman, that's not the policy.

The policy now is that if a request is going to be made on an emergency basis for records, that has to be documented. It has to be documented in the first instance in the request. But if there is not time to do that so that you need an oral request, then that has to be documented to the file, together with the approval for it.

So it is, again, an internal control to avoid the problem that was existing in CAU, which was "emergency" had become a flexible term...

NADLER:

OK. And I have one final question, and that is to Mr. Fine, just a quick clarification on accessibility of PIN numbers and Social Security numbers of individuals through this process.

On page 73 of your report, there's a discussion of a potential intelligence review board violation because an agent accessed a bank balance by getting a person's bank account and PIN number from the result of a FISA order.

The agent was faulted for not using an NSL, but was not faulted for the fact that the PIN number was readily available.

And the reason I flagged this, because this reference makes clear that through an NSL or a 215 order the government can secretly obtain the PIN number for someone's credit or debit account along with their account number and all their identification.

CONYERS:

The gentleman's time has expired.

Finish.

NADLER:

Well, what limits are there on this and what protections are there on this power to get PIN numbers and credit account numbers?

FINE:

The FBI can get bank records and records like that. There has to be predication for it, and they have to show the need for that.

And that is one of the tools that the FBI has used and can use. And as we pointed out, that's one of the reasons there need to be controls on this.

CONYERS:

The gentleman's time has expired.

The chair turns to the former chairman, Jim Sensenbrenner from Wisconsin, whose letter to the Department of Justice first triggered the inquiries that have flown from this. And I congratulate him and recognize him at this time.

SENSENBRENNER:

Well, thank you very much, Mr. Chairman.

Just by way of background, we did some oversight when I was the chair of the committee, and received a letter in late 2005 that indicated that there were problems with national security letters. And the audit that the inspector general conducted was as a result of a provision that I put in the Patriot Act reauthorization that required this audit to be made, as well as the subsequent audit that Mr. Fine is doing that I'm sure we're going to talk about extensively later when the report is issued.

I'd also like to point out that national security letters were not authorized by the initial Patriot Act in 2001, but have been around since 1986 in legislation that was authored by Senator Patrick Leahy of Vermont, who is the chairman of the Judiciary Committee on the other side of the Capitol.

The Patriot Act reauthorization put in a number of civil liberties protections relative to national security letters because we knew that there were problems afoot and decided that even though NSLs were not a part of the Patriot Act, that they needed to have civil liberties protections.

And I am proud of that work that this committee did, and eventually found its ways into the Patriot Act reauthorization act which was signed by the president in March of last year.

One of the things, Ms. Caproni, that I am really concerned about is that the Justice Department, and the FBI in particular, have come to the Congress repeatedly over the last dozen years asking for administrative subpoena authority, meaning that subpoenas could be issued without judicial supervision.

SENSENBRENNER:

This Congress has repeatedly rejected each and every one of those requests.

Now, a national security letter is kind of like an administrative subpoena, although it is limited to the type of information that can be obtained.

I'd like to know from both of the witnesses whether the FBI simply turned around and used NSLs to get huge amounts of information, after Congress said no again to administrative subpoena authority.

CAPRONI:

No, we didn't.

National security letters are always focused on a particular case. There's no bulk collection via national security letters.

And while our congressional reporting numbers are off, as Mr. Fine correctly found, they are not off by an order of magnitude. That is, that we reported that we collected data on less than 20,000 people a year. While that number may go up, it's not going to go up to above, you know, 200,000.

SENSENBRENNER:

And how can you account for the fact that the number of NSLs that were issued before 9/11 was about 8,000-plus per year, and then it went up to 150,000?

CAPRONI:

I think there are...

SENSENBRENNER:

Do we have that many potential terrorists running around the country? If so, I'm really worried.

CAPRONI:

I think it's a function of two things.

(CROSSTALK)

CAPRONI:

First off, I think it's a function of the fact that, post-9/11, a number of agents were moved into the counterterrorism area and the director directed that no lead in a counterterrorism case would go unpursued.

So there is a directive to agents that they must cover all counterterrorism leads. That's point one.

But I think point two was, because we were focusing much more on an intelligence-driven reaction to counterterrorism threats, the toolbox that we were using was focusing mostly on national security letters, as opposed to the prior reaction, which would have used grand jury subpoenas to get the same records.

SENSENBRENNER:

OK.

Mr. Fine?

FINE:

I agree with Ms. Caproni. Prior to the September 11th attacks, it was rarely used. There were delays in getting them, and they were not following the leads that they would have followed after the 9/11 attacks.

FINE:

After the 9/11 attacks, they were attempting to connect the dots, they were attempting to track down leads. When there are indications from a terrorists overseas that there might be connections to the United States, they try and follow it.

SENSENBRENNER:

My time is running out.

You know, I just make the observation that one of the things that gets people in this town in big trouble is overreaching.

I think that, given your report, Mr. Fine, the FBI has had a gross overreach. What this does is it erodes support for the function that the FBI does to protect all of us from future terrorist attacks.

You know, I hope that this would be a lesson to the FBI that they can't get away with this and expect to maintain public support for the tools that they need to combat terrorism.

Given the way the FBI has acted, I have my doubts. But let this be a warning.

And my time is up.

CONYERS:

The chair recognizes the gentleman from Virginia, Bobby Scott.

SCOTT:

Thank you, Mr. Chairman.

Mr. Fine, you've suggested that there's some confusion in how to work these things. There were, as I understand it, representations that there was an emergency when, in fact,

there was no emergency; and representations at grand jury subpoenas had been issued when, in fact, they had not been issued.

SCOTT:
Is that right?

FINE:
That is correct.

SCOTT:
Has anyone been sanctioned?

FINE:
No, the FBI, as a result of this report, is going and looking at -- a special inspection to look at exactly what happened with this, how the problems occurred and to determine accountability. And I think that is appropriate.

SCOTT:
To your knowledge no one has been sanctioned so far.

FINE:
Not yet, no.

SCOTT:
OK.
Ms. Caproni, you indicated that we need to change our mindset from criminal investigation to intelligence gathering.

CAPRONI:
I'm saying that post-9/11 that's been what the FBI has been charged with doing, is really not thinking of our terrorism investigations as wholly criminal.

SCOTT:
OK, now, when we use these letters, are we obtaining information regarding United States citizens?

CAPRONI:
Sometimes.

SCOTT:
That's a yes?

CAPRONI:
The national security letters...

SCOTT:
Not always, but sometimes.

CAPRONI:
Right, it's about half and half.

SCOTT:
You're using this mindset against United States citizens.
OK, when you get all this information, like Social Security numbers and phone records, how long is this information retained?

CAPRONI:
The issue of retaining national security -- data that's obtained via national security letters is subject to a working group that the DNI is chairing together with the Department of Justice and that we will participate on in terms of how long we should keep it.
As of right now, it's subject to the normal archive rules, and so we keep it for whatever the law under archives requires, which is typically 20 years.

SCOTT:
Twenty years.
Now, how many criminal convictions have you gotten from NSL letters, information -- how much information from NSL letters has resulted in criminal convictions for terrorism-related offenses?

CAPRONI:
That was one of the questions that the I.G. was charged with answering. And I think deriving it is very difficult, because while national security letters are typically used in the beginning of an investigation, we don't tag the data, and so tracing it through to know whether national security data started in a case that ended in an investigation.

SCOTT:
Well, Mr. Fine, can you answer the question?

FINE:
No, we tried to, but you cannot tell how many convictions resulted. It's not specifically segregated or tagged or tied. And when we tried to follow it through the system, it was very hard to do that. So I can't give you a number.

SCOTT:
If somebody said one, would that surprise you? Could you contest that number?

CAPRONI:
I would.

FINE:
I would think it would be higher, but I can't tell you one way or the other.

SCOTT:
What information is obtained through NSL letters that could not have been gotten through going through the normal FISA process, even in emergencies, when there's an after-the-fact process with the FISA Courts?

CAPRONI:
Anything that we can obtain through a national security letter could be obtained from a FISA 215 order.
I would tell this committee that I think if you changed the law in that way, you would be doing grave disservice.

CAPRONI:
It would essentially sink the system.
We issue, as you can tell from the report, thousands of national security letters to get information. We do not have an infrastructure in place to take every one of those to court any more than an AUSA in any district has the infrastructure in place to go to court to get every grand jury subpoena.
It's simply not -- we don't have the infrastructure to do that.

SCOTT:
So you're not getting any information you couldn't get through FISA but just administratively...

CAPRONI:
Well, the Patriot Act...

SCOTT:
You would have a judge looking at what you're doing and not having a process that lacks oversight?

CAPRONI:
Congressman, under the FISA statute, Section 215 of the Patriot Act gave us the authority to get an order for any type of record.

SCOTT:
Well, that's what we're talking about.
Mr. Fine, did I understand that in these cases there's an actual ongoing investigation prior to issuing these letters, or there's not an identifiable investigation ongoing when they issue the letters?

FINE:

It has to be tied to some investigative file. They have to open an investigative file or a threat assessment or preliminary inquiry, a full inquiry. It has to be tied to one of those. It can't be issued out of a control file.

SCOTT:
That's what they're supposed to do. Are they doing that?

FINE:
We found that there were instances where they didn't; that they were issued out of control files and they were not tied to a specific investigation.

SCOTT:
Well, if there's no ongoing investigation, what is the standard for deciding when to issue one and when not?

CAPRONI:
The standard is that it has to be relevant to an authorized investigation.
What Mr. Fine was talking about with the control files is, while it's a difficult situation to understand, those NSLs were -- in fact, they related to an authorized investigation. There was a bureaucratic problem, which nobody likes to hear that it's a bureaucratic problem that we believe we have worked out.
None of the NSLs that were issued out of control files did not relate to an authorized investigation. They all were tied to investigations that were appropriately opened.

CONYERS:
The distinguished gentleman from North Carolina, Howard Coble?

COBLE:
I thank the chairman.
And good to have you all with us.
Mr. Fine, your report recommends a number of changes on the FBI's use and tracking of national security letters. The attorney general issued a press release on March 9th responding to those recommendations.

COBLE:
And I presume each of you is familiar with that report -- are you not? -- the March 9th report.
Let me put this question to each of you: Will those recommendations submitted by the A.G. restore the FBI's accountability for its use of NSLs?
Mr. Fine, let me start with you.

FINE:
I believe that the response to the recommendations and what the FBI and department is doing is appropriate.

Is it sufficient? Is it all that needs to be done? I'm not sure. We'll have to see what the results of those steps are.

We tried to provide recommendations to ensure that these very important but sensitive tools are used in full accord with national security letter authorities, with A.G. guidelines and internal control policies.

They hadn't been in the past. We'll have to see if they are now.

COBLE:

Ms. Caproni?

CAPRONI:

I think we're going to have to work to get the trust of this committee back. And we know that that's what we have to do, and we're going to do it.

COBLE:

Let me ask you this, Ms. Caproni: Can the FBI implement the attorney general's directions within the four months when the A.G. has requested Mr. Fine to report on your progress?

CAPRONI:

I hope so. There's some that are going to require some, sort of, interagency work. But, certainly, we will -- if not, all of them will be fully implemented in four months since we will have made substantial progress.

COBLE:

And you may have address this earlier, Ms. Caproni, but let me put it to you in case you did not: Does the FBI have any discrepancy or challenge with the report that Mr. Fine has issued?

CAPRONI:

No. We accept the report. To the extent we had factual quarrels, we worked those out and either we persuaded them or they persuaded us.

COBLE:

What do you think -- you may not be able to respond to this -- what do you think, Ms. Caproni, are the greatest obstacles that your office faces in implementing the A.G.'s directions?

CAPRONI:

I think that any obstacles there are, the director is going to make sure are removed. I think it's time, it's energy and effort, and we're going to do it.

COBLE:

I thank you both for being here.

Mr. Chairman, if I may, I would like to submit for the record the March 9th press release submitted by the attorney general.

CONYERS:
Without objection, so ordered.

COBLE:
And I thank the chairman, and I yield back my time.

CONYERS:
The other gentleman from...

PROTESTER:
(OFF-MIKE) not any of these FBI (OFF-MIKE)

CONYERS:
I ask the lady to -- no, don't sit down now. I ask you to please excuse yourself from this hearing. No visitors can interrupt a hearing in the Congress.

PROTESTER:
(OFF-MIKE)

CONYERS:
Just a moment.
Would the officers escort this lady out please?
The chair recognizes the other distinguished member from North Carolina, Mr. Mel Watt.

WATT:
Thank you, Mr. Chairman. And I thank the chairman for convening the hearing.
Mr. Fine, I'm looking on page seven of your testimony in which you indicate that you reviewed 293 national security letters in 77 files and found 22 possible violations that had not been identified or reported by the FBI.

WATT:
And I'm trying to extrapolate that, although Ms. Caproni seemed to take some issue with whether that was a reliable sample.
I'm trying to assume for the moment that it is, without trying to figure out how many there would be of the total national security letters that were possible violations.
My formula is I'm starting with 143,000 national security letter requests, on page five. Would that be an appropriate place to start? Or have you done the extrapolation for me?

FINE:

I haven't done it, but there are 143,000 requests. And, as you know, a request -- there can be multiple requests in a letter. So there are approximately 45,000 letters during the time period, with 143,000 requests.

So I think the starting point would be about 44,000 letters during the time period.

WATT:

And if you extrapolated the possible violations out, what would that come to, according to your math?

FINE:

If you're talking about 7 percent, approximately 7 percent of the 293 had a violation. So 7 percent of 44,000 would approximately be about 3,000.

WATT:

So you're telling me...

FINE:

That's quick math; I hope that's correct, but I think it is.

WATT:

It is possible that my FBI and my people who are supposed to be protecting my interests violated the law how many times?

FINE:

Well, I think there are possible violations of either the law, the attorney general guidelines or the FBI's policies several thousand times if you statistically extrapolate. It was a small sample.

FINE:

We didn't think it was skewed or biased. But if it held up for the entire population of files, several thousand; some more serious than others, but that's a lot.

WATT:

Ms. Caproni, why ought not our public be concerned about that kind of disregard of the law and internal process?

CAPRONI:

Well, I think the public should be concerned. We're concerned. And we're going to fix it.

I would say, as Mr. Fine said, the sort of errors range, sort of, on a long continuum of seriousness. The most serious errors that Mr. Fine identified were obtaining full credit reports in counterintelligence cases.

We have had a concerted effort to find all such errors.

WATT:

That's seven of the 22 files, where you say they were real serious violations.
Extrapolate that out for me, Mr. Fine.

CAPRONI:
That -- 1 percent...

FINE:
Well, I think, in Ms. Caproni's testimony, she talked about how -- the level of seriousness and which were FBI errors and which were company errors, and came up with the figure that about 1, a little bit over 1 percent of them were serious violations involving FBI errors.
If you extrapolate that to the entire population, that would be about 600 cases of serious FBI misconduct.

WATT:
Ms. Caproni, is there some reason that this committee and the American public shouldn't be concerned about law enforcement violating the law...

CAPRONI:
Again, we are...

WATT:
... 600 times?

CAPRONI:
We are quite concerned about this, Congressman. And we are making every effort to figure out where those errors are, to sequester the material to pull it out of our files, and to destroy it.
We will also take appropriate action...

WATT:
How many files have you all destroyed, based on this investigation, up to this point?

CAPRONI:
When we identified data that we have...

WATT:
Isn't that a number, rather than an explanation?

CAPRONI:
Congressman, I don't know the number. I know that, when we identified data, we have...

WATT:
Has the FBI destroyed any files, up to this point, based on this investigation?

CAPRONI:
We destroy data all the time, when we discover it was improperly collected. So, both outside of Mr. Fine's investigation and he...

WATT:
Have you destroyed any files based on this investigation?

CAPRONI:
Again...

WATT:
Have you destroyed any files based on this investigation?

CAPRONI:
Not a file -- not a file, but we...

WATT:
Have you destroyed any information based on this investigation?

CAPRONI:
Yes.

WATT:
What have you destroyed?

CAPRONI:
The destruction would have been of the full credit reports that were obtained improperly. And I think there was also some telephone...

WATT:
How many is that, Ms. Caproni?

CAPRONI:
It's not much. It's -- but this process is going forward.

WATT:
In these 600 cases that you've identified as possible real serious areas, or several hundred, have -- you intend to prosecute anybody for violating the law?

CAPRONI:
We'll have to look at what the facts are. I'm not going to prejudge what the inspection...

WATT:
How long is it going to take you to look at that?

CONYERS:
The gentleman's time has expired.

CAPRONI:
The inspectors are in the field now, and I think that they will have completed their inspection visit, which is a sampling process, but that we anticipate that they'll have completed it within a week or so.

WATT:
You've got a more reliable sampling process than Mr. Fine...

CAPRONI:
No, it's just bigger. It's bigger and it's across all field offices.

WATT:
Thank you.

CONYERS:
The gentleman from California wants an attorney general for his state.
(LAUGHTER)
Dan Lungren?

LUNGREN:
Thank you very much, Mr. Chairman.
Ms. Caproni, I was one of the ones who have defended the FBI and the Justice Department in the use of these as we went through legislation the last two years. And to say that I'm disappointed doesn't give justice to what I feel about this.
Mr. Fine has said that this is the result of mistakes, carelessness, confusion, sloppiness, lack of training, lack of adequate guidance, and lack of adequate oversight. That sounds like a report about a first or second grade class.
We're talking about agents of the FBI who are lawyers in many cases, who have college degrees, who have other kinds of education. We're talking about people who have gone through the FBI Academy. We're talking about people who presumably have been trained to go into this. We are how many years past 9/11?
And in response to the question, I believe it was of Mr. -- well, I'm not sure who asked you this, but whether you could get this done in four months, you said you hoped so.
I hope you'll deliver a message that we expect it will be done. I mean, because I don't think if you can't get it done in four months you're going to have to worry about improving your procedures for NSLs, because you probably won't have NSL authority.
I just -- I just want to convey to you how upset many of are who have defended this program and have believe it is necessary to the protection of our country. And you, the FBI, have an obligation, yes, to try and find out who the potential terrorists are, but also to make good on the promise we made to the people of America that the terrorists are not going to succeed by indirection what they can't do by direction, that is destroy the Constitution.

LUNGREN:

And I just -- I'll tell you this, I talked with Mr. Mueller yesterday -- because I've known him for 30 years. He's "Mr. Fix It." He goes in and fixes messes. He's done it all over this government. I've seen his work in San Francisco. I've seen his work here at the Department of Justice.

If I didn't know him, if I didn't know his record, if I didn't know he's the man we put in many places to fix things, I would have no confidence in the FBI right now.

So I hope you'll deliver a message to all your people that it's not good enough to tell us you hope it's going to be done in four months. I hope you're going to deliver a message that it better be done in four months or you're not going to have NSLs to worry about.

And I say that as someone who supports him and will fight on the floor to have that authority given to you if there is proper oversight, but I probably won't get a majority of votes on the House floor if you don't fix it.

So can you tell me you're going to do better than you hope to fix it in four months?

CAPRONI:

Congressman, you're absolutely right. Yes, it will be done.

LUNGREN:

I appreciate that.

Now, Mr. Fine, you're the inspector general for the FBI. I want to congratulate you on what you've done. We say -- we take some satisfaction in your carrying out the authority we gave you, but sometimes that doesn't happen. And we appreciate the job you have done here.

But maybe you won't want to answer this question. Maybe you can help me: How do you explain carelessness, confusion, sloppiness, lack of training, lack of adequate guidance and lack of adequate oversight with the FBI?

I just turned on the television last night and watched one or two or three of these shows that always shows the FBI as being far better than local government -- that little burr under my saddle, because I'm a former A.G. of California. I appreciate the FBI, but how do you explain this?

I'm not sure what would be worse, frankly. At first I was relieved that you said this: "And it wasn't intentional action by the FBI." At least we haven't found that.

I would at first been more worried about that.

LUNGREN:

Now, as I think about this, should I be more worried about the fact that the FBI now, in something as important as NSLs, has marks of carelessness, confusion, sloppiness, lack of training, lack of adequate guidance and lack of adequate oversight?

Is this exceptional in your experience, in your oversight of the FBI?

FINE:

I think the FBI worked hard to get these authorities, but didn't take it seriously enough putting in controls over these authorities. And I think there is often a problem sort of between the receipt of the authority and the execution of that authority. And that's clearly what happened here. And we were very troubled by it.

We've seen problems in the FBI in terms of information technology. In trying to upgrade their information technology we've seen problems. But these are difficult tasks and they are trying to do this as they're changing their mission.

And, quite honestly, there really is no excuse for it. There is no excuse for it.

LUNGREN:

Did you have any question that the NSLs are of some value?

FINE:

Yes, I do believe they're of value.

LUNGREN:

And that if we lost them, that would be a loss?

FINE:

I believe that they're a valuable investigative tool that are indispensable in many cases to counterterrorism and counterintelligence investigations. And that's why it is so troubling that they didn't...

LUNGREN:

So we better fix this so we don't lose a tool that's truly effective?

FINE:

I think they need to fix it.

LUNGREN:

Thank you.

Thank you, Mr. Chairman.

CONYERS:

The gentlelady from Houston, Texas, Sheila Jackson-Lee.

JACKSON-LEE:

Again, Mr. Chairman, my appreciation for your continuing effort of establishing transparency in government.

I welcome both of the witnesses here today and recount just a limited history that troubles me as we find ourselves here today.

I know the good intentions of the witnesses, but certainly I'd need not remind you of the era of McCarthyism and certainly the role that law enforcement played in that misdirected era of the United States of America.

As a young lawyer, I participated in the investigations into the assassination of Dr. Martin Luther King and John F. Kennedy right here in this Congress. And what was

exposed was the extensiveness of the co-intel problem of Dr. Martin Luther King; wrongheadedness, as far as I'm concerned, as it relates to the utilization of protecting this country.

A civil rights leader who happened to be outspoken against the heinous governmental acts of segregation and all of a sudden he became a major target of the Federal Bureau of Investigation, with any number of officers -- agents, if you will -- probing and looking over paperwork that he might have generated.

That smacks, as far as I'm concerned, of where we are today even though, Mr. Inspector General, you've indicated that it has been without malice, without intentions.

And we all know that there is a phrase that says: A journey to a certain place is paved on that road with good intentions.

So I'm not very happy as to where we are today because I argued vigorously about the extensive powers that we were giving to the president of the United States out of fear.

And one thing that the Constitution reminds us, and certainly in the founding fathers, who left a tyrannical society to be free, that tyranny can get the best of us. And lack of control can get the best of us.

So I ask to the general counsel of the FBI: Did you determine what percentages of those letters that were sent without national security letters generated into terrorists responses or terrorist incidences or terrorist prosecutions? I'd be interested in that number.

And why don't you just answer that, yes or no, you have the percentage?

CAPRONI:

I do not.

JACKSON-LEE:

OK. I'd like to get the percentage, frankly.

CAPRONI:

The directorate ordered a special investigation of the whole exigent letter instance, and we will brief this committee when we have the results of that.

JACKSON-LEE:

And I will join my colleague on the other side of the aisle.

How quickly can you get that information?

This is about protecting the Constitution and securing the homeland, two very important jurisdictional responsibilities. And I happen to serve on both committees, Homeland Security and this.

So my question is, how soon can you get those numbers? It makes a real difference to know whether you generated potential terrorist threats that would secure the homeland or whether or not the FBI was on a fishing expedition.

CAPRONI:

Congresswoman, let me assure you that that group was not on a fishing expedition.

But having said that, I understand that my assurance to this committee at this point isn't worth a lot. The Inspection Division is conducting the inquiry. They know that they have to proceed quickly. But I regret I can't tell you when they're going to be done.

But I will make sure that the director understands that you want it done as quickly as possible.

JACKSON-LEE:

And certainly we wish the director well. We would have wanted to have his appearance before this committee, but we do wish him a speedy recovery.

CAPRONI:

Thank you. I'll let him know that.

JACKSON-LEE:

Mr. Inspector General, I assume you will say to me that you don't speculate, but let me quickly ask you a question.

And will you be thinking, the general counsel, on this question?

The president signed on the Patriot Act a signing statement, which indicated that he was going to interpret or have the act interpreted in a manner consistent with the president's constitutional authority to supervise the unitary executive branch and to withhold information.

Just be thinking about that. And I want to know, did that give you a free ride? That's why I have legislation that indicates that agencies should not be running, I must say, amuck because of the signing statements.

Mr. Inspector General, what you looked at. And you've said it has not been intentional. Help me out, however. Don't you believe there should be restraints put in place, strictures put in place? And might the Patriot Act be entirely too broad to even be a valuable took that would restrain people in balancing both security and, as well, balancing civil liberties?

FINE:

I do believe that there needs to be controls. I do believe that there needs to be a balance, a balance of effective tools to prevent terrorism; at the same time, effective controls on the use of those tools.

And what was most troubling to us was that those controls were not implemented and not followed. And I share the concerns expressed by the members of this committee, and that's why we did the report.

FINE:

We were not -- we were not restricted or limited in what we did.

And I know there was a presidential signing statement, but the department did cooperate with us. We did provide all the information that we had. We provided it in the most unclassified way we could, and the department actually did unclassify a fair amount of this information so that it could be fully aired.

And we also provided a classified report to this committee and other committees describing the additional information.

So we did what we could to identify the problems in this program.

CONYERS:

The gentleman from Florida...

JACKSON-LEE:

Mr. Chairman, could I just let the -- can she answer yes or no on the signing statement? Would you indulge me?

CAPRONI:

The signing statement had absolutely no impact on how we interpret our national security letter authority.

JACKSON-LEE:

I thank you.

CONYERS:

The gentleman from Florida, Mr. Ric Keller?

KELLER:

Thank you, Mr. Chairman.

Ms. Caproni, let me begin with you.

If the FBI didn't have national security letters as an investigative tool, you could get the same information via prosecutor through a grand jury subpoena or by going before a FISA Court and getting a court order, isn't that correct?

CAPRONI:

Yes.

KELLER:

And the concern that you have with those two options is that you essentially don't have the manpower -- I think you said it would, sort of, sink the system.

CAPRONI:

I was responding to a suggestion that all of these should be obtained via court order. If that were the law, that would create substantial obstacles to our national security program.

KELLER:

But that's why you aren't using in all cases the grand jury subpoenas or the FISA Court orders, because you don't have the manpower to do that and still do your investigations.

CAPRONI:

I would say it's perhaps slightly more nuanced than that. On grand jury subpoenas, there are cases where we don't have a criminal case open, so a grand jury subpoena is not an option.

Further, the whole philosophy of making sure that you're thinking -- we're thinking from an intelligence perspective rather than immediately cutting to the chase of a criminal investigation encourages agents to use national security tools versus criminal tools. The grand jury subpoena is a criminal tool.

KELLER:

All right, let me follow up, because the challenge we have is getting this in the strike zone. We want you to have this information that you need as an investigative tool, but we want there to be some sort of check on your authority. And if you use the grand jury subpoena, for example, to get my phone records, I have the ability to move to quash that subpoena and have a judge hear it, correct?

CAPRONI:

You only have the ability to do so if someone tells you that the subpoena has been served, which is not the typical route of a grand jury subpoena.

KELLER:

OK, or if you went before a FISA Court, you have a set of eyes through the FISA Court judge looking at it, correct?

CAPRONI:

That's correct.

KELLER:

In terms of using the national security letter, let's say you served it on my phone company, the phone company's not necessarily looking out for my personal privacy interests, and so there's not a set of eyes looking at it, at least from an individual's perspective, right?

CAPRONI:

And, again, that's the same as with a grand jury subpoena, that's correct.

KELLER:

So all we have really is our inspector general as a check on the controls to make sure that you're applying it in an appropriate way.

CAPRONI:

Well, again, I think this report has told us we internally have to do a far better job at making sure that we are maintaining internal controls over the use of this tool.

CAPRONI:

I fully expect Mr. Fine to come back to visit us in future years, and will dutifully take us to task if we have not accomplished that.

KELLER:

All right.

And, Mr. Fine, imagine a housewife in Orlando, Florida. And she does absolutely nothing relevant to terrorism or espionage. She's never met or spoken with a terrorist or a spy.

Based on your investigation, does she have any reason to worry about national security letters violating her privacy, by looking at her phone records, bank records or Internet search records?

FINE:

I think that there are times when the FBI looks for telephone records of potential terrorists and looks to see who they've contacted or they've been in contact.

Now, it could be intentional contact; it could be inadvertent contact. And as a result of that contact, there can be efforts to look and see what telephone numbers have been called.

Now, if they have had no contact whatsoever with the subject of a potential terrorist investigation, it's less likely that there will be -- the records would be obtained here.

KELLER:

Well, in framing my question, I said no contact, either writing or spoken.

So let me ask you, based on your investigation, were there any situations where you saw national security letters being used when there was no relevance whatsoever to international terrorism or espionage?

FINE:

We couldn't, in our review, look at all the investigative case files and say, "This was -- there was an adequate predicate; there wasn't an adequate predicate."

We looked at how they were used and whether on their face they were improper. So it's impossible for us to say that the relevancy standard was met.

One thing that we did find, however -- and I would note this -- is that, in many cases, the counsel of the FBI field offices, either the chief division counselor or the assistant counsel, did not aggressively and independently look for that. And they're the ones who should be checking on that. They're the ones who need to be sure that there's adequate predicate for this investigation.

And we saw, in many cases, that didn't happen, that they acceded to the wishes of the -- or the arguments of the case agents or the special agents in charge, without independently and aggressively looking at that...

KELLER:

Let me cut you off there because I have one final question.

Ms. Fine (sic), can you give us an example to help make your case, if you have one, as to what's a scenario where a national security letter is your best investigative tool

b2
b7E

(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 12/28/2006

LEAD(s):

Set Lead 1: (Action)

[redacted]

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

♦♦

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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

To: General Counsel **Attn:** NSLB

From: Inspection b6 b7C
Internal Investigations Section, IPU, Room 3041
Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-30-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted] kas

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

b2

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

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] dated 07/03/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate. b2 b7E

♦♦

(Rev 01-31-2003)

~~SECRET~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE b2 b7E **Date:** 01/17/2007

To: [redacted] **Attn:** SAC (Personal Attention)

From: Inspection b6 b7C
Internal Investigations Section, IPU, Room 3041
Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RW ON 05-30-2007

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 678 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2569 b2
OGC/IOB# 2006-[redacted]

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 20320117**~~

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

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

Details: (U) Upon review of [redacted] captioned report b2 b7E of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

~~SECRET~~//20320117

U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 29, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

SUBJECT: OIG Complaint No. 2007002618
Subject: [redacted]
[redacted]
FBI No. 263-0-U-678
CMS No. 2569

b6
b7C
b2
b7E

☐ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

b2

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO.: [redacted]689-2007-002618-M

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

SUBJECT: [redacted]
Title: SA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:

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

SUBJECT: [redacted]
Title: SSA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:

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

b6
b7C
b2

COMPLAINANT: [redacted]
Title: SSA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential:

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.: [redacted]
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details:

Information provided by the FBI/INSD reporting a potential IOB matter involving improperly received information. IOB #2006[redacted]

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

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

b2
b7E

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

DISPOSITION DATA: Disposition: M Date: 01/08/2007 Approval: POWELL, GLENN G

Referred to Agency: Date Sent: Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263 0 U 678, 2569

Sensitive: N Whistleblower: N Consolidated Case Number:

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

b2

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO. [redacted] 689-2007-002618-M

Remarks:

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

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

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/25/2006

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

Inspection — Internal Investigations Section
Room 3041

Cyber — SSA [redacted]
C3IU-1
Room 5931

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

From: [redacted]

Contact: SA [redacted]

Approved By: [redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Drafted By: [redacted]

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1794 (Pending)
(U) ~~(S)~~ [redacted] (Pending)
~~(S)~~ (Pending)

b2
b7E
b6
b7C
b7A

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

(U) **Synopsis:** ~~(S)~~ To report possible IOB violation.

(U) ~~(S)~~ ~~Derived From : FBI SCG G-3~~
~~Declassify On: 10/25/2031~~

b1
b7A

(S) ~~(U)~~ [redacted]

b2
b7E
b7A

(U) **Reference:** ~~(S)~~ [redacted]

Details: ~~(S)~~ [redacted]

b1
b7D
b7A

me063001.ec

~~SECRET~~

SC Miller DMH 1/9/07
SRS [redacted] 01/09/07

b6
b7C

1/8/07

b2
b7E

(U) To: Office of the General Counsel From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/25/2006

(S) [redacted]

b1
b7D
b7A

(S) [redacted]

b1
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b7C
b2
b7E
b7A

(S) [redacted]

b1
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b7D
b2
b7E
b7A

(S) [redacted]

b1
b6
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b7D
b2
b7E
b7A

(U) To: Office of the General Counsel From: [redacted] b2 b7E
Re: (S) 278-HQ-C1229736-VIO, 10/25/2006

b6
b7C
b2
b7E

analysis of the material. SA [redacted] then reported the matter to [redacted] SSA [redacted] As per the NSLB guidelines, this communication has been prepared.

(S) [redacted]

b1
b6
b7C
b2
b7E
b7D

To: Office of the General Counsel From: [redacted] b2 b7E
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/25/2006

LEAD(s):

Set Lead 1: (Info)

OGC (NSLB)

AT WASHINGTON, DC

(U) Please provide guidance as to how to handle overreported information.

Set Lead 2: (Info)

CYBER

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Please provide guidance as to how to handle overreported information.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/12/2006

To: [redacted]

Attn: [redacted]

b2
b7E
b6
b7C

Counterintelligence

Attn: SSA [redacted] C3IU-1

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]

Approved By: Thomas Julie F [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending) 1987

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

b2

(U) Synopsis: (S) [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.

b2
b7E

(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.

b2
b7E

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

SECRET

OIG/DOJ REVIEW: [redacted] DATE: 7-8-07

b6
b7C

FBI INVESTIGATION:

OIG/DOJ INVESTIGATION:

b2
b7E

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

(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.

b2
b7E

(S) [redacted]

b1
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b7E
b7A

(S) [redacted]

b1
b2
b7E
b7D
b7A

(S) [redacted]

b1
b2
b7E
b7D
b6
b7C
b7A

(S) [redacted]

b1
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b7E
b6
b7C
b7D
b7A

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

(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 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 o[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

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

LEAD(s):

Set Lead 1: (Information)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Information)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[redacted]

AT [redacted] b2 b7E

(U) For action deemed appropriate.

cc: 1- Ms. Thomas
1- [redacted]
1- [redacted] b6 b7C
1- IOB Library

♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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

To: General Counsel **Attn:** NSLB

From: Inspection b6
Internal Investigations Section, IPU, Room 3041 b7C
Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3155 b2
OGC/IOB# 2007 [redacted]

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] dated 10/25/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate. b2 b7E

♦♦

(Rev. 01-31-2003)

~~SECRET~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

To: [redacted] **Attn:** [redacted] (Personal Attention) b2 b7E b6 b7C

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

Approved By: Miller David Ian

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

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3155 b2
OGC/IOB# 2007 [redacted]

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1794

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

Details: (U) Upon review of [redacted] captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident. b2 b7E

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

~~SECRET~~//20320117

(Rev 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/30/2006

To: General Counsel
Inspection
Counterintelligence
[redacted]

Attn: NSLB
Attn: IIS ✓
Attn: CD-2A, Room 4133
Attn: CDC [redacted]

b2
b7E
b6
b7C

From: [redacted]

Contact: SA [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) - 1998
(U) 278[redacted]-C76104 (Pending) [illegible]
b1 (S) [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U) **Title:** ~~(S)~~ POTENTIAL IOB MATTER INVOLVING
SA [redacted]
SSA [redacted]

b6
b7C

(S) **Synopsis:** ~~(U)~~ IOB reporting of carrier [redacted]

b1
b7D

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 10/30/2031**~~

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

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

b6
b7C

(S) [redacted]

b1
b6
b7C

~~SECRET~~

SC Miller DIM/RAD 1/9/07

CRS [redacted] 9/07

b6
b7C

To: General Counsel From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 10/30/2006

(S) [redacted] b1 b6 b7C

(S) [redacted] initially requested NSL subscriber information [redacted] b1 b2 b7E b6 b7C

(S) [redacted] received a reply to the NSL [redacted] In addition to [redacted] were received. [redacted] information received was incorrectly given by [redacted] no [redacted] information was requested. None [redacted] received have been uploaded into ACS or placed in the file of the substantive case. [redacted] were returned [redacted] mistake is being reported within the mandatory 14-day reporting period. b1 b2 b7E b7D

To: General Counsel From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 10/30/2006

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Set Lead 2: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

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

Set Lead 4: (Action)

b2 b7E [redacted]

AT [redacted]

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

♦♦

3,58

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/12/2006

To: [redacted]

Attn: SAC [redacted]
CDC
SA

b2
b7E
b6
b7C

Counterintelligence

Attn: SSA [redacted] CD-2A

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]

Approved By: Thomas Julie F [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

Drafted By: [redacted]

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

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER 2007 [redacted] b2

(U) Synopsis: ~~(S)~~ [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. b2 b7E

(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. b2 b7E

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO -1798

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

~~SECRET~~

OIG/DOJ REVIEW: [redacted] DATE: 7-8-07 b6 b7C
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

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

the IOB [redacted]

(S) [redacted] b1 b6 b7C b2 b7E b7D

(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 [redacted] information and subscriber information are requested separately by the FBI. b1 b2 b7E b7D

(S) ~~(U)~~ [redacted] reported that they returned [redacted]

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

(U) On 03/28/2006, the FBI's National Security Law Branch (NSLB) sent a letter to the Counsel for the IOB requesting their concurrence to treat third party errors as non-reportable, though NSLB would still require the field to continue to report

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

(U)
(S) 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.

(S) ~~(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. b1 b2 b7E b7D

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

LEAD(s):

Set Lead 1: (Information)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Information)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action) b1 b2 b7E b7D

[redacted]

AT [redacted]

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

cc: 1- Ms. Thomas
1- [redacted]
1- [redacted] b6 b7C
1- IOB Library

◆◆

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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

To: General Counsel **Attn:** NSLB

b6
b7C

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3158
OGC/IOB# 2007[redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1798
278[redacted]-C76104 Serial 450
278-HQ-C1229736-VIO Serial 1988

b2
b7E

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 10/30/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

To: [redacted] **Attn:** SAC (Personal Attention) b2 b7E b6 b7C

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: CRS [redacted] Ext [redacted]

Approved By: Miller David Ian

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

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 683 (Pending) b2

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3158
OGC/IOB# 2007[redacted]

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1798

Reference: (U) 278-HQ-C1229736-VIO Serial 1798
278[redacted]C76104 Serial 450
278-HQ-C1229736-VIO Serial 1988

Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident. b2 b7E

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

U.S. Departme of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 26, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

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

SUBJECT: OIG Complaint No. 2007002584
Subject: [redacted]
FBI No. 263-0-U-683
FBI CMS No. 3158

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■ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

b2

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO. [redacted]-689-2007-002584-M

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

SUBJECT: [redacted]
Title: SA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP [redacted]
ZIP:

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

SUBJECT: [redacted]
Title: SSA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:

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

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COMPLAINANT: [redacted]
Title: ATTY
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential:

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details: (S) b2

The FBI provided information regarding a potential IOB matter (2007 [redacted]

b1

[redacted]

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

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: b2 TIME:
CITY [redacted] b7E State: [redacted] Zip:

DISPOSITION DATA: Disposition: M Date: 01/25/2007 Approval: POWELL, GLENN G

Referred to Agency: Date Sent: Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U683, 3158

Sensitive: N Whistleblower: N Consolidated Case Number:

DATE: 05-31-2007
FBI INFO.
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

b2

Remarks:

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

01/26/07-Sent to Kaiser/FBI/INSD. (dz)

FD-967 (Rev 03 21-2005)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 05/03/2006

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

From: [redacted]

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Contact: SFO [redacted]

Approved By: [redacted]

Drafted By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1353

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Title: (U) SFO [redacted] b6
SSRA [redacted] b7C
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U)

Synopsis: ~~(S)~~ To report possible IOB error, unauthhorized, unintentional collection of information.

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 05/03/2006**~~

Details:

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(S) 1. [redacted]

(S) 2.

(U) ~~(S)~~ 3. Possible IOB Error: Unintentional collection of information.

b1 (S) [redacted]

~~(S)~~ 4. Description of IOB Error (including any reporting
(U) ~~delays~~). Financial records were furnished , pursuant to a National
(S) Security Letter (NSL) for individuals other than the subject of the NSL.

SC Miller DIM/FAD 1/2/07

CRS [redacted] KAS 01/08/07 b6 b7C

~~SECRET~~

(U)
b2 To: Inspection From: [redacted]
b7E Re: (S) 278-HQ-C1229736-VIO, 05/03/2006

(S) A National Security Letter for financial records of captioned subject was requested [redacted]

(S) [redacted]

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(S) [redacted]

b6 (U) (S) Records were received by writer and held until the analysis
b7C of those records was able to be conducted. During the course of the analysis writer found records that were in the names of individuals other than the captioned subject. SSRA [redacted] was advised of this.

(S) [redacted]

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(S) [redacted]

b6 (U) (S) After speaking with ADC [redacted] and [redacted]
b7C of OGC, the records not pertaining to captioned subject have been
b2 separated, segregated and sealed [redacted] none of
b7E those records have been uploaded into ACS or other FBI record systems. ADC [redacted] and [redacted] provided guidance on how to handle this matter.

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/03/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

2176

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 12/26/2006

To: [redacted] **Attn:** SAC
CDC

Attn: SSRA [redacted]

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Counterterrorism **Attn:** ITOS II

Inspection **Attn:** IIS, CRS [redacted]

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: Office of the General Counsel
NSLB/CTLU II/LX1/Room 3S-110
Contact: AGC [redacted]

Approved By: Thomas Julie F

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

(U) **Drafted By:** [redacted]

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1970 (Pending)

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2006-[redacted] b2

(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 : G-3~~
~~Declassify On: 20311226~~

(U) **Reference:** b1 (S) [redacted]
278-HQ-C1229736-VIO-1353

(U) **Details:** ~~(S)~~ By EC dated 05/03/2006, [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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SECRET

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OIG/DOJ REVIEW: [redacted] DATE: 7-1-07
FBI INVESTIGATION: [redacted]
OIG/DOJ INVESTIGATION: [redacted]

b2
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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/26/2006

(S) On 11/10/2005, [redacted] drafted an NSL pursuant to 18 U.S.C. § 2709 seeking financial records of the target of an authorized investigation [redacted]

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(S) [redacted]

(S) [redacted]

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(S) [redacted]

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

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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

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responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

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

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

(U) ~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL on a financial institution. In

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

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

(U)

[1] ~~(S)~~ The target's rights were not violated because he was not the subject of the improperly collected information. It is unknown, however, whether the information associated with the other subscriber pertained to a United States Person inasmuch as there has been no review of the information.

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

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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)

b2
b7E

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

cc: Ms. Thomas
b6
b7C [redacted]
IOB Library

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/10/2007

To: General Counsel **Attn:** NSLB/CTLUII
LX1
Room 3S-110
AGC [redacted]

Counterterrorism **Attn:** ITOS II
Inspection **Attn:** IIS
CRS [redacted]
[redacted] **Attn:** Associate Division Counsel
SSA [redacted]

b2
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b7C

From: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Contact: SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO (Pending) 2019

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2006-[redacted] b2

Synopsis: (S) Destruction of records which were inadvertently provided [redacted]

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(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 20320110**~~

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 1970

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

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

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SECRET

SECRET

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b7E

(U) To: General Counsel From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/10/2007

(S) [redacted] Based upon ADC [redacted] review, on January 10, 2007, ADC [redacted] shredded those documents which were unintentionally acquired [redacted]

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(U) b2 b7E ~~(S)~~ As the unintentionally acquired documents have been destroyed, [redacted] considers the lead covered.

To: General Counsel From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/10/2007

b2
b7E

LEAD(s):

Set Lead 1: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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

To: General Counsel **Attn:** NSLB

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

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b7C
b2

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2176
OGC/IOB# 2006-[redacted] b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 05/03/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev. 01-31-2003)

~~SECRET~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

To: [redacted] **Attn:** SAC (Personal Attention)

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

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Approved By: Miller David Ian

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

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 684 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2176
OGC/IOB# 2006-[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1353

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

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

b2
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(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

~~SECRET~~//20320117

U.S. Departmt of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 29, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/PW

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

SUBJECT: OIG Complaint No. 2007002639
b6 Subject [redacted]
b7C
b2 FBI No. 263-0-U-684
b7E FBI CMS No. 2176

■ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

IG - INVESTIGATIONS DIVISION - Complaint Form OIG NO.: [redacted]-689-2007-002639-M

Received By: [redacted] Date Received: 01/04/2007 How Received: A

SUBJECT: [redacted]
Title: SSA
Component: FBI
Last:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:

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

b6
b7C
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COMPLAINANT: [redacted]
Title: EXECG
Component: FBI
Last:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential: [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details:

The FBI provided information regarding a potential IOB matter (2006-[redacted] b2

During an a[illegible] investigation, the FBI properly served a National Security Letter (NSL) on a financial institution. In response to the NSL, the FBI was provided with information associated with individuals who were not relevant to the investigation. The information was properly segregated to protect the potential privacy of the individuals.

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: TIME: b2
CITY: [redacted] b7E Zip:

DISPOSITION DATA: Disposition: M Date: 01/29/2007 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 01/29/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-684, 2176

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

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

01/29/07-Sent to Kaiser/FBI/INSD (dz)

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

Freedom of Information and Privacy Acts

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

Federal Bureau of Investigation

(Rev. 01-31-2003)

DATE: 05-25-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-25-2032

SECRET

FEDERAL BUREAU OF INVESTIGATION

1073946

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Precedence: ROUTINE **Date:** 01/04/2007

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

From: [redacted]
Contact: ISS [redacted]

Approved By: [redacted]

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b7C
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Drafted By: [redacted] ksh

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

b1

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

b6
b7C

(S)

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

b1
b7D

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

(S) [redacted]

b1

Reference: (S) [redacted] Serial 11
(U) 278-HQ-C1229736 Serial 2570

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

SECRET

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[redacted]

01-18-07

[redacted] 03/06/07

b6
b7C

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

(S) b1 b7D records [redacted]

(S) [redacted] send a National Security Letter (NSL) to [redacted] requesting subscriber information [redacted]. [redacted]

b1 b2 b7E b7D (S) [redacted] received the requested subscriber information [redacted] or telephone toll records. These toll records were not requested in the NSL.

(S) [redacted]

b1 [redacted]

(S) [redacted] records, [redacted] b1 b7D [redacted] less National [redacted] have been turned over to [redacted] b6 b7C CDC (A/CDC) [redacted] pending a response from the National Security Law Branch regarding this matter. A/CDC [redacted] secured b2 b7E the toll records within his office safe.

b2
b7E

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

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

♦♦

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/05/2007

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 05-25-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-25-2032

Counterintelligence b6 b7C b2 b7E Attn: CD-2

Inspection Attn: IIS, [redacted]

From: Office of the General Counsel
NSLB/CILU/Room 7947
Contact: AGC [redacted] 202-324 [redacted]

Approved By: Thomas Julie F

Drafted By: [redacted]

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

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
MATTER 2007-[redacted] b2

(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~~: G-3
~~Declassify On~~: 02/05/2032

b2 b7E b1 (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.

Reference: (S) ~~(U)~~ [redacted]

b2 b7E (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.

- 2037

~~SECRET~~

OIG/DOJ REVIEW [redacted] DATE: 3/14/07 b6 b7C
FBI INVESTIGATION: (m)
OIG/DOJ INVESTIGATION:

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b7E

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

(S) [redacted]

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[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]

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b1

(S) [redacted] received the requested subscriber information along [redacted] toll records pertaining to the requested number. [redacted] the toll records was immediately turned over to the Acting Chief Division Counsel for sequestration.

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

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

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

(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.

b2
b7E

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

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

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

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[redacted]

AT [redacted]

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

cc: Ms. Thomas
[redacted]
IOB Library

b6
b7C

♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

To: General Counsel **Attn:** NSLB

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

b6
b7C
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Approved By: Miller David Ian

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3443
OGC/IOB# 2007[redacted] b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 01/04/2007, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is an administrative issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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b7E

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-25-2007 BY 65179 DMH/KSR/JW

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

b2
b7E **To:** [redacted] **Attn:** SAC (Personal Attention)

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

Approved By: Miller David Ian

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-25-2007

b6
b7C
b2

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3443
OGC/IOB# 2007-[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ **Derived ~~From~~:** G-3
Declass~~ify On~~: 20320328

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

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

b2
b7E **Details:** (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

A.

FD-962 (Rev. 03-21-2005)

SECRET//20320212

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/12/2007

To: [redacted]
Inspection
General Counsel

Attn: ADC [redacted]
Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From: [redacted]

Contact: SA [redacted]

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b7E
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Approved By: [redacted]

Drafted By: [redacted] kdz

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO - 2154
(S) 278[redacted]A95380 - 168
(S) 62[redacted]A89455-IOB - 20

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

(U) **Synopsis:** (S) To report possible IOB error.

DATE: 05-25-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-25-2032

(U) (S) **Derived From :** G-3
Declassify On: 02/12/2032

Details:

(S) 1. [redacted]

(S) 2. [redacted]

b1 (U) (S) 3. Possible IOB Error:

(S) [redacted]

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

(S) A National Security Letter (NSL) [redacted] for records [redacted]

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b7D

[redacted]

SECRET//20320212

b6
b7C

CRS [redacted]

To: Inspection From: [redacted]
(U) Re: (S) 278-HQ-C1229736-VIO, 02/12/2007

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(S) [redacted] reviewed the records [redacted] and found [redacted]

(U) (S) The original documents reflecting the information which was not requested have been forwarded to [redacted] ADC for sequestering. Redacted copies only reflecting the requested information will be retained for the case file.

b2
b7E

b2 To: Inspection From: [redacted]
b7E (U) Re: (S) 278-HQ-C1229736-VIO, 02/12/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

(01/26/1998)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 3/2/07

To: [redacted] **Attn:** SAC, CDC, ADC
Counterintelligence **Attn:** AD
Inspection **Attn:** IIS, CRS [redacted]

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

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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F

Drafted By: [redacted]

DATE: 05-25-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-25-2032

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO — 2234
(S) 278-[redacted]-A95380 — 75
(S) 62F-[redacted]-A89455 — 101

(U) **Title:** (S) POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER
2007-[redacted] b2

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

(U) **Derived from : G-3**
Declassify On: X1

(U) **Reference:** (S) 278-HQ-C1229736-VIO Serial 2154
b2 (S) 278-[redacted]-A95380
b7E (S) 62F-[redacted]-A89455

Details: (S) [redacted]

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SECRET

OIG/DOJ REVIEW [redacted] DATE: 3/19/08
FBI INVESTIGATION
OIG/DOJ INVESTIGATION

b2
b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/02/07

(S) [redacted]

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b7D (S) [redacted] reviewed the records received [redacted] two [redacted] which was prior to the time period requested in the NSL.

(U) (S) The original documents reflecting the information
b2
b7E which was not requested have been forwarded to [redacted] ADC and sequestered. Redacted copies which only reflect information requested by the NSL will be retained for the case file.

(U) (S) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 9/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or 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 E.O. 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/02/07

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

(U) (S) NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communications record from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709; (2) records of financial institutions (which is very broadly defined)(Right to Financial Privacy Act, 12 U.S.C.§ 3414(a)(5)(A); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§n 1681u(a) and (b); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 168v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted] b1

(S) Here, during an authorized investigation, the FBI properly served an NSL [redacted] In response to the properly served NSL, the FBI obtained [redacted] containing information beyond what it is legally authorized to receive. The FBI, having ascertained [redacted] were beyond the scope of the NSL, forwarded the unasked for information to the ADC for sequestering and redacted their files to reflect only information responsive to the NSL. b1 b7D

(U) (S) By agreement with the Counsel to the IOB, it is our opinion that this error is not reportable to the IOB. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/02/07

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Set Lead 1: (Read and Clear)

[redacted] [redacted] make contact with the provider and

(S) ~~(S)~~ Return original documents which reflect information beyond the scope of the NSL [redacted]

b1
b7D [redacted] for destroy, at the provider's option,

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

1-Ms. Thomas
1 [redacted] b6
1 b7C
1-IOB Library

♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

To: General Counsel **Attn:** NSLB

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

b6
b7C
b2

Approved By: Miller David Ian

Drafted By: [redacted]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-25-2007

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3618
OGC/IOB# 2007-[redacted]

b2

(U)

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

Reference: (U) 278-HQ-C1229736-VIO Serial 2154
278-[redacted]-A95380 Serial 68
278-HQ-C1229736-VIO Serial 2234

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 02/12/2007, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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b7E

♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

b2
b7E

To: [redacted] **Attn:** SAC (Personal Attention)

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

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b2

Approved By: Miller David Ian

Drafted By: [redacted]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-25-2007

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3618
OGC/IOB# 2007[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ **Derived ~~From~~:** G-3
Declassify ~~On~~: 20320328

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 2154

Reference: (U) 278-HQ-C1229736-VIO Serial 2154
278[redacted]A95380 Serial 68
278-HQ-C1229736-VIO Serial 2234

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

FD-962 (Rev. 03-21-2005)

SECRET//20320201

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/01/2007

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

[redacted] **Attn:** ASAC [redacted]
CDC [redacted]

From: [redacted]
Contact: SA [redacted]

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Approved By: [redacted]

Drafted By: [redacted] jgc

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(C) **Case ID #:** (S) 278-HQ-C1229736-VIO - 2119
(S) 62F-[redacted]A89455-IOB - 17

DATE: 05-25-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-25-2032

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

(U) **Synopsis:** (U) To report possible IOB error.

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

Details:

(S) 1. [redacted]

(S) 2. [redacted] b2

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(S) 3. Possible IOB Error [redacted] ERROR NOT THE SAME AS IN [redacted]

(S) [redacted]

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

(S) [redacted]

SC Miller 3/20/07
CRS [redacted] 03/26/07

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SECRET//20320201

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

(S) [redacted]

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(S) [redacted] supplied [redacted]

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[redacted] that was not requested by the FBI. This information was not utilized by the case agent in any analysis nor was it documented in the case file.

(S) The case agent first reviewed [redacted] Division Counsel was contacted [redacted] and it was determined that a possible IOB error occurred. Case agent contacted [redacted] Division Investigative Support Specialist (ISS) [redacted]

(S) [redacted]

(S) (S) [redacted] regarding this matter. [redacted] explained that [redacted] was contacted regarding this error. [redacted] in error and he requested that [redacted] be destroyed. Additionally, [redacted]

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

b1 (S) [redacted]

(S) [redacted]

(S) [redacted]

(S) [redacted] destroyed the original [redacted]

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[redacted]

(U) To: Inspection From: [redacted]
b2 Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/01/2007
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.

♦♦

(Rev. 01-31-2003)

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], 202-324-[redacted]

Approved By: Thomas Julie F

Drafted By: [redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending)
(S) 62F-[redacted]-089455-IOB

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2007-[redacted] b2

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(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.

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

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 2119

DATE: 05-30-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-30-2032

SECRET

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

OIG/DOJ REVIEW [redacted] DATE: 3/19/07 b6 b7C
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

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b7E

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

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] A National Security Letter (NSL) was prepared [redacted] and served [redacted] The NSL requested only [redacted] information for [redacted] The NSL results were provided to [redacted]

(S)

b1

(S) [redacted] case agent reviewed [redacted] discovered that in addition to the requested [redacted] had provided information that appeared to be [redacted] The case agent immediately ceased the review and reported the incident to [redacted] Division Counsel. On 1/17/2007 the case agent contacted [redacted] The POC then conducted the appropriate [redacted] and [redacted] provided the information in error. Subsequently, [redacted] destroyed [redacted]

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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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[redacted] From: Office of the General Counsel
Re. [illegible]8-HQ-C1229736-VIO, 2/21/2007

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 [illegible]l Counsel
Re: 278-HQ-C1229736-VIO, 2/21/200[illegible]

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)

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[redacted]

AT [redacted]

(S)

(U) [redacted] is requested to coordinate with [redacted] to ensure [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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♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

To: General Counsel **Attn:** NSLB

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

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-26-2007 BY 65179DMH/KSR/JW

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Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3555
OGC/IOB# 2007 [redacted]

b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 02/01/2007, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

To: [redacted] **Attn:** SAC (Personal Attention)

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

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Approved By: Miller David Ian

Drafted By: [redacted]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

Case ID #: (U) 263-HQ-0-U - 749 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3555
OGC/IOB# 2007[redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~**Derived From:**~~ **G-3**
~~**Declassify On:**~~ **20320328**

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

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

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/05/2007

To: Inspection Division **Attn:** IIS

Office of the General Counsel **Attn:** NSLB

From: [redacted]

Contact: SA [redacted]

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Approved By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Drafted By: [redacted]

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

(U) 278[redacted]-C136372 (Pending)

DATE: 05-26-2007
CLASSIFIED BY 65 b2 b7E DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-26-2032

Title: (U) REPORT OF A POTENTIAL IOB MATTER

(U) REPORT OF A POTENTIAL IOB MATTER

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

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

Details:

Case Background and Case Agent

(S) [redacted]

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Case ID#: (S) [redacted] b1

SC Miller 3/20/07

SECRET

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b7C

CRS [redacted] 03/26/07

need 02/16/07

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/05/2007

To: Inspection Division **Attn:** IIS

Office of the General Counsel **Attn:** NSLB

From: [redacted]

Contact: [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

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Drafted By: [redacted]

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

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) - 21

(U) 278-[redacted]-C136372 (Pending) - 124

Title: (U) REPORT OF A POTENTIAL IOB MATTER

(U) REPORT OF A POTENTIAL IOB MATTER

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

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

Details:

Case Background and Case Agent

(S) [redacted]

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Case ID#: [redacted] b1

(S)

~~SECRET~~

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To: Inspection Division From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 02/05/2007

(S)

Title: [redacted]

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(S) (U) The case agent of [redacted] is SA [redacted] SA [redacted] supervisor is SSA [redacted]

Report of Potential IOB Matter

(S) (S) [redacted] approved directing [redacted], to produce to the Federal Bureau of Investigation (FBI) all financial records pertaining to [redacted]

1. [redacted]

(S)

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2.

(S) (U) [redacted]

(U) [redacted]

(S) [redacted]

To: Inspection Division From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 02/05/2007

(S) (U) [redacted] The records provided [redacted] b1 b6 b7C b7D [redacted] In addition, [redacted] included records [redacted]

(S) b1 [redacted]

(S) (U) The NSL served [redacted] specifically requested financial records for [redacted] never requested or provided any correspondence requesting records for [redacted]

(S) [redacted] Legal guidance provided by OGC and NSLB noted that a potential IOB violation includes "a carrier providing information beyond the scope of a NSL resulting in the unintentional acquisition of data" [278-HQ-C1229736-2570.] b1 b7D b2 b7E b6 b7C

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

(S)

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To: Inspection Division From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 02/05/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION DIVISION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

OFFICE OF GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/05/2007

To: [redacted] **Attn:** SAC
CDC

Counterterrorism **Attn:** ITOS1, CONUS 4, [redacted]

Inspection **Attn:** IIS

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

From: Office of General Counsel
NSLB/CTLU I
Contact: [redacted]

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Approved By: Thomas Julie F. [redacted]

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

Drafted By: [redacted]

(C) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO 2233 (Pending)
(S) [redacted]
(U) ~~(S)~~ 278-[redacted]-C136372 130 (Pending)

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

b2

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

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

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

(U) **Details:** ~~(S)~~ By electronic communication (EC) dated February 5, 2007 and referenced above, the [redacted] Division [redacted] reported to the OGC's National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter.

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(S) [redacted]

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[redacted] 3/14/07

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b7E To: [redacted] From: Office of General Counsel
(U) Re: (S) 278-HQ-C1229736-VIO, 03/05/2007

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

(S) (S) [redacted] provided the records and they were received by SA [redacted]. Upon review, SA [redacted] found [redacted] provided the records requested but had also included records for [redacted] which had not been requested.

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(S) SA [redacted] contacted [redacted] Chief Division Counsel, [redacted] who advised [redacted] send the [redacted] records [redacted] to be sequestered.

(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

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b7E (U) To: [redacted] From: Office of General Counsel
Re: (S) 278-HQ-C1229736-VIO, 03/05/2007

rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) (S) NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C.§ 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C.§§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted] b1

(U) (S) In this instance, [redacted] properly served an NSL requesting financial records relevant to the subject of the preliminary investigation. In addition to responsive records, due to an error by the financial institution, [redacted] also obtained records beyond the scope of the NSL. b2 b7E

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

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

(U) Since the additional records in this instance are still relevant to the authorized investigation, the additional records may be maintained by the FBI if an additional NSL is served for those records. Otherwise, [redacted] b2 b7E

(U) To: [redacted] From: Office of General Counsel
Re: (S) 278-HQ-C1229736-VIO, 03/05/2007

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

To: [redacted] From: Office of General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/05/2007

LEAD(s):

Set Lead 1: (Action)

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b7E

[redacted]

AT [redacted]

(U) [redacted] Field Office should serve an additional NSL for the relevant records, or in the alternative, contact the financial institution and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

cc: Ms. Thomas
[redacted]
IOB Library

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(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

To: General Counsel **Attn:** NSLB

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

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Approved By: Miller David Ian

Drafted By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-26-2007 BY 65179 DMH/KSR/JW

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3619
OGC/IOB# 2007[redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 2153
278[redacted]-C136372 Serial 124
278-HQ-C1229736-VIO Serial 2233

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 02/05/2007, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev 01-31-2003)

SECRET//20320328

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

To: [redacted] **Attn:** SAC (Personal Attention)

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

Approved By: Miller David Ian

Drafted By: [redacted]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

Case ID #: (U) 263-HQ-0-U - 755 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3619
OGC/IOB# 2007-[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ **~~Derived From~~ : G-3**
~~Declassify On~~: 20320328

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 2153

Reference: (U) 278-HQ-C1229736-VIO Serial 2153
278[redacted]C136372 Serial 124
278-HQ-C1229736-VIO Serial 2233

b2
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Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

SECRET//20320328

b2
2007-[redacted]

(Rev. 01-31-2003)

SECRET

3619

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/22/2007

To: [redacted] **Attn:** CDC [redacted]

Counterterrorism **Attn:** ITOS [redacted] Conus [redacted]

Inspection **Attn:** IIS

From: [redacted]

Contact: SA [redacted]

b2
b7E
b6
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Approved By: [redacted]

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

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

(U) 278[redacted]-C136372 (Pending)

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

Title: (U) REPORT OF A POTENTIAL IOB MATTER

(U) REPORT OF A POTENTIAL IOB MATTER

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

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

Reference: (U) 278-HQ-C1229736-VIO-2233
(U) 278[redacted]-C136372-130

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b7E

Details:

Case Background and Case Agent

(S) [redacted]

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SECRET

263-0-11-755

b2
b7E

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

(S) Case ID#: [redacted]

Title: (S) [redacted]

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Report of Potential IOB Matter

(S) (U) [redacted] A National Security Letter (NSL) [redacted] approved [redacted] to produce to the Federal Bureau of Investigation (FBI) all financial records [redacted]

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1. [redacted]

(S)

2.

(S) [redacted]

(U) The NSL [redacted] specifically requested the financial records to be provided for [redacted]

b1

(S) [redacted]

(U) [redacted] personally provided to ISS [redacted] records requested in the NSL [redacted]

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b7E

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

(S) (U) [redacted] received the results of the NSL [redacted] The records provided [redacted] as requested. In addition, [redacted] included records [redacted]

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(S) [redacted]

b1

(S) [redacted]

(S) The NSL served [redacted] specifically requested [redacted] records for only [redacted] Division at [redacted] never requested or provided any correspondence requesting records for [redacted] Legal guidance provided by OGC and NSLB noted that a potential IOB violation includes "a carrier providing information beyond the scope of a NSL resulting in the unintentional acquisition of data" [278-HQ-C1229736-2570.]

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

(S)

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

(S)

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

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

(S) (U) On 03/14/2007, [redacted] reported [redacted]

b6 (S) [redacted] requested the "improperly or
b7C unintentionally acquired information" to be destroyed by the FBI,
b2 [redacted] Division. [redacted] would provide
b7E a written communication documenting [redacted]
b1 [redacted] to the captioned cases.
b7D

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

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

LEAD(s):

Set Lead 1: (Info)

b2
b7E

INSPECTION DIVISION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

[redacted]

AT [redacted]

(U) For information.

♦♦

FD-962 (Rev. 03-21-2005)

SECRET//20320201

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/01/2007

To: Inspection
General Counsel
[redacted]

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

Attn: ASAC [redacted]
CDC [redacted]

From: [redacted]

Contact: SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

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

(C) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO -2120 b6 b7C
~~(S)~~ 62F[redacted]-A89455-IOB -18 b2 b7E

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

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

(U) ~~(S)~~ ~~Derived From:~~ G-3
~~Declassify On:~~ 02/01/2032

Details:

(S) 1. [redacted]

(S) 2. [redacted]

b1 b2 b7E (S) 3. Possible IOB Error [redacted] ERROR AS IN [redacted] THE SAME) b2

(S) [redacted]

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

(S) [redacted] a National Security Letter (NSL) [redacted] b1

SC Miller DM 3/20/07
CRS [redacted] KAW 03/26/07

SECRET//20320201

b6
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(U) To: Inspection From: [redacted] b2 b7E
Re: (S) 278-HQ-C1229736-VIO, 02/01/2007

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

b1 b6 b7C b2 b7E b7D

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

(U) (S) The case agent [redacted] Division Counsel was contacted on [redacted] to advised of the problem.

b1 b2 b7E b6 b7C b7D

(S) (S) [redacted], case agent contacted [redacted] Division [redacted] explain why the information was provided, or to identify that an error was made. Case agent requested that [redacted]

(S) (S) [redacted] explained that [redacted] was contacted regarding this error. [redacted] noted that he could not explain why this error occurred, yet, he aimed to correct the problem.

(S) (S) [redacted] destroyed [redacted], per the request of [redacted]

b2
b7E

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

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

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~~(S)~~ [redacted] case agent permanently deleted the e-mail message received [redacted] which contained [redacted] information.

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

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 2/21/2007

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To: [redacted]

Attn: SSA [redacted]
SA
CDC

Counterintelligence

Attn: CD-4

Inspection

Attn: IIS, [redacted]

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WHERE SHOWN OTHERWISE

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

b6
b7C
b2

Approved By: Thomas Julie

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

Drafted By: [redacted]

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

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

b2

Synopsis: (S) (U) 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.

b2
b7E

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

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

SECRET

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b7C

[redacted]

OIG/DOJ REVIEW DATE: 3/1/07
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

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

(S)

the IOB. [redacted]

(S) [redacted] A National Security Letter (NSL) was served [redacted] The NSL requested only transactional information [redacted] The NSL results were provided [redacted]

b1
(S) [redacted] case agent [redacted] discovered that in addition to the requested [redacted] had provided information [redacted] The case agent immediately ceased the review and reported the incident to [redacted] Division Counsel [redacted] the case agent contacted [redacted] The POC then contacted the appropriate [redacted] had provided the information in error.
b7D
b2
b7E

(S) Subsequently, [redacted] destroyed [redacted] and deleted [redacted] regarding [redacted] provided the requested information in compliance with the initial NSL request. [redacted] case agent similarly deleted the relevant [redacted]

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

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

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

(U) In the instant case the collection of information by the FBI was not the fault of FBI [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, [redacted] 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
Re: 278-HQ-C1229736-VIO, 2/21/200

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

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(U) For information.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[redacted]

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

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

b6
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(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

To: General Counsel **Attn:** NSLB

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: [redacted]

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Approved By: Miller David Ian

Drafted By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-26-2007 BY 65179 DMH/KSR/JW

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3556
OGC/IOB# 2007-[redacted]

b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 02/01/2007, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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Precedence: ROUTINE **Date:** 03/28/2007

To: [redacted] **Attn:** SAC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: [redacted]

b6
b7C
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Approved By: Miller David Ian

Drafted By: [redacted]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3556
OGC/IOB# 2007-[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~**Derived From**~~ **:** G-3
~~**Declassify On:**~~ 20320328

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 2120

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

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

b2
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(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/03/2007

To: INSD **Attn:** IIS

To: CGC **Attn:** NSLB

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

From: [redacted]

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b6
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Contact: SA [redacted]

Approved By: [redacted]

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

(C) **Drafted By:** [redacted]

Case ID #: (X) 278-HQ-C1229736-VIO (Pending) - 2090
(S) [redacted] b1

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

(U) **Synopsis:** (X) To report a potential IOB matter.

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

Reference: (S) [redacted]
(S)

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

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[redacted]. The NSL specifically requested subscriber information for [redacted]

~~SECRET~~

SC Miller 3/20/07

CRS [redacted] 03/20/07

b6
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b7E

To: INSD From: [redacted]
(U) Re: (X) 278-HQ-C1229736-VIO, 01/03/2007

(S) [redacted]

(S) (X) [redacted] The NSL was executed [redacted]
b1 [redacted]
b6 [redacted] provided the subscriber information [redacted]
b7C [redacted] as of the date of execution,
b7D [redacted] and not for the dates specified on the NSL.
The subscriber information provided [redacted]
[redacted] furthermore the time period the
(S) subject is listed as the active subscriber covers the dates requested in the NSL. Thus information supplied [redacted] was consistent with the request of the NSL. However, subscriber information provided [redacted] was not identifiable to the subject of this investigation. Therefore [redacted]
(S) erroneously provided subscriber information to the FBI on a person who is not relevant to the investigation [redacted]

(S) [redacted]
(S) [redacted] The NSL was drafted by the Case Agent [redacted]
b1 [redacted] requested the subscriber information [redacted]
b2 (S) [redacted] The erroneous subscriber information
b7E provided [redacted]
b7D was sequestered by the Chief Division Council of [redacted] Office [redacted] Reporting of this matter was delayed pending review by ADC [redacted] of new procedures outlined in EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS", dated 11/16/2006.

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(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/21/2007

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To: [redacted] **Attn:** [redacted]

Inspection **Attn:** IIS, [redacted]

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

b2
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Approved By: Thomas Julie F [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Drafted By: [redacted]

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

Case ID #: (U) 278-HQ-C1229736-VIO 2229 (Pending)

(U) **Title:** (~~S~~) INTELLIGENCE OVERSIGHT BOARD MATTER 2007 [redacted] b2

(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 : G-3**
Declassify On: 25X1

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

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b7E

Reference: b1 (U) 278-HQ-C1229736-VIO Serial 2090 (Pending)
(S) [redacted] Serial 21 (Pending)

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b7E

(U) **Details:** (~~S~~) By EC dated 01/03/2007, [redacted] requested that OGC review the facts of the captioned matter and determine whether it

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OIG/DOJ REVIEW [redacted] DATE: 3/14/12
FBI INVESTIGAT
OIG/DOJ INVESTIGATION:

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 02/21/2007

warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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

(S) [redacted]

b2
b7E

b1 (S) [redacted] provided a response to the NSL. In so doing [redacted] provided the subscriber information [redacted]

b7D [redacted] as of the date of the response, [redacted] and not for the date's specified in the NSLs. [redacted] information provided [redacted] was that of the subject of the investigation.

(S) Subscriber information provided [redacted] was not identifiable to the subject of the investigation. [redacted] This information has been sequestered with the Chief Division Counsel.

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities,

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(S) b2
b7E [redacted]

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 02/21/2007

the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

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

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

(U) NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which are very broadly defined) (Right to Financial Privacy Act, 12 U.S.C.§ 3414(a)(5)(A)); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C.§§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). In addition to FCRA, 15 U.S.C. §§ 1681u(a) and (b) information (financial institutions and consumer identifying information), under 15 U.S.C. 1681u(c), if certain factors are met, the FBI is able to obtain full consumer reports in both counterintelligence and international terrorism investigations by an ex parte court order.

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 02/21/2007

(S) [redacted] he FBI properly served an NSL that requested
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b7E
lawful information. [redacted]

(S) [redacted]

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

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB. The carrier's mistake is not reportable to the IOB because the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 02/21/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 2: (Action)

(S) [redacted]

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b7E
b7D
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~~(S)~~ With respect to the information received that was not associated with the target, [redacted] should contact [redacted] and ask whether such information should be returned or destroyed with appropriate documentation to the file.

cc: Ms. Thomas

b6
b7C [redacted]

IOB Library

♦♦

(Rev 01-31-2003)

SECRET//20320327

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/27/2007

To: General Counsel **Attn:** NSLB

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: [redacted]

b6
b7C
b2

Approved By: Miller David Ian

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

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

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

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

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

(U) ~~(S)~~ ~~**Derived From**~~ : G-3
~~**Declassify On:**~~ 20320327

Reference: (U) 278-HQ-C1229736-VIO Serial 2090
(S) [redacted]
(U) 278-HQ-C1229736-VIO Serial 2229

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

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b7E

♦♦

(Rev 01-31-2003)

SECRET//20320328

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/28/2007

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b7E

To: [redacted] **Attn:** ADIC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: [redacted]

b6
b7C
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Approved By: Miller David Ian

Drafted By: [redacted]

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

Case ID #: (U) 263-HQ-0-U - 757 (Pending)

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

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ **Derived From:** G-3
Declassify On: 20320328

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

Reference: (U) 278-HQ-C1229736-VIO Serial 2090
278-HQ-C1229736-VIO Serial 2229

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

SECRET//20320328

FD-962 (Rev 05-02-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

#1802

Precedence: ROUTINE **Date:** 02/07/2006

To: General Counsel **Attn:** National Security Law Branch, Room 7975 Internal Investigations Sect.

Inspection Division

From: [redacted]

b2 b7E b6 b7C **Contact:** [redacted]

Approved By: [redacted]

Drafted By: [redacted]

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

(U) (S) 278[redacted]C71404 (PENDING)

Title: (S) INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

(U) **Synopsis:** (S) Possible IOB error for an unauthorized dissemination of information.

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

Details:

(S) 1. [redacted]

(S) 2. [redacted]

b1 b6 b7C (U) (S) 3. Possible IOB Error:

(S) [redacted]

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

(S) An NSL [redacted] was served [redacted] The requested records were received [redacted] and processed [redacted] Through an error in the mail handling of the responding EC and records, the NSL and records were erroneously sent to [redacted]

b2 b7E b7D b1

SC Miller DAM 4/4/07
CRS [redacted] Kas 04/04/07

b6 b7C

SECRET

263-0-U-758

[redacted]

b2
b7E

(U) To: General Counsel From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 02/07/2006

b1 (S) A copy of the records were returned [redacted]
b2 [redacted] The originals were picked up by an Agent [redacted]
b7E
b7D [redacted] was informed of the mishap and will ensure corrective action is taken.

b6
b7C Questions concerning this EC or others aspects of the IOB process may be addressed to either CDC [redacted] and/or OGC, National Security Law Branch.

b2
b7E

To: General Counsel From: [redacted]
(U) Re: (S) 278-HQ-C1229736-VIO, 02/07/2006

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/24/2006

To: [redacted] b2 b7E
Counterterrorism
Inspection

Attn: SAC, CDC
Attn: AD
Attn: IIS

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

From: General Counsel
Counterrorism Law Unit II [redacted]
Contact: Patrice I. Kopistansky, [redacted] b6 b7C

Approved By: Thomas, Julie F. [redacted] b2

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 2016

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER, IOB 2006 [redacted] b2

(U) **Synopsis:** ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that this matter does not warrant reporting to the Intelligence Oversight Board (IOB). Submission of this matter to the OPR is a matter within the cognizance of the IIS.

(U) ~~(S)~~ **Derived from :** G-3
Declassify On: 03/24/2016

(U) **Reference:** 278-HQ-C1229736-VIO ~~(S)~~ - 1155

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 02/07/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does not. Our analysis follows. b2 b7E

b6 b7C

SECRET

NSD/DOJ REVIEW: [redacted] DATE: 3/30/07
FBI INVESTIGATION: (M)
OIG/DOJ INVESTIGATION:

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b7E

To: [redacted] From: General Counsel

(U) Re: 278-HQ-C1229736-VIO-1155 (S), 03/24/2006

(S) [redacted]

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(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 was addressed to [redacted]

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(S) The requested records were received from [redacted] The records were supposed to be sent to [redacted] However, [redacted] clerks who work on the night shift

(S) packaged the records and inadvertently sent them to [redacted] An employee [redacted] who handles its NSLs ultimately obtained possession of the records and realized that they were the records of [redacted] That person contacted [redacted] and sent it a copy of the records. [redacted] contacted [redacted] learned that the original records and EC that were intended for [redacted] were at [redacted] and arranged for [redacted] field office [redacted] to physically pick them up and send them back to

(U) [1] (S) See 278-HQ-C1229736-VIO, Serial 1155, dated 02/07/2006 and titled "Intelligence Oversight Board (IOB) Matter"

[2] (U) [redacted]

b1

(U) To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO-1155 (X) , 03/24/2006 b2 b7E

[redacted] updated the paperwork and forwarded the originals to [redacted] By EC dated 02/07/2006, [redacted] reported this matter as a possible IOB violation. (See footnote 1, above.)

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

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

b1

[redacted]

(U) (S) However, the improper dissemination was not of a nature of which the NSIG are concerned. The NSIG focus upon assuring that information disseminated to other government

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b7E

(U) To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO-1155 (S) , 03/24/2006

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

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(S)

CONCLUSION

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

(U) To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO-1155 (~~S~~), 03/24/2006

LEAD(s):

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b7E

Set Lead 1: (INFO)

[redacted] FIELD OFFICE

(U) Read and Clear.

Set Lead 2: (INFO)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and Clear.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

b6
b7C

1 - [redacted]

♦♦

Freedom of Information and Privacy Acts

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

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

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

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X     Deleted Page(s)     X
X No Duplication Fee      X
X     for this Page       X
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(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

b2 [redacted]

Precedence: ROUTINE **Date:** 12/19/2006

To: Inspection **Attn:** IIS, Room 7825
General Counsel **Attn:** NSLB, Room 7947

From: [redacted]

Contact: SA [redacted]

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Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted] L:plp

Case ID #: (U) 278-HQ-C1229736-VIO -1933 (Pending)

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

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

Synopsis: (U) Report of a potential IOB Matter.

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

1073946

b1 **Reference:** (S) [redacted]

(U) **Details:** ~~(S)~~ The substantive investigation and serials of the potential IOB matter is referenced above. The relevant personnel involved is SA [redacted] Her supervisor is SSA [redacted]

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(S) [redacted]

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(S) The potential IOB matter was discovered on 12/18/2006 when SA [redacted] was conducting a thorough review of results from a National Security Letter (NSL) [redacted] received the results on or [redacted], but did not conduct a thorough review of the material until [redacted]

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(S) b6
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(S) [redacted] prepared a NSL which was accompanied by an electronic communication (EC) [redacted]

SECRET

SC Miller DM 4/4/07
CRS [redacted] Kaz 04/04/07

b6
b7C

b2 To: Inspection From: [redacted]
b7E Re: (U) 278-HQ-C1229736-VIO, 12/19/2006

(S) [redacted]

b1 In the EC, this agent requested information for telephone number
b6 [redacted] when the number was intended to be [redacted]
b7C Therefore, the NSL contained a substantive typographical error. Although the NSL was reviewed for errors, SA [redacted] did not discover the incorrect number.

(S) The NSL was forwarded [redacted] with the incorrect number which resulted in the acquisition of data that is not relevant to an authorized
b1 investigation. [redacted] SA
b6 [redacted] received a compact disc (CD) with results from the NSL.
b7C A thorough review of the material on the CD was conducted [redacted] which alerted SA [redacted] to a problem. This potential IOB violation was immediately reported to her supervisor and ADC [redacted]

(S) This NSL did glean pertinent information towards the substantive case. Only the relevant material from the CD has
b6 been printed and placed in the substantive file. The material
b7C inadvertently obtained that is not relevant to the investigation
b2 has not been utilized in any manner. The CD has been sealed in
b7E an envelope which is stored in SSA [redacted] safe. It will remain there until FBIHQ advises [redacted] on the disposition of the CD.

OGC advises.

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b7E

To: Inspection From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 12/19/2006

LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) Proceed as mandated.

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Proceed as mandated.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

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b7E

Precedence: ROUTINE

Date: 02/01/2007

To: [redacted]

Attn: SA [redacted]
SSA
CDC

Inspection

Attn: IIS
CRS [redacted]

From: Office of the General Counsel
NSLB/CILU/Room 7947
Contact: [redacted] (202) 324-[redacted]

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b7C
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Approved By: Thomas Julie F [redacted]

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Case ID #: (U) 278-HQ-C1229736-VIO 2293 (Pending)

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD
b2 MATTER 2007-[redacted]

(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 and deliver the necessary correspondence to the IOB.

(U) ~~(S)~~ ~~**Derived From: Multiple Sources**~~
~~**Declassify On: 02/01/2032**~~

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

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

(U) **Details:** ~~(S)~~ The referenced electronic communication (EC) from
b2
b7E [redacted] dated 12/19/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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~~(S)~~ (U) [redacted] prepared a National Security Letter (NSL) requesting [redacted] (S)

SECRET

OIG/DOJ REVIEW: [redacted] DATE: 3/23/07
FBI INVESTIGATION: (m)
OIG/DOJ INVESTIGATION:

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b7E To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 02/01/2007

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b7C [redacted] (S)
NSL also requested [redacted] Due to an administrative error in drafting the NSL and the accompanying EC, the case agent requested information for the wrong telephone number. Therefore, the NSL contained a substantive typographical error when it was sent to the provider. (S)

~~(S)~~ (U) [redacted] the case agent received a
b1 [redacted] the NSL results. On 12/18/2006, upon a
b7D thorough review of the material [redacted] the case agent realized the error.

~~(S)~~ (U) [redacted] did contain some pertinent information
b1 relevant to an authorized investigation. The pertinent material
b7D was printed and placed in the substantive case file. However, the non-pertinent material was not printed, [redacted] itself has been sequestered.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsels of the Intelligence Community (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General Guidelines for National Security Investigations and Foreign Intelligence Collection (NSIG) or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights. Violations of provisions that are merely administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of

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[1] A "United States person" is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. § 1801, et seq., as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act). . . ." See also Section I.C fo the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) (2003).

b2
b7E To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 02/01/2007

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

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

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(U)

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

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b7E To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 02/01/2007

LEAD(s):

Set Lead 1: (Action)

b2
b7E [redacted]

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

Set Lead 2: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

CC: Ms. Thomas
[redacted] b6
b7C
IOB Library

♦♦

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

February 1, 2007

BY COURIER

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

Dear Mr. Friedman:

b2 Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2007-[redacted]" (U)

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

Enclosure

1 - 278-HQ-C1229736-VIO - 2294

~~UNCLASSIFIED WHEN~~
~~DETACHED FROM~~
~~CLASSIFIED ENCLOSURE~~

~~Derived From: Multiple Sources~~
~~Declassify On: 02/01/2032~~

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

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

SECRET

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] DIVISION
IOB MATTER 2007-[redacted] (U)

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

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(S) [redacted] prepared an NSL requesting subscriber information [redacted] Due to an administrative error in drafting the NSL and the accompanying EC, the case agent requested information for the wrong telephone number. Therefore, the NSL contained a substantive typographical error when it was sent to the provider.

b2
b7E
b1

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

b1

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

b2
b7E

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

SECRET

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

CT [redacted] b2

Precedence: ROUTINE **Date:** 12/18/2006

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

From: [redacted]
[redacted] RA
Contact: SA [redacted]

b2
b7E
b6
b7C

Approved By: [redacted]

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

Drafted By: [redacted]

(C) **Case ID #:** ~~(S)~~ 278-HQ-C1229736 - VIO (Pending) -1995
b2 ~~(S)~~ 278-[redacted]-C136372 (Pending) -111
b7E ~~(S)~~ 278-[redacted]-113 (Pending) -14

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Title: (U) REPORT OF POTENTIAL IOB MATTER

(U) **Synopsis:** ~~(S)~~ Possible IOB error for non-compliance with a requirement of the Attorney General.

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

b1 **Reference:** (S) [redacted]

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

Details:
(S) [redacted]

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b7C

(U) ~~(S)~~ Case Agents: SA [redacted]
b6 SA
b7C

~~SECRET~~

SC Miller 4/4/07
CRS [redacted] KRO
b6
b7C

b2
b7E

To: Inspection From: [redacted]
(U) Re: (S) 278-HQ-C1229736 - VIO, 12/18/2006

(U) b6 b7C (S) Supervisors: SSA [redacted]
A/SSA [redacted]

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

(S) SA [redacted] submitted an NSL [redacted] for the telephone subscriber [redacted]

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(S) [redacted] SA [redacted] was assigned the case and reviewed the records provided by [redacted] in response to the NSL.

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b7C
b7D
(S)

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

b6
b7C
b7D
b1

(S) On 03/15/2006, SA [redacted] destroyed all documents provided [redacted] and documented the destruction of the documents in EC, [redacted]

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b7D
(S) b6
b7C

(S) An NSL [redacted] was then submitted to [redacted]

b6
b7C

(S) On 12/18/2006, SA [redacted] was advised that the above mentioned actions needed to be reported as an IOB violation.

(U)

(U) To: Inspection From: [redacted] b2 b7E
Re: (S) 278-HQ-C1229736 - VIO, 12/18/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

♦♦

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 03/22/2006

To: [redacted]

From: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

b2 b7E b6 b7C **Contact:** SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

b1 b6 b7C **Case ID #:** (S) [redacted] (Pending) b1

Title: (S) [redacted]

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

(S) b1 b7D **Synopsis:** (S) Documents destruction of incorrect results from [redacted] pertaining to National Security Letter (NSL) [redacted]

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

(S) b1 (S) [redacted]

Details: (S) [redacted] an NSL was issued [redacted]

b1 b7D b2 b7E [redacted]

b6 b7C (U) (S) On 03/14/2005 SA [redacted] was assigned the case.

(S) b6 b7C b7D b1 [redacted] SA [redacted] (S) Upon review of the results of the NSL provided by determined that the incorrect phone number had been sought in the original NSL.

(S) (S) All such documents provided [redacted] were destroyed on 03/22/2006.

b1 b7D

♦♦

SECRET

DATE: 05-30-2007
CLASSIFIED BY 65179 DMH/KSR/JW
(Rev. 01-31-2003) REASON: 1.4 (C)
DECLASSIFY ON: 05-30-2032

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/23/2007

To: [redacted] b2 b7E

Attn: SAC [redacted]
ASAC [redacted]
CDC [redacted]
SSA [redacted]
A/SSA [redacted]
SA [redacted]
SA [redacted]
b6 b7C

Inspection **Attn:** IIS, [redacted]

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

Approved By: Thomas Julie F (OGC)

b6 b7C b2

Drafted By: [redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO 2243 (Pending)

(U) **Title:** (S) INTELLIGENCE OVERSIGHT BOARD MATTER 2007-[redacted] b2

(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 and deliver the necessary correspondence to the IOB.

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

(U) **Reference:** (S) 278-HQ-C1229736-VIO Serial 1995

(U) **Details:** (S) By electronic communication (EC) dated 12/18/2006, the [redacted] Field Office [redacted] 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.

b2 b7E

(S) [redacted] case agent, submitted a National Security Letter (NSL) seeking

b6 b7C b2 b7E

SECRET

b6 b7C

DIG/DOJ REVIEW [redacted] DATE: 3/20/07
FBI INVESTIGATION:
DIG/DOJ INVESTIGATION:

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 01/23/2007

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

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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.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to

---

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

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

b2
b7E

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

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

b1

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

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

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 01/23/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

[redacted]

AT [redacted]

b2
b7E

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

cc: Ms. Thomas

[redacted]

b6
b7C

IOB Library

♦♦

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

January 23, 2007

BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 200[redacted] (U)

b2

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

Enclosure

1 - 278-HQ-C1229736-VIO - *2244*

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

Derived From: G-3
Declassify On: 25X1

SECRET

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

b2
b7E

[redacted] FIELD OFFICE
IOB MATTER 2007-[redacted] (U)

(S) (S) By electronic communication dated December 18, 2006, the Federal Bureau of Investigation (FBI) [redacted] Field Office reported that, [redacted] the FBI submitted a National Security Letter (NSL) seeking telephone [redacted] records relating to a certain target [redacted] Due to a typographical error, the telephone number on the NSL was erroneously transcribed. On March 14, 2006, the telephone records were opened and it was determined that they were not the target's records. [redacted] immediately ceased review of the telephone records.

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(S) Due to the incorrect number stated in the NSL, the FBI received [redacted] records pertaining to a telephone number that was neither under investigation nor related to an investigation. The error was discovered upon receipt of the information, and the records were neither reviewed nor used for any investigative purpose. Despite the inadvertent nature of the mistake, the fact remains that information was improperly collected on a telephone number unrelated to an investigation. The overcollection was a violation [redacted] Thus, the matter is being reported to the IOB.

(U)

b1
b7D

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Derived from: G-3
Declassify on: 25X-1

A

(Rev 01-31-2003)

SECRET/~~ORCON~~/NOFORN

FEDERAL BUREAU OF INVESTIGATION

07-[redacted] b2

Precedence: PRIORITY **Date:** 12/18/2006

To: Inspection **Attn:** IIS, Room 11861
General Counsel **Attn:** NSLB, Room 7975
Counterterrorism **Attn:** SSA [redacted]

From: [redacted]
Squad 1, JTTF
Contact: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

b2
b7E
b6
b7C

Approved By: [redacted]

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

Drafted By: [redacted]

b1
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b7E

Case ID #: (S) [redacted] (Pending) -564
278-HQ-C1229736-170-2183

Title: (S) [redacted]

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

b1
b7D

(U) ~~(S)~~ **Derived From : ~~FBI SCG G-3, Jan. 1997~~**
Declassify On: ~~12/18/2031~~

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

Details: (S//OC/NF) [redacted]

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[redacted] data that was received [redacted]

SC Miller [signature] 1/4/07

b6
b7C

CRS [redacted] [signature] 04/25/07

SECRET/~~ORCON~~/NOFORN

b2
b7E

To: Inspection From:
b1 Re: (S) 12/18/2006

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(C)

(S//OC/NF)

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b7C
b7D

(S//OC/NF) TFO noticed that provided

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b7C

TFO checked that was received through the issuance of National Security Letters (NSLs) Based upon NSL results it appeared that provided information that was dated prior TFO contacted about this matter

(S) TFO and continued to follow up

b1
b7D
b6
b7C
b2

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

(S) TFO continued to contact regarding this matter.

b1
b6
b7C

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

b1
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b7E
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b7C

(S) TFO noticed that the data was sequestered

would be contacting TFO regarding the request to sequester this data as well.

b2
b7E
b1

To: Inspection From: [redacted]
Re: (S) [redacted] 12/18/2006

(S) [redacted] advised that she had the disks with the sequestered data [redacted] On [redacted] contacted [redacted] and advised that the disks were not received as of yet. [redacted] asked for the address of where to mail [redacted] received [redacted]

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(S) [redacted] was contacted [redacted] regarding sequestering data [redacted]

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b7E

[redacted] complied with this request [redacted] advised that the request was being assigned to an analyst and would be completed shortly. [redacted] received confirmation [redacted] that the records were sequestered [redacted].

(S//OC/NF) [redacted] contained the sequestered data for [redacted] destroyed [redacted]

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[redacted] destroyed [redacted]

(S) [redacted] contacted [redacted] regarding the removal of the data [redacted] [redacted] is responsible for sequestering the data. [redacted] contacted [redacted] [redacted]

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(S//OC/NF) [redacted] confirmed, [redacted] that the appropriate data was removed [redacted] sequestered [redacted]

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b2
b7E
b1 To: Inspection From: [redacted]
Re: (S) [redacted] 12/18/2006

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b2 [redacted] that did not need to be sequestered, and is in the process of recovering this data [redacted]

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

b1
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b7E through the issuance of NSLs.

(S) [redacted] requests CTD provide the enclosed LHM to OIPR [redacted]

b2
b7E
b1

To: Inspection From: [redacted]
Re: (S) [redacted] 12/18/2006

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) ~~(S)~~ For information and action if deemed appropriate.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ For information and action if deemed appropriate.

Set Lead 3: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) ~~(S)~~ Request that CTD provide OIPR with the enclosed LHM.

♦♦

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) ~~(S)~~ For information and action if deemed appropriate.

Set Lead 3: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) ~~(S)~~ Request that CTD provide OIPR with the enclosed LHM.

(Rev. 01-31-2003)

SECRET//NOFORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/26/2007

To: [redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1/CONUS 2/Team 6

Inspection

Attn: IIS

b2
b7E
b6
b7C

From: General Counsel
National Security Law Branch/CTLU1 [redacted]
Contact: [redacted]

Approved By: Thomas Julie [redacted]

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) Case ID #: (S) 278-HQ-C1229736-VIO 2349 (Pending)
b1 (S) [redacted] (Pending) 629

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

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

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

(U) (S) Derived From: G-3
Declassify On: 02/26/2032

Reference: (S) [redacted]

b1
b7A

Administrative: (S) [redacted]

SECRET//NOFORN

OIG/DOJ REVIEW [redacted] DATE: 3/28/07
b6 FBI INVESTIGAT [redacted]
b7C OIG/DOJ INVESTIGATION: [redacted]

b2
b7E

(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 02/26/2007

(S) [redacted]

b1

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

Details: (S//NF) By electronic communication (EC) dated December 18, 2006, referenced above,[1] [redacted] Division [redacted] reported a possible IOB error in conjunction with its ongoing counterterrorism investigation [redacted]

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(S//NF) [redacted]

b1
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b7C

(S) [redacted]

b2
b7E
b1

---

[1] (U) See, EC from the [redacted] Division to the General Counsel, dated 12/18/06, [redacted] hereinafter cited as [redacted] EC.

[2] (U) [redacted] EC.

[3] (U) Id.

b2 (U)
b7E To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 02/26/2007

(S) [redacted]

(S) (S) (S)/NF) [redacted] it reported the matter to both NSLB and the Office of Intelligence Policy and Review ("OIPR"). In addition, [redacted] verified that [redacted] data was sequestered [redacted] sequestered data [redacted] were destroyed [redacted]

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

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

(S) In this instance [redacted] Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

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(S) Since all inadvertently obtained information has already been destroyed, no action lead to [redacted] is necessary.

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b7E

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[4] (U) Id.

[5] Id.

b2 (U)
b7E

To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 02/26/2007

(S) For future reference, information inadvertently obtained [redacted] should not be destroyed unless directed by [redacted]
b1
b2
Rather, the material should be collected, sequestered, sealed and delivered to OIPR for appropriate disposition [redacted]

b2
b7E

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/26/2007

LEAD(s):

Set Lead 1: (Info)

[redacted] b2 b7E

(U) For information.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION DIVISION

AT WASHINGTON, D.C.

(U) For review and action deemed appropriate.

cc: Ms. Thomas
[redacted] b6 b7C
IOB Library

♦♦

February 26, 2007

BY COURIER

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

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

Dear Mr. Friedman:

b2

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

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

Enclosure

1 - 278-HQ-C1229736-VIO - 2350

~~UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

1 - Ms. Margaret Skelly-Nolen
Acting Counsel
Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

b2
b7E

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] DIVISION
IOB MATTER 2007-[redacted] (U)

(S) [redacted] Federal Bureau of Investigation ("FBI") has reported electronic surveillance errors in conjunction with its ongoing counterterrorism investigation of an identified U.S. person ("USPER"). [redacted] noticed that [redacted] provided [redacted] also noticed [redacted]

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

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

Derived from : G-3
Declassify on: X1

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

FD-962 (Rev 03-21-2005)

SECRET

FEDERAL BUREAU OF INVESTIGATION

b2 [redacted]

Precedence: ROUTINE **Date:** 01/25/2007

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

[redacted] **Attn:** ASAC [redacted]
ADC [redacted]

From: [redacted]

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Contact: SA [redacted]

Approved By [redacted]

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

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO; 2112

Title: (U) REPORT OF POTENTIAL IOB MATTER

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

(U) ~~(S)~~ **Derived From: FBI SCG-3, January 1997**
Declassify On: 01/25/2032

Details:

(S) The captioned potential Intelligence Oversight Board matter

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b7A

[redacted]

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

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

* serial 4 11/27/06

SC Miller [illegible] 4.4.07

CR [redacted] Kao 04/25/07

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SECRET

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(U) b7E To: Inspection From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 01/25/2007

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b7E (S) [redacted]

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

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(U) (S) After receiving 319X-HQ-A1487720-OGC, Serial 290, SA [redacted] contacted Associate General Counsel (AGC) Patrice Kopistansky who advised him to contact [redacted] Division's Chief Division Counsel and to also remove the records [redacted] On January 9, 2007, SA Gaylord notified [redacted] Associate Division Counsel (ADC) [redacted] of the error. SA [redacted] also facilitated the removal of the records [redacted]. Per ADC [redacted] direction, [redacted] records were secured [redacted] stored in a safe [redacted]

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To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 01/25/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For appropriate action.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

b2
b7E

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

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/26/2007

To: [redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS IV

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Inspection

Attn: IIS

From: General Counsel
NSLB/CTLU I
Contact: SSA [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F

Drafted By: [redacted]

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

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending) 2320

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD (IOB)
b2 MATTER 2007-[redacted]

(U) Synopsis: (S) The [redacted] Division requested that the Office of
b2 General Counsel (OGC) review a potential Intelligence Oversight
b7E Board (IOB) error and determine whether it is reportable to the IOB. It is the opinion of OGC that this matter must be reported to the IOB. OGC will prepare and deliver the necessary correspondence to the IOB.

(U) (S) Derived From : G-3
Declassify On: 02/26/2032

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

Details: (S) [redacted] Pursuant to this
b1 investigation, a National Security Letter (NSL) was issued
b7A requesting subscriber information [redacted]
records in accordance with 18 U.S.C. §2709. During the preparation of the NSL two of the digits in [redacted] telephone number were transposed [redacted]

SECRET

b6
b7C OIG/DOJ REVIEW [redacted] DATE: 3/26/07
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

(U) b2 b7E

To: [redacted] From: Office of the General Counsel
Re: (S) 278-HQ-C1229736-VIO, 02/26/2007

(S) b1 b2 b7E

information [redacted] records of a number that was not relevant to a FBI investigation. [redacted] prior to discovery of the error.

(S) It should be noted that, upon discovery of this error, the case agent immediately sought advice as to how to rectify the situation. The case agent, pursuant to this advice, removed the information [redacted] and stored the original data, as well as one copy, in a safe. b2 b7E

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

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

(TS) b2 b7E To [redacted] From: Office of the General Counsel
Re: (S) 278-HQ-C1229736-VIO, 02/26/2007

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

b1

(U) (S) Here, due to the incorrect number stated in the NSL, the FBI received records pertaining to a telephone number that was not relevant to an authorized investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA. Accordingly, this incident must be reported to the IOB.

(U) (S) In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

(U)

To: [redacted] From: Office of the General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/26/2007

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LEAD(s):

Set Lead 1: (Action)

[redacted]

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

cc: Ms. Thomas
[redacted]
IOB Library

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b7C

♦♦

February 26, 2007

BY COURIER

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

DECLASSIFIED BY 65179 DMH/KSR/JW
ON 05-26-2007

Dear Mr. Friedman:

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

b2

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

Enclosure

1 - 278-HQ-C1229736-VIO - 2321

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

Derived From: G-3
Declassify On: 02/26/2032

SECRET

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

1 - Ms. Margaret Skelly-Nolen
Acting Counsel
Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

SECRET

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
b2 [redacted] FIELD OFFICE
b7E IOB MATTER 2007-[redacted] (U)

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

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

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b7E

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

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

SECRET

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FD-962 (Rev. 03-21-2005)

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SECRET

FEDERAL BUREAU OF INVESTIGATION

07 [redacted]

Precedence: ROUTINE **Date:** 01/19/2007

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

From: [redacted]

Contact: TFO [redacted]

Approved By: [redacted]
b2
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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Task Force Officer

(U) **Drafted By:** [redacted]

DATE: 05-27-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 05-27-2032

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO -2113
b1 (S) [redacted]
(S)

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

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

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

Details:

(S) b1 1. [redacted]
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b7C
(S) 2.

(U) ~~(S)~~ 3. Possible IOB Error:

b1 (S) [redacted]

(U) ~~(S)~~ 4. Description of IOB Error.

(S) A National Security Letter (NSL) [redacted] was submitted [redacted] requesting [redacted] information [redacted]

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SC Miller 4/25/07
CRS [redacted] 04/25/07

SECRET

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To: Inspection From: [redacted]
b1 Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/19/2007
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[redacted]

(S)

(S) [redacted] provided the NSL results in paper format. The [redacted] information [redacted]

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[redacted] the case agent did not review [redacted] information until [redacted] On [redacted] the case agent noticed [redacted] (The NSL that was served to [redacted] specifically noted [redacted] should **not** be included). The case agent immediately sequestered the original results that were stored in the 1-A envelope as well as the copy that was made from the original. Since the [redacted] CDC was out of the office on 01/16/2007 and 01/17/2007, the case agent was not able to notify the CDC about this matter until 01/18/2007. On 01/18/2007 the case agent provided the original and copy of the records to [redacted] CDC [redacted]

(S) [redacted] records provided [redacted] It was determined that [redacted] provided [redacted]

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[redacted] CDC [redacted] sequestered and sealed those records [redacted] CDC [redacted] will maintain the sequestered and sealed records under locked conditions in his office. [redacted] the improperly provided [redacted] information to the case agent for investigative purposes in that such records were properly provided [redacted] to the [redacted] Division in response to the above-stated NSL.

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(S) No information pertaining to the tainted [redacted] information was entered into ACS. [redacted] information [redacted] is being stored in the 1-A at this time.

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To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 01/19/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U- Volume 17

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
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Page 36 ~ Duplicate EC dated 1/24/06
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(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/03/2006

To: General Counsel **Attn:** National Security Law Branch
Counterterrorism Law Unit
Room 7975

Inspection Division Internal Investigations
Section (IIS)

Counterterrorism SSA [redacted]
ITOS I, CONUS I, Team 3

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b7E
b6
b7C

[redacted]

SSA
ASAC
CDC [redacted]

From: [redacted]

Contact: [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO-1716
(U) 278-[redacted]76104-428
(S) [redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

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Title: (U) REPORT OF POTENTIAL INTELLIGENCE
OVERSIGHT BOARD (IOB) MATTER
SSA
TFO [redacted]

1073946

Synopsis: (U) Report of a potential IOB matter to the National Security Law Branch (NSLB), Counterterrorism Law Unit (CLU), and the Inspection Division (ID) Internal Investigations Section (IIS), as required in the 2/10/2005, Inspection Division's EC to All Divisions entitled "Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters".

SC Muller
CRS [redacted] 01/08/07

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SECRET

(Rev. 01-31-2003)

SECRET/~~ORCON~~/NOFORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 08/23/2006

To: Inspection **Attn:** IIS
Room 11102

General Counsel **Attn:** NSLB
Room 7975

From: [redacted]
Chief Division Counsel
Contact: CDC [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

b2
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b6
b7C

Approved By: [redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Drafted By: [redacted]

1073946

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Case ID #: (S) [redacted]
(U) ~~(S)~~ 278-HQ-C1229736-VIO (Pending) 1602

(U) **Title:** ~~(S)~~ ~~Possible~~ Intelligence Oversight Board Matter
b6
b7C
[redacted]

(U) **Synopsis:** ~~(S)~~ Provides notification of potential IOB matter for reporting as necessary.

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

Details: ~~(S)~~ [redacted] is assigned to the [redacted] under supervision of [redacted] is the case agent for the investigation captioned [redacted]

(S) [redacted]

(S) [redacted]

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[redacted]

DMH/KSR 12-22-06

SECRET/~~ORCON~~/NOFORN

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[redacted]

Ka 01/04/07

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b1

To: Inspection From: [redacted]
Re: (S) [redacted] 08/23/2006

(S) [redacted]

(S/OC/NF) [redacted]

(S/OC/NF) [redacted]

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b7C

(S/OC/NF) [redacted]

(S/OC/NF) [redacted]

(S/OC/NF) [redacted]

b1

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b1

To: Inspection From: [redacted]
Re: (S) [redacted] 08/23/2006

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(S) [redacted]

(U) The name, [redacted], was queried through on-line commercial databases with positive results [redacted]

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b7C

(U) On 04/10/2006 [redacted] learned that the previous residence of [redacted] had been vacated [redacted]

(U) [redacted] learned that [redacted]

(S) An NSL [redacted] for subscriber information and toll billing records was issued to the communications provider of the above telephone numbers [redacted]

(S) [redacted]

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(S) 1) [redacted]

(S) 2) The telephone number was also subscribed to by a party other than [redacted]

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b1

To: Inspection From: [redacted]
Re: (S) [redacted] 08/23/2006

(S) [redacted]

overcoll.

[redacted]

(S) 4) The telephone number was also subscribed to by a party other than [redacted]

no

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b7E

(S) [redacted]

[redacted] The toll records provided by the communications carrier with regard to the other parties have not been utilized or uploaded by [redacted]

(U) (S) On 08/22/2006, it was brought to the attention of [redacted] that the above incident may constitute an Intelligence Oversight Board violation. On the same day, [redacted] brought this matter to the attention of [redacted] Division CDC.

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(U) (S) Remedial action, if deemed appropriate, will include the permanent ACS charge-out of the communication identifying the other party, as well providing all hard-copy toll records related to the other party to CDC for whatever action deemed appropriate.

(U) (S) The National Foreign Intelligence Program Manual, Section 2-02, states that there are certain investigative activities which are permitted in the absence of formally authorized inquiries and investigations. The collection of information pertaining to the other party as described above is not one of those activities. Nontheless, it was never the intent of the captioned employees to capture information concerning an individual who is not under investigation.

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To: Inspection From: [redacted]
Re: (S) [redacted] 08/23/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) The Internal Investigation Section is requested to determine if the matter described in this communication constitutes a reportable IOB issue.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLB is requested to determine if the matter described in this communication constitutes a reportable IOB issue.

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/20/2006

To: [redacted] **Attn:** CDC [redacted]

Inspection **Attn:** Internal Investigative Section
Attn: [redacted] Room 11865

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b7E
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b7C

From: General Counsel
National Security Law Branch [redacted]
Contact: [redacted]

Approved By: Thomas Julie F [redacted] EB

Drafted By: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO-1888

Title: (U) Intelligence Oversight Board (IOB) Matter 2006 [redacted] b2

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

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 10/12/2016**~~

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 1602 (Pending)
b1 (S) [redacted] (Pending)

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

(U) **Details:** ~~(S)~~ By electronic communication (EC) dated August 23, 2006 and referenced above, the [redacted] Division [redacted] reported to the OGC's National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter.
b2
b7E

b6
b7C

OIG/DOJ REVIEW: [redacted] DATE: 12/11/06
FBI INVESTIGATION: [redacted]
OIG/DOJ INVESTIGATION:

SECRET

To: Counterterrorism From: General Counsel
(C) Re: (S) 278-HQ-C1229736-VIO, 10/20/2006

BACKGROUND

(S) [redacted] b1 b2 b7E b6 b7C

(U) (S) [redacted] issued a National Security Letter (NSL) to the provider in order to obtain subscriber information and toll records for the two identified telephone numbers for the period of [redacted] b2 b7E

(S) [redacted] Division received the results of the NSL [redacted] (C) n reviewing the record (C) learned that one of the tele(S)ne numbers in questi was subscribed by two separate individuals during the requested period of coverage. [redacted] (S) (S) b1 b2 b7E b6 b7C b7D

[redacted] did not provide any toll information outside the period requested in t (S) NSL.

ANALYSIS

(U) (S) As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters that should be reported to the IOB. We believe that the reported activity does not require IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, if

such provision was designed in full or in part to protect the individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.[1] For the FBI, OGC submits reports to the IOB.[2]

(U) (S) [redacted] NSIG (Introduction) (S)
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at 4. Section 2-56 of the NFIPM identifies as reportable to the IOB unauthorized investigations, the use of unlawful methods and techniques, exceeding the authorized scope of permitted activities, and failing to adhere to minimization requirements.[3]

(S) In this instance, [redacted] sought information relating to two telephone numbers that were believed to be subscribed to by the subject [redacted] The provider responded by submitting subscriber information outside the scope of the request for one of the telephone numbers. The information provided indicated that [redacted] the subscriber of one of the telephone numbers was the target of a duly authorized (S)
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(S)

(U) [1] (S) See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The FBI is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) [2] (S) See id. at 4.

[3] (S) See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) [redacted] (5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.
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b7C (S) investigation. A legitimately issued NSL resulted in obtaining information that indicated that the target of the investigation, [redacted] had indeed been the subscriber of one of the
b1 telephone numbers [redacted] The information obtained falls within [redacted] as described in
(S) the NSIG and thus, need not be reported to the IOB pursuant to E.O. 12863.

(U) To: Counterterrorism From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/20/2006

LEAD(s):

Set Lead 1: (Discretionary)

[redacted]

AT [redacted]

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(U) For review and action deemed appropriate.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT ITOS II

(U) For review and action deemed appropriate.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

♦♦

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

To: General Counsel

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

Attn: NSLB

Date: 01/11/2007

Approved By: Miller David Ian

Drafted By: [redacted] kas

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2751
OGC/IOB# 2006-[redacted]

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1602
278-HQ-C1229736-VIO Serial 1888

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 08/23/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

BEST COPY AVAILABLE

IG - INVESTIGATIONS DIVISION - Complaint Form OIG NO.: [redacted]689-2007-002668-M

Received By: [redacted] Date Received: 12/19/2006 How Received: A

SUBJECT: [redacted]
Title: SA
Component: FBI
Misc: [redacted]
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:

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

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COMPLAINANT: [redacted]
Title: ATTY
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential:

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details:

(S) The FBI provided information regarding a potential IOB matter (2006 [redacted] issued a NSL to a telecommunications provider to obtain subscriber information and toll records for two telephone numbers.

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

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: [redacted] 2006 TIME:
CITY: [redacted] State [redacted] Zip:

DISPOSITION DATA: Disposition: M Date: 12/19/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 01/30/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-598

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

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

1/31/07: Sent to Kaiser/FBI. (stp)

DATE: 06-23-2007
FBI INFO.
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2032

FD-962 (Rev. 03-21-2005)

SECRET//20310922

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/22/2006

To: Inspection
General Counsel
[redacted]

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

Attn: ASAC [redacted]
CDC

From: [redacted]
CI-1
Contact: SA [redacted]

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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By [redacted]

Drafted By: [redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO — 1705
(S) 62F[redacted]-A89455-IOB — 4

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

Title: (U) SA [redacted]
b6 SSA SSA [redacted]
b7C INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) **Synopsis:** (S) To report possible IOB error.

(U) (S) ~~**Derived From : G-3**~~
~~**Declassify On: 09/22/2031**~~

Details:

(S) 1. [redacted]

(S) 2. [redacted]

(U) (S) 3. Possible IOB Error:

(S) [redacted]

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

(S) [redacted]

SECRET//20310922

SC Miller [signature] 12-22-06
CRS [redacted] 01/04/07

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To: Inspection From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 09/22/2006

(S) [redacted] was prepared and approved in accordance with the Attorney General Guidelines. The NSL was served by [redacted] Office and on [redacted] provided the results of the NSL to [redacted] Field Office.

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(S) A review of the results of the NSL revealed that [redacted] was not requested by the FBI. This information was not utilized by the case agent in any analysis nor was it documented in the case file.

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To: Inspection From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 09/22/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

(Rev 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/15/2006

To: [redacted]

Attn: ASAC [redacted]
CDC

Counterintelligence

Attn: CD-1B
SSA [redacted]

Inspection

Attn: IIS, Room 11861

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

Approved By: Thomas Julie F [redacted]

Drafted By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) 1913
(U) ~~(S)~~ 62F [redacted] A89455-IOB (Closed) -9

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
2007 [redacted] b2

(U) **Synopsis:** ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that this matter does not merit reporting to the Intelligence Oversight Board (IOB). A copy of this opinion should be retained in the control file for review by Counsel to the IOB.

(U) ~~**Derived From:** G-1~~
~~**Declassify On:** X1~~

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

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

Details: (U) The referenced electronic communication (EC) from [redacted] in file 278-HQ-C1229736, dated 09/22/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does not. Our analysis follows.

OIG/DOJ REVIEW [redacted]
FBI INVESTIGATI
OIG/DOJ INVESTIGATION:
DATE: 12/2/06

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b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/15/2006

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b7C (S) [redacted]

(S) [redacted] a Electronic Communication Privacy Act (ECPA) National Security Letter (NSL) [redacted]

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b7E (S) [redacted] The NSL was properly prepared and served in accordance with the Attorney General Guidelines, [redacted] forwarded responsive records to [redacted] Field Office.

(U) (S) Among the responsive records, however, [redacted] Field Office found [redacted]

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b7E [redacted] information outside the scope of the information sought by the NSL and triggered this inquiry. Upon discovering the apparent error, the case agent took note that the information was never utilized by the FBI in any way, nor was it included or documented in the case file.

(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 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.

(S) Here, an error on the part [redacted] resulted in the unintentional acquisition of information outside the scope of

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

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(U) (S) Examination of the record reveals no evidence of unlawful actions by the FBI or actions contrary to Executive Order or Presidential Directive. Accordingly, we opine that this incident is not reportable to the IOB. By this EC, we request that the [redacted] Field Office sequester and destroy any remaining record of the two email transactions giving rise to this inquiry. Inspection is hereby requested to maintain a copy of this record in the event that it is requested by the Counsel to the IOB.

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

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LEAD(s):

Set Lead 1: (Info)

[redacted]

AT [redacted]

(U) For information.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

CC: Ms. Thomas
[redacted]
IOB Library

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♦♦

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/11/2007

To: General Counsel **Attn:** NSLB

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

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Approved By: Miller David Ian [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2930
OGC/IOB# 2007-[redacted] b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 09/22/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev. 01-31-2003)

~~SECRET~~//20320124

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/24/2007

To: [redacted] **Attn:** SAC (Personal Attention)

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

Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2930
OGC/IOB# 2007[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 20320124**~~

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

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

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320124

U.S. Departme of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 24, 2007

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

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179/DMH/KSR/PW

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

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■ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO.: [redacted] 689-2007-002509-M

Received By: [redacted] b6 b7C Date Received: 12/21/2006 How Received: A

SUBJECT: Unidentified, FBI
Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work:
Phone:

Pay Plan:
EOD Date:
ZIP:
ZIP:

SSNO:
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Offenses: [redacted] b2

COMPLAINANT: [redacted]
Title: ATTY
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential:

Pay Plan: [redacted]
EOD Date: [redacted]
ZIP: [redacted]
ZIP:
Revealed:

SSNO:
D.O.B.: [redacted]
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

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Details:

The FBI provided information regarding a potential IOB matter (2007 [redacted] b2 b1 (S)

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

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: TIME:
CITY [redacted] State: [redacted] Zip:

b2
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DISPOSITION DATA: Disposition: M Date: 01/23/2007 Approval: POWELL, GLENN G

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

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

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

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

01/24/07: Sent to Kaiser/FBI/INSD (dz)

DATE: 06-23-2007
FBI INFO.
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-23-2032

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/11/2007

To: General Counsel **Attn:** NSLB

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

Approved By: Miller David Ian [redacted] b6 b7C

Drafted By: [redacted] kas b2

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2930
OGC/IOB# 2007[redacted] b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 09/22/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U - Volume 18

Federal Bureau of Investigation

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/03/2006

To: General Counsel **Attn:** National Security Law Branch
Counterterrorism Law Unit
Room 7975

Inspection Division Internal Investigations
Section (IIS)

Counterterrorism SSA [redacted]
ITOS I, CONUS I, Team 3

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[redacted]

SSA [redacted]
ASAC
CDC

From: [redacted]

Contact: [redacted]

Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO-1716
(U) 278-[redacted]76104-428
(S) [redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

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Title: (U) REPORT OF POTENTIAL INTELLIGENCE
OVERSIGHT BOARD (IOB) MATTER
SSA [redacted]
TFO

1073946

Synopsis: (U) Report of a potential IOB matter to the National Security Law Branch (NSLB), Counterterrorism Law Unit (CLU), and the Inspection Division (ID) Internal Investigations Section (IIS), as required in the 2/10/2005, Inspection Division's EC to All Divisions entitled "Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters".

SC Miller
CRS [redacted] 01/08/07

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SECRET

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To: General Counsel From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

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

(S) [redacted]

Administrative: (S) [redacted]

(U) **Details:** ~~(S)~~ As directed in the Inspection Division's EC dated 2/10/2005, the following is being reported to the NSLB, CLU, and to the ID, IIS, as a potential IOB matter:

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(U) ~~(S)~~ **1. Identification of the substantive investigation in which the questionable activity occurred.**

(S) [redacted]

(S) 2. [redacted]

(S) [redacted]

~~(S)~~ **3. Identification of the subject's status.**

(S) [redacted]

(U) ~~(S)~~ **4. Controlling administrative requirement.**

(S) [redacted]

b2
b7E

To: General Counsel From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

(C) (S) **5. Error believed committed.**

(S) [redacted] identified the fact that the telephone [redacted] reassigned to another customer. [redacted] was ceased immediately and all appropriate actions were taken pursuant to FBI policy.

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(U) (S) **Synopsis of investigation:**

(S) [redacted]

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(S) [redacted]

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(S) [redacted] confirmed via National Security Letter results from [redacted]

(S) [redacted]

b1

(S) [redacted]

b1
b6
b7C

(U) [redacted]

(S)

b2
b7E

To: General Counsel From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

(S) [redacted]

(S) [redacted]

(S) [redacted]

(S) [redacted]

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(S) [redacted]

(S) [redacted]

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

(S) (~~S~~) On 9/27/2006 at approximately 10:40 a.m., [redacted] discontinued [redacted]. No information [redacted] was ever entered [redacted]

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(S) (~~S~~) On 10/3/2006, SSA [redacted] and this writer spoke with SSA [redacted]

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[redacted] turned over to CDC [redacted] on this date.

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b7E

To: General Counsel From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

Errors believed committed.

b1

(S) The above error [redacted] was first identified by the TFO [redacted]

Corrective measures

(U) In view of the above, SAC [redacted] has ensured that corrective measures have been initiated [redacted]

b2
b7E

b2
b7E

To: General Counsel From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 10/03/2006

LEADS:

Set Lead 1: (Action)

GENERAL COUNSEL
AT WASHINGTON DC

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

Set Lead 2: (Action)

INSPECTION DIVISION
AT WASHINGTON DC

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

Set Lead 3: (Info)

COUNTERTERRORISM
AT WASHINGTON DC

(U) Read and clear.

♦♦

(Rev 01-31-2003)

SECRET//NOFORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 12/13/2006

b2
b7E
b6
b7C

To: [redacted] **Attn:** SAC
CDC

Counterterrorism **Attn:** ITOS 1, CONUS 1, TEAM 3

Inspection **Attn:** IIS

From: Office of the General Counsel
NSLB/CTLU1/ LX1 Room 3S140
Contact: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F

Drafted By: [redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO-1931 (Pending)

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U) **Title:** (S) INTELLIGENCE OVERSIGHT BOARD MATTER 2007 [redacted] b2

(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 and deliver the necessary correspondence to the IOB.

(U) ~~**Derived From : G-3**~~
~~**Declassify On: 20311213**~~

(U) **Reference:** (S) 278-HQ-C1229736-VIO serial 1716

Administrative: (S) [redacted]

b1

SECRET//NOFORN

OIG/DOJ REVIEW [redacted] DATE: 12/22/06
FBI INVESTIGATION: (m)
OIG/DOJ INVESTIGATION:

b6
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b2
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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

Details: (S) [redacted]

(S) [redacted]

(S) [redacted]

b1
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b7D
b2
b7E

(S) [redacted]

(S//NF) [redacted]

(S) ~~(U)~~ [redacted]

(S//NF) [redacted]

(S//NF) [redacted]

(S//NF) [redacted]

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

(S//NF) [redacted]

(S//NF) [redacted]

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(S) [redacted]

b6
b7C

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

(S) ~~(S//NF)~~ [redacted] discontinued [redacted] No information [redacted] was ever entered [redacted]

b6
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b1

(S) On 10/3/2006, SSA [redacted] SSA [redacted] and this writer spoke with SSA [redacted] This writer was authorized to [redacted]

(S) [redacted] turned over to CDC [redacted]

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

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director,

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

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

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

(S) In this situation, [redacted] Consequently, although unintentional, unauthorized interception of presumed U.S. persons occurred. This incident must be reported to the IOB. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

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(S) [redacted]

b2
b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

LEAD(s):

Set Lead 1: (Info)

b2
b7E [redacted]

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

b1

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

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

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

(U) For action deemed appropriate.

cc: Ms. Thomas
b6
b7C [redacted]
IOB Library

♦♦

December 13, 2006

BY COURIER

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

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

Dear Mr. Friedman:

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

b2

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

Enclosure

1 - 278-HQ-C1229736-VIO - 1939

~~UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE~~

~~Derived From: G-3~~
~~Declassify On: 20311213~~

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

b2
b7E

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] FIELD OFFICE b2
IOB MATTER 2007-[redacted] (U)

(S) [redacted]

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b7E

(U) (~~S~~) The overcollection was a violation of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection. Thus, the matter is being reported to the IOB.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

~~Derived from: G-3~~
~~Declassify on: 20311213~~

~~SECRET~~

~~SECRET~~

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/11/2007

To: General Counsel **Attn:** NSLB

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

b6
b7C
b2

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3128
OGC/IOB# 2007[redacted]

b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1716
278[redacted]-76104 Serial 428
278-HQ-C1229736-VIO Serial 1931

b2
b7E

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 10/03/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

♦♦

(Rev. 01-31-2003)

~~SECRET~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

b2
b7E

To: [redacted] **Attn:** SAC (Personal Attention)

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

Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Drafted By: [redacted]

b6
b7C
b2

Case ID #: (U) 263-HQ-0-U - 635 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3128
OGC/IOB# 2007[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~**Derived From: G-3**~~
~~**Declassify On: 20320117**~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1716

Reference: (U) 278-HQ-C1229736-VIO Serial 1716
278[redacted]-76104 Serial 428
278-HQ-C1229736-VIO Serial 1931

b2
b7E

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

~~SECRET~~//20320117

U.S. Departme of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 25, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

SUBJECT: OIG Complaint No. 2007002556
Subject: [redacted]
b6 b7C b2 b7E [redacted] Division
FBI No. 263-0-U-635
CMS No. 3128

■ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

b2
b7E

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO. [redacted] 689-2007-002556-M

Received By: [redacted] Date Received: 12/22/2006 How Received: A

SUBJECT [redacted]
Title: SSA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:

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

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b7C
b2

COMPLAINANT: [redacted]
Title: SSA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential: [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details:

The FBI provided information regarding a potential IOB matter (2007 [redacted] b2

(S) [redacted] b2 b1 b7E

[redacted] determined [redacted] disconnected [redacted] [redacted] was ceased immediately.

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 09/27/2006 TIME:
CITY: [redacted] b2 b7E Zip:

DISPOSITION DATA: Disposition: M Date: 12/22/2006 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 01/24/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-635

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

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

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

DATE: 05-30-2007
FBI INFO.
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

FD-962 (Rev 03-21-2005)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 09/07/2006

To: Inspection **Attn:** IIS, Room 11861
General Counsel **Attn:** NSLB, Room 7975
[redacted] **Attn:** CDC

b2
b7E
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b7C

From: [redacted]

Contact: SA [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: [redacted]

Drafted By: [redacted]

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

Title: (U) SA [redacted] b6 b7C
SSA
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

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

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

Details:

(S) 1. [redacted]

(S) 2.

(U) b1 ~~(S)~~ 3. Possible IOB Error:
b6
b7C
b2
b7E

(S) [redacted]

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

(S) [redacted]

SC Miller Dmk/km 12.27.06

~~SECRET~~

CRS [redacted] 01/04/07 b6 b7C

b2
b7E

To: Inspection From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 09/07/2006

b7D
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~~(U)~~ This NSL was served on [redacted] which subsequently provided toll records for this telephone number to [redacted]
(S) Division, which then forwarded the results of the NSL to [redacted]

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b7D

~~(U)~~ [redacted] Division received the captioned NSL toll records [redacted] Upon initial review of the first-page of the toll record documents, SA [redacted] determined that the subscriber was not that of the Captioned Subject and subsequently determined that the records were for
(S) [redacted] which was the number requested, but
(S) that the true number that should have been requested [redacted]

b7D
b1

~~(U)~~ In review of both the NSL requesting EC and the NSL
(S) Letter [redacted] it was determined that the correct number was listed within the body of the requesting EC, but had been incorrectly annotated in the 'Enclosure' paragraph of the requesting EC, and on
(S) the NSL Letter [redacted]

b7D
b1
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~~(U)~~ This FD-962 serves as a record that the information
(S) contained within the NSL toll records provided [redacted] were **not** reviewed nor analyzed, **no** information from these records was recorded or indexed in any database, and that the toll record information was **not** uploaded [redacted] database.

b2
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~~(U)~~ Per instruction from the CDC, [redacted]
(S) Division, on 09/07/2006, SA [redacted] destroyed all the original NSL toll records provided [redacted] This process was witnessed by SA [redacted]. This EC also certifies that no other copies of these records were produced nor maintained.

b2
b7E

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 09/07/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 12/11/2006

To: [redacted] **tn:** SAC [redacted]
ASAC [redacted]
SSA [redacted]
SA [redacted]

b2
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b7C

Counterterrorism **Attn:** AD [redacted]

Inspection **Attn:** Internal Investigative Section
Attn: [redacted] Room 11865

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

Approved By: Thomas Julie F [redacted] SD 12/14/06

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO-1914 (Pending)

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER 2007-[redacted] b2

(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 and deliver the necessary correspondence to the IOB.

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

b1

Reference: (S) [redacted]
(U) ~~(S)~~ 278-HQ-C1229736-VIO Serial 1757

(U) **Details:** ~~(S)~~ By electronic communication (EC) dated 09/07/2006, the [redacted] Field Office [redacted] 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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b7E

(U) ~~(S)~~ [redacted] prepared and approved a National Security Letter (NSL) seeking subscriber

SECRET

OIG/DOJ REVIEW [redacted] DATE: b6 12/21/06
b7C
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/11/2006

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

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b7D

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

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

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

---

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

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/11/2006

not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

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

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

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

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/11/2006

b2
b7E

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Information)

[redacted]

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

b2
b7E
b7D
b1

cc: Ms. Thomas
b6
b7C [redacted]
IOB Library

♦♦

December 11, 2006

BY COURIER

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

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2007[redacted]" (U) b2

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

Enclosure

1 - 278-HQ-C1229736-VIO

~~UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE~~

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

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

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

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
SAN FRANCISCO FIELD OFFICE b2
IOB MATTER 200[redacted] (U)

(S) The Federal Bureau of Investigation ("FBI") has determined that in conducting a [redacted] (S) [redacted] the FBI improperly used a National Security Letter (NSL) to obtain subscriber information and telephone toll billing records on a telephone number which was not related to the investigation. The overcollection was due to a mistake in (S) the NSL in identifying the telephone number [redacted] of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG).[1] In this regard, on [redacted] (S) [redacted] issued a National Security Letter (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709, to a telephone carrier for the telephone subscriber and toll billing records of a telephone number intended to be identified as that of the target. Instead, one of the numbers within the telephone number was incorrectly written; thus, the information returned from the carrier was subscriber information and the telephone toll billing records of a wholly unrelated telephone number. The error was discovered upon receipt of the information, and the records were not reviewed

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~~Derived from: G-3~~
~~Declassify on: 25X1~~

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

[1] (S) [redacted]

b1

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/11/2007

To: General Counsel **Attn:** NSLB

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

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Approved By: Miller David Ian DIM/KAS

Drafted By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3135
OGC/IOB# 2007 [redacted] b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 09/07/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev. 01-31-2003)

~~SECRET~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

To: [redacted] **Attn:** SAC (Personal Attention)

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

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Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 637 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3135
OGC/IOB# 2007-[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1757

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

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320117

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OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO. [redacted]689-2007-002646-M

Received By: [redacted] Date Received: 12/21/2006 How Received: A

SUBJECT: [redacted]
Title: SSA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:

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

SUBJECT: [redacted]
Title: SA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP: [redacted]
ZIP:

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

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COMPLAINANT: [redacted]
Title: ATTY
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential:

Pay Plan: [redacted]
EOD Date:
ZIP: [redacted]
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details:

The FBI provided information regarding a potential IOB matter (2007 [redacted]

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

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

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ALLEGATIONS: 689 IOB Violation
Occurrence Date [redacted] 2006 TIME:
CITY: [redacted] Zip:

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

Referred to Agency: FBI Date Sent: 01/29/2007 Component: [redacted] b2

Patriot Act: N Civil Rights: N Component Number: 263-0-U-637

Sensitive: N Whistleblower: N Consolidated Case Number:

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-24-2007 BY 65179/dmh/ksr/cak

Remarks:

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

1/30/07: Sent to Kaiser/FBI. (stp)

FD-962 (Rev. 03-21-2005)

SECRET//20311017

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/17/2006

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

[redacted]

From: [redacted]

Contact: SA [redacted]

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Approved By: [redacted]

Drafted By: [redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

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

Title: (U) SA [redacted]
A/SSA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) **Synopsis:** (S) To report possible IOB error.

~~Derived From : FBI G3, SCG, Jan 1997~~
~~Declassify On: 20311017~~

Details:

(S) b1 b6 b7C 1. [redacted]

(S) 2. [redacted]

(U) (S) 3. Possible IOB Error:

b1 (S) [redacted]

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

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

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(S) [redacted]

(S) [redacted] Division received one packet of results [redacted] Upon loading of the information for one target number into telephone applications as tasked, FA [redacted] noticed information pertaining to an additional number. FA [redacted] only loaded

SECRET//20311017

DM/RMQ
[redacted] kus 01/04/07
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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/17/2006

the information for the requested telephone number. FA[redacted] advised
b6 SA[redacted] of the additional information. SA[redacted] completed an
b7C electronic communication (EC) on 09/07/2006, stating additional records were received that were beyond the scope of the request. The unrelated records were not uploaded and were destroyed. It should be noted the additional number information was within the time period requested.

b6 ~~(S)~~ On 10/17/2006, SA[redacted] contacted [redacted] and spoke
b7C with [redacted] stated the two records were not
b2 related in any way and it was simply a mistake on [redacted] part to
b7E (S) send the additional information to [redacted] Division [redacted] further
b1 advised [redacted]
b7D
(S) [redacted]

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/17/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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To: [redacted] From: General Counsel
(U) Re: (S) 278-HQ-C1229736-VIO, 11/28/2006

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(S) b6 [redacted]
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(S) [redacted] received one package of results [redacted]
b2 (S) [redacted] FA [redacted] loaded the records [redacted]
b7E [redacted] and discovered information pertaining to an additional
b6 telephone number. The NSL did not request the toll billing
b7C records for this additional telephone number. [redacted]
b1 (S) [redacted] FA [redacted] did
b7D not load these additional records [redacted] (C)

b6 (U) (S) FA [redacted] notified SA [redacted] who documented the
b7C incident in an electronic communication dated September 7, 2006.
b2 The unrelated telephone records were not uploaded [redacted] and
b7E have been destroyed. [1]

(S) A/SSA [redacted] contacted [redacted] on October 17,
b6 (S) 2006 and advised them of the additional telephone records. [redacted]
b7C (S) [redacted] advised A/SSA [redacted] that the additional records were
b1 not related to the request [redacted] and
b7D (S) that [redacted] made a mistake when they provided that information.

(U) (S) As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters that should be reported to the IOB. We believe that the reported activity does not require IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the individual rights of a United States person. This includes

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[1] (LES) In the future, possible overcollections under NSLs should be sequestered with the CDC until adjudication of the potential IOB.

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(C) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 11/28/2006

violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.[2] For the FBI, OGC submits reports to the IOB.[3]

(S) [redacted]

b1 [redacted] NSIG (Introduction) at 4. Section 2-56 of the NFIPM identifies as reportable to the IOB unauthorized investigations, the use of unlawful methods and techniques, exceeding the authorized scope of permitted activities, and failing to adhere to minimization requirements.[4]

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b7E (S) (S) In this instance, [redacted] sought information relating to one telephone number associated with the [redacted] a
b1 [redacted] and obtained information beyond the scope of
b7D the request due to an error [redacted][5] The NSL was property

(U) [2] (S) See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The FBI is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) [3] (S) See id. at 4.

[4] (S) See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) [redacted]

b1
(S) [redacted] (5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.

[5] (U) In a letter from the Intelligence Oversight Board to the FBI's Office of General Counsel, Deputy General Counsel Julie Thomas, dated November 13, 2006, the IOB "agreed that third party

To: [redacted] From: General Counsel
(U) Re: (S) 278-HQ-C1229736-VIO, 11/28/2006 b2 b7E

prepared and executed by [redacted] Thus, the investigative technique was authorized for purposes of E.O. 12333 and this need not be reported to the IOB pursuant to E.O. 12863.

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

To: [redacted] From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 11/28/2006

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LEAD(s):

Set Lead 1: (Info)

[redacted]

(U) Read and clear.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT LIBERTY CROSSING ONE

(U) For review and action deemed appropriate.

Set Lead 3: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

♦♦

(Rev. 01-31-2003)

~~SECRET~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

To: [redacted] **Attn:** SAC (Personal Attention)

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

Approved By: Miller David Ian

Drafted By: [redacted]

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Case ID #: (U) 263-HQ-0-U - 638 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3137
OGC/IOB# 2007[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20320117~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1763

Reference: (U) 278-HQ-C1229736-VIO Serial 1763
278-HQ-C1229736-VIO Serial 1890

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

~~SECRET//20320117~~

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/11/2007

To: General Counsel **Attn:** NSLB

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

b6 **Approved By:** Miller David Ian DEM/KSR

b7C
b2 **Drafted By:** [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3137
OGC/IOB# 2007-[redacted] b2

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

Reference: (U) 278-HQ-C1229736-VIO Serial 1763
278-HQ-C1229736-VIO Serial 1890

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 10/17/2006, reporting a
b2 possible IOB error. Based upon a review of the referenced EC it
b7E is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

♦♦

U.S. Departme of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 26, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

SUBJECT: OIG Complaint No. 2007002603
[redacted]
FBI No. 265-0-U-638
CMS No. 3137

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- [x] We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.
- [ ] This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.
- [ ] This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

b2

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO. [redacted]-689-2007-002603-M

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

SUBJECT: Unidentified, FBI

Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work:
Phone:

Pay Plan:
EOD Date:
ZIP:
ZIP:

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

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COMPLAINANT: [redacted]

Title: ATTY
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential: [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details:

The FBI provided information regarding a potential IOB matter (2007 [redacted] b2

(S) [redacted] [redacted] and on 8/26/06, [redacted] b1 b2 b7E

issued an NSL to a telecommunications provider for records relating to the subject of the investigation. However, the telecommunications provider inadvertently provided the FBI with records pertaining to an additional telephone number not requested.

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: [redacted]/2006 TIME:
CITY: [redacted] Zip: b2 b7E

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

Referred to Agency: FBI Date Sent: 01/26/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-638

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

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

1/29/07: Sent to Kaiser/FBI. (stp)

DATE: 05-30-2007
FBI INFO.
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

(Rev. 01-31-2003)

SA [redacted]

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/03/2006

To: General Counsel **Attn:** NSLB
Inspection **Attn:** IIS
Counterintelligence **Attn:** CD-2F, Room 8672
OS/IA [redacted]
Attn: CDC [redacted]

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From: [redacted]

Contact: SA [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: [redacted] 10/20/06 0/20/06

Drafted By: [redacted] awp

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) - 1787
b2 (U) 278 [redacted] C76104 (Pending) - 1736
b7E (S) [redacted]
b1

Title: (U) POTENTIAL IOB MATTER INVOLVING
b6 SA [redacted]
b7C SSA [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

b7D **Synopsis:** (U) IOB reporting of carrier [redacted] error in regard to an NSL.

(U) ~~(S) Derived From : G-3~~
~~Declassify On: 10/03/2031~~

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

(U) b6 b7C **Details:** ~~(S)~~ The following information is being provided in response to the quarterly EC from CDC [redacted] requesting Intelligence Oversight Board reporting be brought to the attention of OGC and Inspection Division.

(S) [redacted]

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12.22.06

SECRET

[redacted] 01/04/07

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F/C

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To: General Counsel From: [redacted]
Re: (S) [redacted], 10/03/2006

(S) b1
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[redacted]

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(X) [redacted] initially requested NSL subscriber and toll billing information for a telephone number [redacted]

(X) Based on the information obtained from that NSL, [redacted]

(S) [redacted]

(S) After [redacted] received the results of that subscriber NSL from [redacted]

(S) learned that [redacted] had included subscriber information for a telephone number that was not asked for. Consequently, this telephone number and associated subscriber information have not been uploaded and no record of them exist within ACS.

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[redacted] is maintaining the results of this particular NSL [redacted]

(S) [redacted] in a 1A envelope in the case file. [redacted] learned of [redacted] mistake after viewing [redacted]

(S) [redacted] therefore, it is being reported within the mandatory 14-day reporting period.

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To: General Counsel From: [redacted]
Re: (S) [redacted] 10/03/2006

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

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

Set Lead 2: (Action)

INSPECTION

AT WASHINGTON, DC

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

Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

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

Set Lead 4: (Action)

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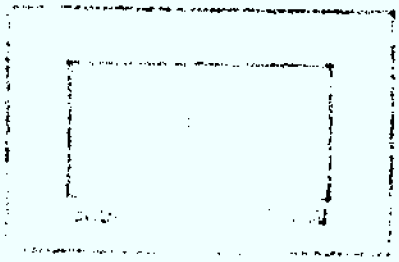
b7E

[redacted]

AT [redacted]

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

♦♦



(01/26/1998)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 12/05/06

To: [redacted] **Attn:** SAC, CDC
Counterintelligence **Attn:** CD-2F, Room 8672
[redacted]

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Inspection **Attn:** IIS

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

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

Approved By: Thomas Julie F

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO - 1892
(U) 278[redacted]C76104 - 452
(S) [redacted] b1

(U) **Title:** ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER
2007[redacted] b2

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

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

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO-1787

Details: (S) [redacted]

b1

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SECRET

OIG/DOJ REVIEW: [redacted]
FBI INVESTIGATI
OIG/DOJ INVESTIGATION:
DATE: 12/20/06

(U) To: [redacted] From: General Counsel
Re: (X) 278-HQ-C1229736-VIO, 12/05/06

(S) b1 b6 b7C [redacted]

b2 b7E (S) [redacted] initially requested NSL subscriber and toll billing information for a telephone number [redacted]

(S) b1 b6 b7C [redacted]

(X) Based upon the information obtained from that NSL

(S) [redacted]

b1 b2 b7E b7D [redacted] After viewing [redacted] learned that [redacted] included subscriber information for a telephone number that was not asked for. Consequently, this telephone number and associated subscriber information have not been uploaded and no record of them exists within ACS. [redacted] is maintaining the results of this particular NSL (including the incorrectly provided subscriber information) [redacted] in a 1A envelope in the case file.

(S) [redacted]

(S) This NSL was issued during a legitimate [redacted]

b1 b7D [redacted] This erroneous telephone number and associated subscriber information have not been uploaded and no record exists within ACS.

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

b2
b7E

(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 12/05/06

Intelligence Collection (NSIG), or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. On 3/28/2006, NSLB sent a letter to the Counsel for the IOB requesting their concurrence to treat these third party errors as non-reportable, though we will require the field to continue to report any improper collection under an NSL as a potential IOB matter. By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to OGC, but are not reportable to the IOB.

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

b7D
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(U) (S) Based upon our analysis, the carrier's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive.

(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 12/05/06

Set Lead 1: (Action)

b2
b7E

[redacted]

(S) Return [redacted] b1
[redacted] and b7D
arrange for delivery of correct information
in response to previously issued NSL.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

1-Ms. Thomas
1[redacted]
b6
b7C
1-IOB Library

♦♦

(Rev 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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

To: General Counsel **Attn:** NSLB

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

Approved By: Miller David Ian

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b7C
b2

Drafted By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3154
OGC/IOB# 2007-[redacted] b2

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

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

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b7E

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 10/03/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

♦♦

(Rev. 01-31-2003)

~~SECRET~~//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

To: [redacted] **Attn:** SAC (Personal Attention)

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

b2
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b7C

Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3154
OGC/IOB# 2007-[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 20320117**~~

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

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

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

b2
b7E

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320117

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/09/2007

To: Counterterrorism

Attn: SSA [redacted]
ITOS I, CONUS I, Team 3

Inspection

Attn: IIS

Office of General Counsel

Attn: UC [redacted] NSLB

From: [redacted]
Legal Unit

Contact: CDC [redacted]

b2
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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: [redacted]

Drafted By: [redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Case ID #: (U) 278-HQ-C1229736-VIO (None)
(U) 278-[redacted]-C76104 (None)
b1 (S) [redacted]

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
b2 MATTER 2007-[redacted]

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

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

(S) ~~(U)~~ [redacted]

b2
b7E
b1

Administrative: (U) Reference [redacted] EC to FBIHQ, dated 10/3/2006; FBIHQ EC to [redacted] dated 12/13/2006.

Enclosure(s): (S) [redacted]

Details: ~~(U)~~ Via referenced 10/3/2006 EC, [redacted] reported a potential IOB violation consisting [redacted]

(S) [redacted]

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To: Counterterrorism From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 01/09/2007

(S) [redacted] contacted the carrier and learned that the subject had discontinued service [redacted] and the number had been reassigned to another customer [redacted] coverage was immediately discontinued. [redacted] was removed [redacted] and sequestered with [redacted] CDC.

(S) b1 b2 b7E

(S) Via EC dated 12/13/2006, OGC set a lead for [redacted] to forward [redacted] to ITOS1 [redacted]

To: Counterterrorism From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 01/09/2007

LEAD(s):

Set Lead 1: (Action)

COUNTERTERRORISM

AT WASHINGTON D.C.

(S) [redacted]

b1 [redacted]

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

♦♦

U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: February 2, 2007

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

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

SUBJECT: OIG Complaint No. 2007002756
Subject: [redacted] et al.
[redacted] Division
FBI No. 263-0-U-~~763~~
CMS No. 3154 643

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☐ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

b2

OIC INVESTIGATIONS DIVISION - Complaint Form. OIC NO. [redacted] 689-2007-002756-M

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

SUBJECT: [redacted]
Title: SA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP: [redacted]
ZIP:

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

SUBJECT: [redacted]
Title: SSA
Component: FBI
Misc:
Home: [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:

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

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COMPLAINANT: [redacted]
Title: SSA
Component: FBI
Misc:
Home. [redacted]
Phone: () -
Work: , ,
Phone: (202) [redacted]
Confidential:

Pay Plan: [redacted]
EOD Date:
ZIP:
ZIP:
Revealed:

SSNO: [redacted]
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Authority: none

Details:

Information received from the FBI/INSD reporting a potential IOB matter involving the interception of unauthorized information. IOB 2007-[redacted]

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

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: [redacted]/2006 TIME:
CITY: [redacted] State: [redacted] Zip:

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

Referred to Agency: Date Sent: Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-463, 3154

Sensitive: N Whistleblower: N Consolidated Case Number:

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

b2

Remarks:

A search of the OIG database revealed that [redacted] is a subject in another potential IOB matter, #2007-002584-M.

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

2/2/07 - Sent to AD Kaiser, FBI/IND. (vhl)

FD-952 (Rev 03-21-2005)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 10/21/2006

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

From: [redacted]

Contact: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: [redacted]

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DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

Drafted By:

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO -1806

Title: (U) [redacted] - [redacted]

INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 10/17/2031~~

Details:

(S) 1. [redacted]

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(S) 2. [redacted]

(U) ~~(S)~~ 3. Possible IOB Error:

b1 (S) [redacted]

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

(S) [redacted]

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SECRET

12.22.06

b6
b7C [redacted] 01/04/07

To: Inspection From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/21/2006

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(S) [redacted]

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

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

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b7E

To: Inspection From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/21/2006

b2
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.

♦♦

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 12/13/2006

To: [redacted] **Attn:** SAC
CDC

Counterterrorism **Attn:** ITOS 1, CONUS 3, [redacted]

Inspection **Attn:** IIS

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

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b7C

From: Office of the General Counsel
NSLB/CTLU1/LX1 Room 3S119
Contact: UC [redacted]

Approved By: Thomas Julie F

Drafted By: [redacted]

DATE: 05-30-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-30-2032

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO 1899 (Pending)

(U) **Title:** (S) INTELLIGENCE OVERSIGHT BOARD MATTER 2007 [redacted] b2

(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) (S) ~~**Derived From:** G-3~~
~~**Declassify On:** 20311213~~

(U) **Reference:** (S) 278-HQ-C1229736-VIO serial 1806

(U) b2 b7E **Details:** (S) The referenced serial from [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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(S) (S) Pursuant to authorized preliminary investigation [redacted] served [redacted] a National Security Letter (NSL) for [redacted] e-mail account requesting electronic communications transactional information.

SECRET

OIO/DOJ REVIEW [redacted] DATE: 12/20/06
FBI INVESTIGATION: (m)
OIO/DOJ INVESTIGATION:

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b7C

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

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

b6
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(U) There were no reports written or leads set as a result of obtaining these records. Efforts are currently underway to separate the header and footer information from content. The original disk will then be forwarded to the [redacted] Chief Division Counsel or FBIHQ as directed.

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

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

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

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

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

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

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(U) [redacted] should contact the carrier and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. [redacted] should not view any content information but should request the carrier to provide only that information authorized by law.

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/13/2006

b2
b7E

LEAD(s):

Set Lead 1: (Info)

[redacted]

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

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, D.C.

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, D.C.

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

cc: Ms. Thomas
b6
b7C [redacted]
IOB Library

♦♦

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

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

To: General Counsel **Attn:** NSLB

From: Inspection
Internal Investigations Section, IPU, Room 3041
b6 b7C b2 **Contact:** CRS [redacted]

Approved By: Miller David Ian

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-30-2007 BY 65179/DMH/KSR/RW

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3159
OGC/IOB# 2007-[redacted] b2

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

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

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 10/21/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

b2 b7E

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(Rev 01-31-2003)

SECRET//20320117

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/17/2007

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To: [redacted] **Attn:** SAC (Personal Attention)

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

Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 05-30-2007

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3159
OGC/IOB# 2007[redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20320117~~

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

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

b2
b7E

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

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

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

♦♦

SECRET//20320117

U.S. Departme of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: January 30, 2007

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179/DMH/KSR/RW

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

SUBJECT: OIG Complaint No. 2007002647
b2 Subject: Unidentified
b7E [redacted] Division
FBI No. 263-0-U-644
CMS No. 3159

■ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

b2

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO. [redacted] M b6 b7C b2

Received By: [redacted] Date Received: 12/20/2006 How Received:

SUBJECT: Unidentified, FBI SSNO:
Title: UNID Pay Plan: D.O.B.:
Component: FBI EOD Date: Alien No.:
Misc: F.B.I.No.:
Home: B.O.P.No.:
Phone: ZIP: D/L No.:
Work: Offenses: 689
Phone: ZIP:

COMPLAINANT: [redacted] SSNO: [redacted]
Title: SSA Pay Plan: [redacted] D.O.B.:
Component: FBI EOD Date: Alien No.:
Misc: F.B.I.No.:
Home: [redacted] B.O.P.No.: b6
Phone: () - ZIP: [redacted] D/L No.: b7C
Work: , , b2
Phone: (202) [redacted] ZIP:
Confidential: Revealed: Authority: none

Details: b2

The FBI provided information regarding a potential IOB matter (2007 [redacted]

(S) [redacted] on 10/3/06, the [redacted] Division issued an NSL requesting electronic communication transactional information for the subject of its investigation. A review of the information provided revealed that the content of the email messages was included with the header and footer information. b1 b2 b7E

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

ALLEGATIONS: 689 IOB Violation
Occurrence Date: [redacted] 2006 TIME: b2
CITY: [redacted] Zip: b7E

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

Referred to Agency: FBI Date Sent: 01/29/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-644

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

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

1/30/07: Sent to Kaiser/FBI. (stp)

DATE: 05-30-2007
FBI INFO.
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Freedom of Information and Privacy Acts

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

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

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

```
XXXXXXXXXXXXXXXXXXXXXXXX
X    Deleted Page(s)    X
X No Duplication Fee    X
X    for this Page      X
XXXXXXXXXXXXXXXXXXXXXXXX
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FD-962 (Rev 03-21-2005)

b2

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION [redacted]

Precedence: ROUTINE **Date:** 07/03/2006

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

From: [redacted]

Contact: SA [redacted]

b2
b7E
b6
b7C

Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO -1517

1073946

Title: (U) SA [redacted]
SSRA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

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

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 07/02/2031~~

Details:

b1
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b7C
b7A

(S) 1. [redacted]

(S) 2. [redacted]

(U) ~~(S)~~ 3. Possible IOB Error:

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

(S) b1
b7A [redacted]

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

(S) [redacted]

b1
b6
b7C
b7D
b7A

~~SECRET~~

SC Miller DMH/RAH 1/9/07
CRS [redacted] KAW 01/09/07

b6
b7C

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b7E

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/03/2006

b1
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b7C
b7D
b7A

(S) in the NSL for the time period requested, but indicated also in the materials returned that [redacted] prior to the time period requested in the NSL. Therefore, the toll records provided

(S) [redacted]

(S) ~~(S)~~ After opening the results to begin analysis a few days after receiving the toll records [redacted] SA [redacted] noticed the error and promptly notified the [redacted] CDC via email. Due to trainings and conferences out of state during the month of June, [redacted] CDC was not able to respond until 06/30/2006 to SA [redacted] inquiries regarding an opinion on the need to report [redacted] error. The toll records [redacted] have not been analyzed or added to any databases, and have been sequestered with the [redacted] CDC.

(S)

(S)

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b7D
b7E

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U- volume 8

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 20
Page 32 ~ Duplicate 9/30/05 EC
Page 33 ~ Duplicate
Page 34 ~ Duplicate
Page 43 ~ b1, b6, b7C, b7D
Page 44 ~ b1, b6, b7C, b7D
Page 45 ~ b1, b6, b7C, b7D
Page 46 ~ b1, b6, b7C, b7D
Page 47 ~ b1, b6, b7C, b7D
Page 61 ~ Duplicate page 2 of 2/25/05 EC
Page 62 ~ Duplicate page 3 of 2/25/05 EC
Page 63 ~ Duplicate page 4 of 2/25/05 EC
Page 64 ~ Duplicate NSL Letter
Page 65 ~ Duplicate
Page 66 ~ Duplicate EC dated 2/4/05
Page 67 ~ Duplicate
Page 68 ~ Duplicate
Page 69 ~ Duplicate
Page 70 ~ Duplicate
Page 71 ~ Duplicate
Page 72 ~ Duplicate

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

Precedence: ROUTINE

Date: 04/20/2005 #1044

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

From: [redacted]

Contact: [redacted]

Approved By: [redacted]

b2
b7E
b6
b7C
b1

Drafted By: [redacted]

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

(S)

Title: (U) [redacted]

REPORT OF POSSIBLE IOB VIOLATION

(U) (S)

Synopsis: ~~(S)~~ EC to report a possible IOB violation committed by writer in investigation [redacted]

b1
b6
b7C

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

Enclosure(s): ~~(S)~~ Enclosed for NSLB are an EC dated 03/21/2005 with all of it's enclosures, [redacted] containing toll records received [redacted]

b1
b7D

(S) Details: (U) ~~(S)~~ A potential IOB violation occurred during investigation [redacted]

b1
b6
b7C

(S) [redacted]

b1
b6
b7C
b7D

[redacted] writer prepared a NSL for service [redacted] requesting subscriber information [redacted] records [redacted]. A response to the NSL was

handle + [illegible] lead in ACS. [illegible]

Case ID : 278-HQ-C1229736-VIO

(S) [redacted]

b1

Serial : 823
38

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-01-2007
CLASSIFIED BY 65179dmh/ksr/prs
REASON: 1.4 (c/d)
DECLASSIFY ON: 06-01-2032

[redacted] b1 b7D

(S) (U) ~~(S)~~ Writer began to review the response from (S) [redacted] Upon reading the subscriber information, writer
(S) realized the name was not identifiable with [redacted]

(S) [redacted] b1 b6 b7C b7D
One digit difference between [redacted] (Note: There is only and [redacted] which was the nuber [redacted] (C) [redacted] Writer then checked [redacted] Database for this number [redacted]

(S) [redacted] Upon realization of this error, writer telephoned CDC [redacted] and advised him of these details. CDC [redacted] requested writer prepare a report of possible IOB violation.

(S) (U) ~~(S)~~ Writer was unable to determine if the incorrect telephone number was the result of [redacted] providing incorrect information or a mistaken [redacted] by the writer [redacted] b7D b1

(U) ~~(S)~~ Writer has enclosed the results of the NSL for destruction as they are not needed for, or related to, the current investigation.

LEAD(s):

Set Lead 1: (Info)

ALL RECEIVING OFFICES

(U) For info only.

(01/26/1998)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/01/2005

To: Inspection
Counterterrorism
[redacted]

Attn: IIS
Attn: AD
Attn: SAC, CDC

From: General Counsel
Counterterrorism Law Unit II
Contact: [redacted]

b2
b7E
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b7C
b1

Approved By: Thomas Julie F

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 5101
(S) [redacted]

Title: ~~(S)~~ SA [redacted]
(U) SSA [redacted]
b2 POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER
IOB 2005 [redacted]

(U) **Synopsis:** ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that this **matter need not be reported** to the Intelligence Oversight Board (IOB), but, rather, that a record of this decision should be maintained in the investigative control file for review by the Counsel to the IOB.

~~(S)~~ (U) ~~**Derived from :** G-3~~
~~**Declassify On:** X-25-1~~

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 823

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in WordPerfect 8.0.

Details: (S) [redacted]

b1
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SECRET

[redacted] DATE: 7/1/05

DATE: 06-01-2007
CLASSIFIED BY 65179dmh/ksr/prs
REASON: 1.4 (c/d)
DECLASSIFY ON: 06-01-2032

b6
b7C

IPU
handle IIB
lead of
in ACC

To: Inspection From: General Counsel
(U) Re: (S) 278-HQ-C1229736-VIO, 05/10/2005

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b7C

[redacted]

(S) [redacted] provider, SA [redacted] realized that the subscriber information did not correspond with that of the target [redacted] Subsequent research has revealed [redacted] correct [redacted] phone number to be [redacted] The error appears to have been the result [redacted] providing incorrect information or mistaken [redacted] by SA [redacted]

b1
b6
b7C

[redacted]

(S) Immediately upon reviewing the subscriber
b6 (U) information, SA [redacted] discontinued his review of the records.
b7C At no time did he or his supervisor, SSA [redacted] view the [redacted] Rather, he has submitted the results of the NSL to OGC, for final disposition.

(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 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) To: Inspection From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 05/10/2005

(U) (S) In the instant matter, SA [redacted] erroneously issued an NSL for an incorrect phone number. However, he did so in good faith, [redacted] Further, immediately upon reviewing the subscriber information, he discontinued his review of the records and properly sequestered the information.

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(U) (S) Consequently, based on the above analysis, this matter will be treated by OGC as essentially administrative in nature. In accordance with the above guidance, OGC will maintain a record of this matter for possible future reference by the Oversight Board and forward [redacted] to OIPR to be sequestered. Inspection is also requested to maintain a copy of this opinion, documenting the nonreportable nature of this issue.

b7D

#831

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Precedence: ROUTINE Date: 06/27/2003

To: Counterterrorism Attn: ITOS I, CONUS II, Team 6

[redacted]

General Counsel Attn: [redacted]
Unit Chief
National Security Law Unit

Inspection Attn: [redacted]

From: [redacted]

b6
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Contact: [redacted]

Approved By: [redacted]

Drafted By: [redacted]

DATE: 06-23-2007
CLASSIFIED BY 65179 dmh/ksr/jhf
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-23-2032

Case ID #: (U) 278-HQ-1229736-VIO (Pending)
(U) [redacted] 278-0 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER (IOB)
[redacted] DIVISION

Synopsis: (U) To seek guidance regarding possible IOB violation.

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

Details: (S) [redacted]

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b3 FGJ

(S) [redacted]

263-0 U

(U) ~~(S)~~ On June 18, 2003, FBIHQ advised [redacted] Division to discontinue serving subpoenas because of the statutory provisions requiring authorization by the Attorney General (AG). [redacted]

b2
b7E
b3

[redacted]

(U) ~~(S)~~ [redacted] Division in turn contacted the United States Attorney's Office, Western District of [redacted] and requested that all pending requests for Grand Jury subpoenas be suspended until further notice. NSLs will be used to identify [redacted] in the interim.

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b7E

(U) ~~(S)~~ [redacted] was unaware that the term "Criminal proceeding" had been interpreted by the AG Guidelines to include Federal Grand Jury (FGJ) subpoenas and proceedings. [redacted] Division has disseminated this guidance internally and will ensure future compliance with the AG Guidelines regarding this issue.

(U) ~~(S)~~ [redacted] requests that FBIHQ consider and determine whether the AG authority within [redacted] itself fulfills the AG approval requirement.

LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) Review information and advise FBI [redacted] as to any findings on this matter.

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b7E

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON D.C.

(U) Review information and advise FBI [redacted] as to any findings on this matter.

Set Lead 3: (Info)

COUNTERTERRORISM

AT ITOSI\CONUSII

(U) For information.

Precedence: ROUTINE
Date: 06/07/2004

To: [redacted]
Attn: SAC

Counterterrorism
Attn: ITOS I/CONUS III

Director's Office
Attn: Office of Professional Responsibility

b2
b7E
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b7C

From: General Counsel
National Security Law Branch/Rm. 7974
Contact: [redacted]

Approved By: Curran John F

Drafted By: [redacted]

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/ksr/prs
REASON: 1.4 (c/d)
DECLASSIFY ON: 06-04-2032

(U) Case ID #: ~~(S)~~ 278-HQ-1229736-VIO

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER 2003 [redacted]
b2

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

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

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) Reference: ~~(S)~~ 278-HQ-1229736-VIO

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

(U) Details: ~~(S)~~ By electronic communication (EC) dated 06/27/03 (cited below) il', [redacted] Division [redacted]
(S) reported a possible IOB error in conjunction with [redacted]

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b3 FGJ

(S) [redacted]

b1
b3

(U) Pursuant to Sections 1806(b), 1825(c), and 1845(b) of the FISA, FISA-derived information may not be disclosed for law enforcement purposes or used in a criminal proceeding without prior authorization of the Attorney General. Pursuant to a memorandum of the Attorney General dated March 6, 2002, the issuance of a grand jury subpoena falls within the definition of a "criminal proceeding" as that term is used in the FISA. Thus, a subpoena containing FISA-derived information requires prior authorization of the Attorney General before it is disclosed or used in a criminal proceeding.

(U) Section 2.4 of Executive Order (EO) 12863, dated September 13, 1993, requires the General Counsel for the Intelligence Community, including FBI/OGC, to report to the IOB intelligence activities that they have reason to believe are unlawful or contrary to executive order or presidential directive.

(U) ~~(S)~~ Pursuant to the FISA, a grand jury subpoena containing FISA-derived information may not be disclosed without prior authorization of the Attorney General. The [redacted] Division served a federal grand jury subpoena containing FISA-derived information on a third party without obtaining the Attorney General's prior authorization. It is the opinion of Office of General Counsel that this constitutes a violation of the FISA that must be reported to the IOB.

b2
b7E

(U) ~~(S)~~ Based upon the above analysis, and consistent the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an LHM to report this matter to the IOB. That correspondence will also advise the IOB that this matter will be referred to the FBIs Office of Professional Responsibility.

Lead(s):

Set Lead 1: (Action)

COUNTERTERRORISM DIVISION

AT WASHINGTON, DC

(U) For information.

Set Lead 2: (Action)

DIRECTOR'S OFFICE

AT OPR FO, DC

(U) For action deemed appropriate.

Set Lead 3: (Action)

b2
b7E [redacted]

(U) For action deemed appropriate.

1 - Mr. Curran
b6 1 [redacted]
b7C 1 [redacted]
1 - NSLB IOB Library

FOOTNOTES

i1´: (U) See EC from [redacted] Division to the General
b2 Counsel,
b7E dated 06/27/03, Case ID# 278-HQ-1229736-VIO, titled "Intelligence Oversight Board Matter (IOB) [redacted] Division," hereinafter cited as [redacted] EC."

FD-962 (Rev. 05-03-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

#1156

Precedence: ROUTINE **Date:** 04/22/2005

To: General Counsel **Attn:** National Security Law Branch, Room 7975

From: [redacted]

b2 b7E b6 b7C **Contact:** SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 820

Title: ~~(S)~~ (U) INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

(U) **Synopsis:** ~~(S)~~ Possible IOB error for non-compliance with a requirement of the National Foreign Intelligence Program Manual (NFIPM).

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

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) **Enclosures:** ~~(S)~~ Telephone records requested by General Counsel.

Details:

(S) 1. [redacted]

b1 b6 b7C (S) 2. [redacted]

(U) ~~(S)~~ 3. Possible IOB Error.

b1 (S) [redacted]

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

(U) ~~(S)~~ [redacted] drafted an NSL (S) [redacted] which contained an incorrect telephone number. [redacted]

b1 b6 b7C b7D (S) [redacted] [redacted] responded to the NSL and delivered the records that corresponded to the incorrect number on the NSL. [redacted]

SECRET

DATE: 06-04-2007
CLASSIFIED BY 65179dmh/ksr/prs
REASON: 1.4 ((c))
DECLASSIFY ON: 06-04-2032

09/21/05

b2
b7E

To: General Counsel From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/22/2005

(U)
{S} ~~(S)~~ Per instructions from [redacted] in her e-mail dated 04/21/2005 to [redacted] CDC [redacted] the acquired telephone records are enclosed along with copies of the original NSL and cover EC to be forwarded to OIPR. All the communications that contain the incorrect number were permanently charged out and removed from ACS in [redacted] office. [redacted] contacted the [redacted] office and requested the removal [redacted] from ACS.

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(U) To: General Counsel From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/22/2005

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) General Counsel to take action requested above.

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 05/06/2005

To: Inspection **Attn:** Internal Investigation Section

[redacted] **Attn:** SA [redacted]
CDC [redacted]

b2
b7E
b6
b7C

From: General Counsel
National Security Law Branch/CTLU I/LX1 5S-200
Contact: [redacted]

Approved By: Thomas Julie F

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO (Pendi [redacted]
(S) [redacted]

b1
b6
b7C
b2

Title: (U) INTELLIGENCE OVERSIGHT BOARD
SA [redacted]
IOB MATTER 2005-[redacted]

- please ensure covered/cleared f/ ACS. 06/27/05

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

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

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO-820

Details: ~~(S)~~ As reported by the [redacted] Division [redacted]
in the April 22, 2005 electronic communication, on December 6,
b2 b7E (S) 2004, [redacted]
b1
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b7C
(U) ~~(S)~~ [redacted] Special Agent (SA) [redacted] drafted
b1 (S) a National Security letter (NSL) [redacted] which contained
b6
b7C an incorrect telephone number. [redacted]
b7D [redacted]

b6
b7C

SECRET

b6
b7C

OIG/DOJ Review: [redacted] TE: 9/18/05
FBI INVEST: [redacted] VEST.:
OPR UC INITIALS:

SSA [redacted]

DATE: 06-04-2007
CLASSIFIED BY 65179dmh/ksr/prs
REASON: 1.4 ((c))
DECLASSIFY ON: 06-04-2032

To: Inspection Division From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/06/2005

(S) [redacted]

b1
b6
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[redacted] responded to the NSL and delivered the telephone records that corresponded to the incorrect number listed in the NSL. Upon review of the telephone records, it was discovered that they belonged to a different U.S. Person.

(U) ~~(S)~~ When the error was discovered, the telephone records were sealed along with the original NSL and forwarded to Headquarters together with a report of the incident. (See 278-HQ-C1229736-VIO Series 820). These records will be forwarded to the Office of Intelligence Policy and Review (OIPR) All communications that contained the incorrect telephone number were permanently charged out and removed from FBI Automated Case Support system (ACS).

(U) ~~(S)~~ Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM) requires OGC to determine whether the facts related above are required to be reported to the IOB. For the reasons discussed below this matter needs to be reported.

(U) ~~(S)~~ The Electronic Communications Privacy Act (ECPA), 18 U.S.C. § 2709 authorizes the issuance of a National Security Letter for telephone subscriber information, telephone toll billing records and electronic communication transactional records for telephone numbers used by the subject of the investigation. The USA PATRIOT Act, P.L. 107-56, authorizes the issuance of an NSL for a subject upon a certification of relevance to an authorized investigation to protect against international terrorism or clandestine intelligence activities

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[redacted]

(U) Section 2.4 of the 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, Inspection Division, and the General Counsel, OGC, respectfully) report to the IOB all information "concerning the intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive."

To: Inspection Division From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/06/2005

(U) In the instant matter, while the error in combining the two telephone numbers appears to be inadvertent, it resulted in obtaining another U.S. Person's telephone records without authorization. Even though the production of the wrong telephone records resulted from a typographical error, the delivery of the telephone records was contrary to 18 USC § 2709. Consequently, based on the above analysis, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB.

LEAD(s):

Set Lead 1: (Action)

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[redacted]

(U) Read and clear

Set Lead 2: (Action)

INSPECTION (IIS)

AT WASHINGTON, DC

(U) For action deemed appropriate

1 - Ms. Thomas
b6 1 - SSA [redacted]
b7C 1 [redacted]
1 - IOB File

~~SECRET~~

May 6, 2005

BY COURIER

James Langdon, Chairman
Intelligence Oversight Board
New Executive Office Building
725 17th Street, N.W., Room 5020
Washington, D.C. 20503

Dear Chairman Langdon:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2005[redacted] (U)

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The enclosure 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)

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

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1 - Ms. Thomas
1 - SSA [redacted]

1 - [redacted]
1 - 278-HQ-C1229736-VIO 882

Derived from: G-3
Declassify on: X1

~~SECRET~~

DECLASSIFIED BY 65179dmh/ksr/prs
ON 06-04-2007

Chairman James Langdon

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

Enclosure

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

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

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

~~SECRET~~

(S)

(U) ~~(S)~~ [redacted] of the Federal Bureau of Investigation (FBI) has reported that a National Security Letter (NSL) [redacted] contained an incorrect telephone number.

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(S) ~~(S)~~ [redacted] drafted a National Security letter (NSL) [redacted] which contained an incorrect telephone number. [redacted]

(S) [redacted] responded to the NSL and delivered the telephone records that corresponded to the incorrect number listed in the NSL. Upon review of the telephone records, it was discovered that they belonged to a different U.S. Person.

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(U) ~~(S)~~ When the error was discovered, the telephone records were sealed along with the original NSL and forwarded to FBI Headquarters together with a report of the incident. All communications that contained the incorrect telephone number were permanently charged out and removed from FBI Automated Case Support system (ACS). In addition, the matter has been referred to the FBI's Internal Inspection Section for any action that is deemed appropriate.

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-04-2007
CLASSIFIED BY 65179dmh/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 09/26/2005

To: General Counsel **Attn:** NSLB

From: Inspection
Internal Investigations Section, IPU, Room 11102
Contact: CRS [redacted]

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b2

Approved By: Fogle Toni Mari

Drafted By: [redacted]

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1156
OGC/IOB# 2005 [redacted]

b2

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

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

(U) **Reference:** ~~(S)~~ ~~278-HQ-C1229736-VIO Serial 820~~
~~278-HQ-C1229736-VIO Serial 881~~

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 4/22/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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DECLASSIFIED BY 65179dmh/ksr/prs
ON 06-04-2007

~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 09/26/2005

To: [redacted] **Attn:** SAC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 11102
Contact: CRS [redacted]

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Approved By: Fogle Toni Mari[illegible]

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 263-HQ-0-U - 319 (Pending)

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1156 b2
OGC/IOB# 2005 [redacted]

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This incident is remanded back to the field for whatever action deemed necessary and appropriate. Case closed at IIS.

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

Enclosure(s): (U) EC from [redacted] Division dated 04/22/2005

(U) **Reference:** ~~(S)~~ ~~278-HQ-C1229736-VIO Serial~~ 820
~~278-HQ-C1229736-VIO Serial~~ 881

Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, it is IIS's opinion the incident is not indicative of willful misconduct. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

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(U) IIS does, however, suggest this incident be potentially considered a possible performance related issue with respect to the employee and respective supervisor, and relegates any future action relative to this incident to the discretion of the [redacted] Division. IIS recognizes and appreciates this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).
♦♦

~~SECRET~~

DECLASSIFIED BY 65179 dmh/ksr/prs
ON 06-08-2007

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 09/30/2005

To: Counterterrorism **Attn:** ITOS I\CONUS 2\Team 7
UC [redacted]

General Counsel **Attn:** NSLB
AGC [redacted]

From: Inspection
Internal Investigations Section, IPU, Room 11102
Contact: CRS [redacted]

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Approved By: [redacted]

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 263-HQ-0-U (Pending)
(U) ~~(S)~~ 263-HQ-C1229736-VIO (Pending)

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD
SSA [redacted]
TFO [redacted]
[redacted] DIVISION
OGC # 2005 - [redacted]

Synopsis: (U) Forwarding material to Counterterrorism Division for appropriate handling.

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

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 688
(U) ~~(S)~~ 278-HQ-C1229736-VIO Serial 754

(U) **Enclosure(s):** ~~(S)~~ Enclosed for Counterterrorism Division (CTD), ITOS I, CONUS 2, Team 7 are the following:

~~(S)~~ A copy of 278-HQ-C1229736-VIO, serial 688
(U) enclosing:

(S) [redacted]

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~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-08-2007
CLASSIFIED BY 65179 dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

To: Counterterrorism From: Inspection
(U) Re: (S) 263-HQ-0-U, 09/30/2005

(S) [redacted]

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(U) (S) A copy of 278-HQ-C1229736-VIO, serial 754 enclosing:

(U) b1 A CD containing material inadvertently gathered [redacted]

Details: (S) By way of 278-HQ-C1229736-VIO serials 688 and 754, [redacted] Division forwarded to Inspection Division (INSD), Internal Investigations Section(IIS) the enclosed unauthorized
(S) collected material inadvertently obtained pursuant to: 1) an NSL [redacted] By standard practice, this
b2 b7E b7D b1 material should have been provided by [redacted] Division to CTD\ITOS I\CONUS 2\Team 7, the substantive unit supervising the investigations in which the material was collected. In turn, that unit SSA should turn it over to the Office of Intelligence Policy and Review (OIPR), [redacted]

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(U) (S) Accordingly, INSD, IIS is forwarding the enclosed material to CTD\ITOS I\CONUS 2\Team 7 for appropriate handling.

To: Counterterrorism From: Inspection
(U) Re: ~~(S)~~ 263-HQ-0-U, 09/30/2005

LEAD(s):

Set Lead 1: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For ITOS I\CONUS 2\Team 7 to review EC and provide enclosed material to OIPR.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Provided to NSLB for information only.

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

#1200

Precedence: ROUTINE **Date:** 02/25/2005

To: ✓Inspection **Attn:** Internal Investigations Sect.

General Counsel **Attn:** Natl. Sec. Law Branch Asst. Genl. Counsel [redacted]

From: [redacted] Legal Unit

Contact: CDC [redacted]

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Approved By: [redacted]

Drafted By: [redacted] 688

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

Title: (U) TFO [redacted]
SSA [redacted]
POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Synopsis: (U) To report potential IOB matter to the Inspection Division and to the General Counsel.

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

Enclosure(s): ~~(S)~~ Enclosed for the Inspection Division, Internal Investigations Section are the following:

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(U) ~~(S)~~ 1. A CD containing material [redacted] pursuant to a National Security Letter (NSL). WARNING: This CD may contain a virus and should not be placed in any computer until a virus scan is performed.

(S) 2. [redacted]

[redacted]

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09/23/05

~~ET~~ [redacted]

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4/18/05

DC INITIALS

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To: Inspection From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 02/25/2005

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(U) ~~(S)~~ 3. An EC dated 02/04/2005 [redacted] transmitting the results [redacted]

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[redacted]

(S) [redacted] a NSL was signed by [redacted] SAC [redacted] The NSL [redacted] The NSL sought [redacted] information [redacted]

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[redacted] not to include [redacted]

(S)

[redacted] served the NSL [redacted] returned to

(S) [redacted] pursuant to the NSL.

(U) ~~(S)~~ Upon receiving the CD the case agent in this matter, TFO [redacted] examined the CD and determined that it contained [redacted] With the help of [redacted] TFO [redacted] He then reported what he had found to [redacted] supervisor, SSA [redacted] On the same day the matter was reported to him, 02/14/2005, SSA [redacted] telephonically reported this matter to Chief Division Counsel (CDC) [redacted] CDC [redacted] advised SSA [redacted] to seal the CD in an envelope and send it to CDC [redacted] On 02/16/2005 CDC [redacted] telephonically contacted NSLPTU Unit Chief [redacted] for guidance. This call was returned the same date by Assistant General Counsel (AGC) [redacted] who advised [redacted] information retrieved from the CD should not be used for any purpose even though the NSL did not request any such information. On 2/23/2005 CDC [redacted] e-mailed AGC

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To: Inspection From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 02/25/2005

b6 b7C [redacted] to determine if this matter should be reported as a potential IOB violation. On 2/24/2005 she responded that it should be reported.

(U) ~~(S)~~ [redacted] believes the following should be considered by the Inspection Division and the General Counsel in determining if this matter should be reported to the IOB. First the NSL specifically stated that e-mail content information was not requested. Any violation of Title 18, U.S. Code Section 2711 was committed by the internet service provider, not by the FBI. The statute does not specifically prohibit the FBI from viewing e-mail content information provided pursuant to a NSL and it does not specifically prohibit the use of such information by the FBI. The statute prohibits the FBI from requesting the content information and prohibits the provider from releasing such information. Second, any violation of the "intent" of the statute was inadvertent. The case agent sought guidance from his supervisor shortly after viewing the information and the supervisor immediately contacted the CDC. Guidance was then sought from OGC.

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To: Inspection From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 02/25/2005

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LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Review this EC and attachments and take action as appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Review this EC and advise the Inspection Division, IIS on the referal of this matter as a potential IOB violation.

♦♦

Secret

U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

[redacted]

(S) [redacted]

(S)

(S) 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) [redacted]

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(S) [redacted]

(S) In accordance with Title 18, U.S.C., Section 2709(b), I certify that all records being 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.

(S) 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.

(S) You are requested to provide the records in an electronic format, specifically in comma separated value format, and then provide them personally to a representative of [redacted] Division of the FBI. Any questions you have regarding this request should be directed only to [redacted] Division. Due to security considerations, you should neither send the records through the mail nor disclose the substance of this request in any telephone conversation.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-07-2007
CLASSIFIED BY 65179dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

Secret

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[redacted]
Special Agent in Charge

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(Rev 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/04/2005

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To: [redacted] **Attn:** [redacted] Ra [redacted]

TFO [redacted]

From: [redacted]

Contact: ISS [redacted]

Approved By: [redacted]

Drafted By: [redacted]

b1 (S) **Case ID #:** [redacted]

Title: (S) [redacted]

(S) b1 b6 b7C

(U)

Synopsis: ~~(S)~~ To provide results of National Security Letter (NSL) [redacted]

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

(U)

Enclosure(s): ~~(S)~~ Enclosed for [redacted] are records, [redacted] listed in the originating NSL.

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Details: (S) [redacted]

(S) b1 b6 b7C b7D

(S) (S) [redacted]

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(S) [redacted]

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-07-2007
CLASSIFIED BY 65179dmh/ksr/prs
REASON: 1.4 ((c))
DECLASSIFY ON: 06-07-2032

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b1 (S)

To: [redacted] From: [redacted]
Re: [redacted]

b1 (S)
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[redacted]

(U) All leads set for [redacted] have been completed.

LEAD(s):

Set Lead 1: (Info)

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[redacted]

(U) Read and clear.

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(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 04/21/2005

To: [redacted] **Attn:** SAC
CDC

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Counterterrorism **Attn:** ITOSI/CONUSII

Inspection **Attn:** Internal Investigation Section

From: General Counsel
National Security Law Branch/LX Crossing Room 5S200
Contact: [redacted]

Approved By: Thomas Julie F.

Drafted By: [redacted]

(C) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO (Pending)
b1 (S) [redacted] (Pending)

(S) **Title:** ~~(S)~~ Intelligence Oversight Board (IOB)
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SSA [redacted]
TFO

(U) **Synopsis:** ~~(S)~~ It is the opinion of the Office of General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB) and to the Inspection Division (INSD), FBIHQ. OGC will prepare and deliver the necessary correspondence to the IOB. Our analysis follows.

(U) ~~(S)~~ ~~**Derived From :** G-3~~
~~**Declassify On:** X25-1~~

Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 580

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

DATE: 06-08-2007
CLASSIFIED BY 65179 dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/21/2005

(U)

Details: ~~(S)~~ By electronic communication (EC) dated February 25, 2005 (cited below),[1] [redacted] Division [redacted] reported a potential IOB error. [redacted] A NSL was signed by [redacted] SAC [redacted] [redacted] to provide all subscriber information pertaining [redacted] pursuant to 18 U.S.C. Section 2709. The NSL specifically stated [redacted] returned [redacted] a CD [redacted] pursuant to the NSL.

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(S)

~~(S)~~ Case agent [redacted] determined that the CD contained [redacted] TFO [redacted] with assistance, was able [redacted] reported [redacted] information to his supervisor SSA [redacted] SSA [redacted] telephonically contacted CDC [redacted] regarding the content information. CDC [redacted] advised that the CD should be sealed in an envelope and sent to him. He then consulted with NSLPTU. On 02/16/05 Assistant General Counsel [redacted] advised that the e-mail content information should not be used for any purpose, even though the content information was not requested and sent inadvertently by the service provider. On 02/24/05 NSLB advised that the matter should be reported as a potential IOB violation.[5]

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[1] (U) See EC from [redacted] Division, dated 02/25/05, Case ID# 278-HQ-C1229736-VIO, titled "TFO [redacted] SSA [redacted] Potential Intelligence Oversight Board (IOB) Matter," hereinafter cited as [redacted] EC."

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[2] (S) [redacted]

[3] (U) [redacted] EC.

[4] (U) Id.

[5] (U) Id.

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b7E To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 04/21/2005

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

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

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[redacted] At the same time, the Act made several changes to emphasize that [redacted] may not be used for the purpose [redacted] Consequently, any viewing of the content of electronically transmitted communications must be obtained pursuant to a court order.[6]

(S) (U) (S) In the present case, it is clear that the service provider [redacted] erroneously provided [redacted] and that the FBI unintentionally received that content information not contemplated by the NSL [redacted] However, under these circumstances, it is OGC's opinion that the error, although inadvertent, must be reported to IOB.

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(U) (S) In accordance with the reporting requirements of E.O. 12863, OGC will prepare the correspondence required to report this matter to IOB.

[6]There are certain enumerated exceptions to this prohibition. See 50 U.S.C. Section 1802.

To: [redacted] From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 04/21/2005

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LEAD(s):

Set Lead 1: (Adm)

[redacted]

(U) Read and clear. Take action consistent with this memorandum.

Set Lead 2: (Action)

INSPECTION

INTERNAL INSPECTIONS SECTION, WASHINGTON, DC

(U) For action deemed appropriate

1 - Ms. Thomas
b6 1 - [redacted]
b7C 1 -
1 - IOB File

April 21, 2005

BY COURIER

Mr. James Langdon
Intelligence Oversight Board
New Executive Office Building
Washington, D.C.

Dear Mr. Langdon:

Enclosed for your information is a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, 2005-[redacted]

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

Enclosure

1 - Ms. Thomas
1 - [redacted]
1 - [redacted]
1 - 278-HQ-C1229736-VIO

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

(U) ~~Derived from~~ : G-3
~~Declassify on~~: X1

SECRET

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 R. Gonzales
Attorney General
U.S. Department of Justice
Room 5111

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

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
b2 [redacted] DIVISION
b7E 2005-[redacted] (U)

(S) Investigation of this IOB matter has determined that, [redacted] SAC [redacted] signed a NSL [redacted]

(S) [redacted] The NSL specifically stated not to include [redacted] content. [redacted] received a CD provided [redacted] The CD contained non-requested [redacted] [redacted] The CDC was contacted the same day and the CD was sealed in an envelope and delivered to the CDC. On February 16, 2005 [redacted] contacted OGC, NSLPTU. NSLPTU advised [redacted] not to use [redacted] information for any purpose. The matter was then reported as a potential IOB violation (S).

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(U) This matter has been referred to the FBI's Inspection Division for action deemed appropriate ~~(S)~~

DATE: 06-08-2007
CLASSIFIED BY 65179 dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-08-2032

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

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 09/27/2005

To: General Counsel **Attn:** NSLB

From: Inspection
Internal Investigations Section, IPU, Room 11102
Contact: CRS [redacted]

b6
b7C
b2

Approved By: Fogle Toni Mari

Drafted By: [redacted]

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

(U) **Title:** ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1200
OGC/IOB# 2005 [redacted] b2

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

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

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 688
278-HQ-C1229736-VIO Serial 824

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 2/25/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is an error attributed to the Internet Company in providing unauthorized information relative to an NSL request and not the FBI or its personnel. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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DECLASSIFIED BY 65179 dmh/prs
ON 06-08-2007

~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 09/28/2005

To: [redacted] **Attn:** SAC (Personal Attention)

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b6
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From: Inspection
Internal Investigations Section, IPU, Room 11102
Contact: CRS [redacted]

Approved By: Rosenthal Russell H

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 263-HQ-0-U - 324 (Pending)

(U) **Title:** ~~(S)~~ TFO [redacted]
b6
b7C
b2
SSA
INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1200
OGC/IOB# 2005- [redacted] b2

Synopsis: (U) To advise the captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This incident is remanded back to the field for whatever action deemed necessary and appropriate. Case closed at IIS.

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

Enclosure(s): (U) EC from [redacted] dated 02/25/2005

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 688
278-HQ-C1229736-VIO Serial 824

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Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, it is IIS's opinion the incident described therein was an error attributed to the Internet Company in providing unauthorized information relative to an NSL request and not the FBI or its personnel. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

(U) IIS does, however, recognize this matter was brought to our attention as required by the revisions

~~SECRET~~

DECLASSIFIED BY 65179 dmh/ksr/prs
ON 06-08-2007

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To: [redacted] From: Inspection
Re: 263-HQ-0-U - 324, 09/28/2005

mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

♦♦

U.S. Department of Justice

Office of the Inspector General

CAU 1200

Washington, D.C. 20530

DATE: June 2, 2005

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

Glenn G. Powell

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

SUBJECT: OIG Complaint No. 2005005031
Subject: [redacted] et al.
[redacted]
FBI No. 278-HQ-C1229736-VIO-688

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☒ We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

☐ This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

☐ This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-11-2007 BY 65179 dmh/k/r/prs

b6
b7C

[redacted]

324

b2

OIG - INVESTIGATIONS DIVISION - IDMS OIG NO.: [redacted]-412-2005005031-M

Received By: [redacted] Date Received: 04/18/2005 How Received: A

SUBJECT: [redacted]
Title: SSA Pay Plan: [redacted]
Component: FBI EOD Date:
Misc:
Home: , ,
Phone: ZIP:
Work: [redacted]
Phone: ZIP:
Judicial Action:

SSNO: [redacted]
D.O.B.:
Alien Numb
F.B.I. No.
B.O.P. No.:
D/L STATE:
No.:
Administrative Action:

SUBJECT: [redacted]
Title: SA Pay Plan: [redacted]
Component: FBI EOD Date:
Misc:
Home: , ,
Phone: [redacted]
Work:
Phone: ZIP:
Judicial Action:

SSNO: - -
D.O.B.: / /
Alien Number:
F.B.I. No.: b6
B.O.P. No.: b7C
D/L STATE: b2
No.: b7E
Administrative Action:

COMPLAINANT: [redacted]
Title: ATTY Pay Plan: GS- /
Component: FBI EOD Date: / /
Misc:
Home: , ,
Phone: [redacted]
Work:
Phone: ZIP:
Contact: Confidential: N Revealed: Authority:

SSNO: - -
D.O.B.: / /
Alien Number:
F.B.I. No.:
B.O.P. No.:
D/L STATE:
No.:

ALLEGATIONS: Offense: 412 - Job Performance Failure
Occurrence Date: Time: City: , State: [redacted]
Details:
The FBI provided information reporting a potential IOB matter.

DISPOSITION DATA: Office: [redacted] Date: 04/18/2005 Disposition: M Approval: GGP
Referred To Agency: FBI INSPECTION DIVISION Component: FBI
Patriot Act: N Civil Rights: N Priority: N
Other Number: 2781229736 Consolidated Case Number:
Remarks:
Predicating material contains information that has been classified and has been returned to the FBI. (yht)

REFERRAL INFORMATION:
Agency Control No.: 2781229736 Date Sent to Component: 06/02/2005
Last contacted on: / / Date Closed: / /
Status: CASE REFERRAL TO THORNTON/FBI (YHT)

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-11-2007 BY 65179 dmh/ksr/prs

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 02/25/2005

To: ✓Inspection **Attn:** Internal Investigations Sect.

General Counsel **Attn:** Natl. Sec. Law Branch Asst. Genl. Counsel

[redacted]

b6 b7C b2 **From:** [redacted]
Squad 1, Legal Unit
Contact: CDC [redacted]

b7E **Approved By:** [redacted]

DATE: 06-09-2007
CLASSIFIED BY 65179 dmh/ksr/prs
REASON: 1.4 (c)
DECLASSIFY ON: 06-09-2032

Drafted By: [redacted]

688

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

Title: (U) TFO [redacted] b6 b7C
SSA
POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Synopsis: (U) To report potential IOB matter to the Inspection Division and to the General Counsel.

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

Enclosure(s): ~~(S)~~ Enclosed for the Inspection Division, Internal Investigations Section are the following:

(S) (U) ~~(S)~~ 1. A CD containing material furnished by [redacted] pursuant to a National Security Letter (NSL).
b1 b7D
WARNING: This CD may contain a virus and should not be placed in any computer until a virus scan is performed.

b1 b7D [redacted] (S) 2. [redacted]

SECRET

b6 b7C [redacted] 4/18/05

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-U- volume 10

Federal Bureau of Investigation

(Rev 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/04/2006

To: Inspection

Attn: Internal Investigations Sect.

General Counsel

Attn: Natl. Sec. Law Branch Asst. Genl. Counsel [redacted]

b6
b7C

From: [redacted]
Squad 1, Legal Unit
Contact: CDC [redacted]

Approved By: [redacted]

b2
b7E
b6
b7C

Drafted By: [redacted]

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

Title: (U) POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Synopsis: (U) To report potential IOB matter to the Inspection Division and to the General Counsel.

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

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Details: ~~(S)~~ This matter has risen as the result of a NSL issued in an investigation titled: [redacted]

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(U) ~~(S)~~ As part of this investigation [redacted] SAC [redacted] issued an NSL [redacted]

(S) [redacted] This NSL was transmitted [redacted] transmitted the results of the NSL received from [redacted] to [redacted]

(S)

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~~SECRET~~

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[redacted]

DATE: 05-25-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-25-2032

To: Inspection From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 01/04/2006

(S) (U) ~~(S)~~ [redacted] the case agent in this matter, began reviewing the documents [redacted] (S) noted that [redacted] had provided two documents which were unrelated to the subject of the NSL. [redacted] made no use of these documents and (S) notified [redacted] CDC [redacted] who requested that he forward the documents to the CDC. [redacted] assumes the documents relate to [redacted] who is a U.S. Person. [redacted] has secured these documents pursuant to an email from AGC [redacted] to all CDCs dated 11/22/2005. Nothing from these documents has been uploaded into any database or stored in any file.

b1 b6 b7C b2 b7E b7D

(U) ~~(S)~~ [redacted] notes that there is nothing in the NSL which should have led [redacted] to produce the two documents detailed above.

b1 b7D b2 b7E

(S)

To: Inspection From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 01/04/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Review this EC and take action as appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Review this EC and advise the Inspection Division, IIS on the referal of this matter as a potential IOB violation.

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/04/2006

To: Inspection **Attn:** Internal Investigations Sect.

General Counsel **Attn:** Natl. Sec. Law Branch Asst. Genl. Counsel [redacted]

From: [redacted]
Squad 1, Legal Unit
Contact: CDC [redacted]

Approved By: [redacted]

Drafted By: [redacted]

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Case ID #: (U) 278-HQ-C1229736-VIO 1113 (Pending)

Title: (U) CDC [redacted] DIVISION
POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

Synopsis: (U) To report potential IOB matter to the Inspection Division and to the General Counsel.

(U) ~~(S)~~ ~~Derived From: G-3~~ ~~Declassify On: X1~~ ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

(S) **Details:** (U) ~~(S)~~ This matter has risen as the result of an investigation titled [redacted]

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(S) (U) ~~(S)~~ As part of this investigation a NSL was signed by [redacted] SAC [redacted] The NSL was directed to [redacted] The NSL sought (S) subscriber and toll records for telephone number [redacted] served the NSL and, via an EC dated [redacted] returned to [redacted] a package of material provided by the telecommunications company. [redacted] EC includes the name and address of the subscriber to this telephone number.

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CKS [redacted] 03/02/06 kas
SC Miller 3/7/06

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SECRET

DATE: 05-25-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-25-2032

1073946

To: Inspection From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 01/04/2006

(U) (S)

(S) Upon receiving the material the case agent, SA [redacted] noted that the telephone number subscriber was unknown to him. He then checked the telephone number and noted that the NSL should have requested subscriber/toll information for telephone number [redacted] the CDC prepares NSLs upon the request from case agents. Apparently CDC [redacted] improperly typed the telephone number when preparing it. The number was correctly stated on the transmittal EC. b1 b6 b7C b2 b7E

(S) (S)

(S) The package of material from [redacted] has not been opened and will be stored in a secure location in [redacted] office pursuant to an email of AGC [redacted] to all CDCs dated 11/22/2005. b1 b7D b2 b6 b7C b7E

To: Inspection From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 01/04/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Review this EC and take action as appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Review this EC and advise the Inspection Division, IIS on the referal of this matter as a potential IOB violation.

♦♦

(Rev 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Not sent to INSD #1756

Precedence: ROUTINE **Date:** 12/14/2005

To: General Counsel **Attn:** National Security Law Branch Room 7975

From: [redacted]
Chief Division Counsel (CDC)
Contact: CDC [redacted]

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Approved By: [redacted]

Drafted By: [redacted] :jbk

Case ID #: (U) 278-HQ-C1229736-VIO - 1093 (Pending)

Title: (U) SPECIAL AGENT (SA) [redacted]
POSSIBLE INTELLIGENCE OVERSIGHT BOARD
(IOB) MATTER - INTERNATIONAL TERRORISM RELATED

SSA

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b7C

Synopsis: (U) This communication reports a possible IOB violation.

(U) ~~(S)~~ ~~Derived From : FBI SCG G-3 1/97~~
~~Declassify On: 12/14/2030~~

Details:

(U) 1. Personnel and case background

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(U) SA [redacted] is assigned to [redacted] of the [redacted] Division, and [redacted] Joint Terrorism Task Force.

(S) [redacted]

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(U) ~~(S)~~ By electronic communication (EC) dated 06/23/2005, the [redacted] Division sent materials responsive to the NSL to SA [redacted]

b6
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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

b6
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SECRET

CRS [redacted] [illegible] 01/30/06

SC Miller [illegible] 3/7/06

download 01/30/06 [illegible]

DATE: 05-25-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-25-2032 # 1073946

(U) 2. Discovery and immediate corrective action

(U) (S) Upon receipt of the records, SA [redacted] discovered that he mistakenly provided the wrong phone number in his NSL request. [redacted] b1 b6 b7C (S)

(U) (S) After discovery, the records received from the [redacted] Division were destroyed. [redacted] (S) b1 b2 b7E b6 b7C

(U) (S) By EC dated 07/01/2005, this matter was reported to the National Security Law Branch and [redacted] Division. But it was not officially reported as a possible IOB violation. b2 b7E

(U) 3. Possible violation and SAC recommendation

(U) (S) The "Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection," contemplates use of NSLs only for predicated subjects. Obviously, the mistaken target of the 03/18/2005 NSL was not a subject.

(U) This matter appears to be a minor administrative oversight. It is certainly mitigated by SA [redacted] immediate discovery of the error, and his immediate corrective action. Accordingly, the SAC, [redacted] recommends no administrative action. b6 b7C b2 b7E

To: General Counsel From: [redacted] b2 b7E
Re: (U) 278-HQ-C1229736-VIO, 12/14/2005

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) The National Security Law Branch is requested to determine if this matter should be reported as to the IOB.

(U) The National Security Law Branch is also requested to provide guidance concerning the proper disposition of mistakenly gathered information in cases such as these.

♦♦

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: 263-0-0- volume 14

Federal Bureau of Investigation

(U) ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

SECRET/ORCON/NOFORN

DATE: 06-06-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-06-2032

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 05/17/2006

To: General Counsel **Attn:** NSLB
Julie F. Thomas

Inspection **Attn:** IIS
Operational Technology **Attn:** ERF
Counterterrorism **Attn:** EOPS
SSA [redacted]
UC [redacted]

From: [redacted]
C-5
Contact: SA [redacted]

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Approved By: [redacted]

Drafted By: [redacted] dnv

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO (Pending)
(S) [redacted] b1

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTERS

Synopsis: (U) Pursuant to NFIPM, Section 2-56, the following is a report of an error in a FISA matter.

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

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Administrative: ~~(S)~~ Reference contact between SA [redacted] [redacted] Division and UC [redacted] Electronic Surveillance Operations & Sharing Unit (EOPS); contact between SA [redacted] and EE [redacted] Data Intercept Technology Unit (DITU); contact between SA [redacted] and SSA [redacted] International Terrorism Operations Section (ITOS);

(S) [redacted]

Details: (U) SA [redacted] of the [redacted] Division was participating in a 60-day TDY assignment (02/26/2006 - 04/26/2006) to the Counterterrorism Division, EOPS Unit, when an alleged error in FISA collection occurred.

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SECRET/ORCON/NOFORN

[redacted] 09/03/06

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7/31/06

263-0-11-500

To: General Counsel From: [redacted] b2 b7E

(U) Re: (S) 278-HQ-C1229736-VIO, 05/17/2006

(S) [redacted] b1 b2 b7E b7D b7A

(S) [redacted] b1 b2 b7E b7A

(S) [redacted] b1 b2 b7E b7D b6 b7C b7A

To: General Counsel From: [redacted] b2 b7E

(U) Re: (S) 278-HQ-C1229736-VIO, 05/17/2006

(S) [redacted] b1 b7A

(S) [redacted] b1 b7D b7A

(S) [redacted] b1 b2 b7E b7D b7A

(S) [redacted] b1 b7D b7A

(S) [redacted] b1 b6 b7C b7D b7A

(S) [redacted]

(S) [redacted] b1 b7A

(S) [redacted] b1 b6 b7C b7A

To: General Counsel From: [redacted]
Re: (X) 278-HQ-C1229736-VIO, 05/17/2006

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(S)

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To: General Counsel From: [redacted] b2 b7E
(U) Re: (S) 278-HQ-C1229736-VIO, 05/17/2006

LEAD(s):

Set Lead 1: (Action)

OPERATIONAL TECHNOLOGY

AT ERF - DITU, QUANTICO, VA

(S) [redacted] b1 b6 b7C b7A

♦♦

(Rev. 01-31-2003) SECRET

DATE: 06-06-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-06-2032

FEDERAL BUREAU OF INVESTIGATION

Precedence: DEADLINE 05/12/2006 **Date:** 05/09/2006

To: General Counsel **Attn:** NSLB
Inspection **Attn:** Internal Investigations

From: [redacted] RA
Contact: SA [redacted]

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Approved By: [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [redacted] ber 1357

Case ID #: 278-HQ-C1229736-VIO (Pending)
278[redacted]-C71404

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Title: SA [redacted]
SSRA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) VIOLATION
[redacted] DIVISION

Synopsis: Report of IOB violation for [redacted] Division.

b2
b7E

Reference: 278-HQ-C1229736-VIO Serial 355
278-HQ-C1229736 Serial 1347
66F-HQ-A1247863 Serial 149
66F-HQ-A1247863 Serial 172

(S) **Details:** [redacted]

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Contact has been made between writer and Counterterrorism ITOS 1/ CONUS 2 to take corrective measures to [redacted]

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SECRET

263-C-U-501

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include an additional extension from FBIHQ and assurance that future IOB violations will not occur.

To avoid future conflicts with pending paperwork between [redacted] and FBIHQ all future requests will be submitted with a deadline and a tickler will be set for follow-up. A tickler will be set 30 days prior to expiration of any PIs for submission of extension EC. A follow-up tickler will then be set for 15 days prior to expiration, and a final tickler will be set for five days prior to extension if no approval has been received from FBIHQ.

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LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

For information and action deemed appropriate.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

For information and action deemed appropriate.

♦♦

(01/26/1998)

DATE: 06-06-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-06-2032

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 07/17/2006

To: [redacted] **Attn:** SAC, CDC
Counterterrorism **Attn:** AD, ITOS I, CONUS 2
Inspection **Attn:** IIS [redacted]

b2
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b6
b7C

From: Office of the General Counsel
NSLB/CTLU I/LX-1 3S100
Contact: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F [redacted]

b6
b7C

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO 1536 (Pending)

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

b2

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

(U) ~~(S)~~ ~~**Derived From : G-3**~~
~~**Declassify On: 06/20/2031**~~

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO-1357

b2
b7E

(U) **Details:** ~~(S)~~ By electronic communication (EC) from [redacted] dated May 9, 2006, The [redacted] Field Office reported possible IOB error in conjunction with a counterterrorism investigation.

~~SECRET~~

b6
b7C

OIG/DOJ REVIEW: DATE: 7/26/06
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

To: [redacted] Field Office
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 07/17/2006

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(S) [redacted]

(S) [redacted]

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(U) (S) As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described herein are matters that should be reported to the IOB. We believe that the reported activity does not require IOB notification.

(U) (S) Section II.C.4. of the October 31, 2003 AG Guidelines states in pertinent part:

(S) [redacted]

b1

To: [redacted] Field Office
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 07/17/2006

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(S) [redacted]

b1

(U) (S) The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (NSIG) provision regarding the duration of Preliminary Investigations is primarily administrative in nature. It was designed in part to protect the rights of United States persons by limiting the length of time that the FBI can conduct a PI without periodic oversight by the proper authorities.

(S) In this instance, OGC is not required to report the potential IOB error because the only investigative activity which [redacted] undertook with respect to the non-USPER subject was to have the results of previously served NSLs analyzed.

(S) [redacted]

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(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 any error which may have been committed by Atlanta need not be reported to the IOB.

(U) OGC requests that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

To: [redacted] Field Office
From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 07/17/2006

b2
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LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) OGC requests that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

[redacted]

AT [redacted]

b2
b7E

(U) For action deemed appropriate.

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

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b7C

◆◆

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

FD-962 (Rev. 02-21-2005)

DATE: 06-06-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-06-2032

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 06/07/2006

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

From: [redacted]
Sq 8
Contact: SSA [redacted]

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Approved By: [redacted]

Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO-1456
(S) [redacted]

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Title: (U) SA [redacted]
A/SSA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

b6
b7C

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

(U) ~~(S)~~ ~~**Derived From:** G-3~~
~~**Declassify On:** 06/07/2016~~

Details:

(S) 1. [redacted]

b1

(S) 2. [redacted]

(U) ~~(S)~~ 3. Possible IOB Error:

(S) [redacted]

b1

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

(S) [redacted]

SECRET

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7/31/06

263-0-U-509

To: Inspection From: [redacted]
(S) Re. ~~(S)~~ 278-HQ-C1229736-VIO, 06/07/2006

b2
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(S) [redacted]

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(S) [redacted]

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(S) [redacted]

b1

To: Inspection From: [redacted] b2 b7E
Re: (S) 278-HQ-C1229736-VIO, 06/07/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

♦♦

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-06-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-06-2032

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 07/14/2006

To: [redacted] **Attn:** CDC
Attn: SSA [redacted]

Counterintelligence Inspection **Attn:** CD-3D
Attn: IIS
CRS [redacted]

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From: Office of the General Counsel
National Security Law Branch/CILU/Room 7947
Contact: AGC [redacted]

Approved By: Thomas Julie F [redacted]

Drafted By: [redacted] mjg

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) 1537

(U) **Title:** (~~S~~) INTELLIGENCE OVERSIGHT BOARD MATTER 2006-[redacted] b2

(U) **Synopsis:** (~~S~~) It is the opinion of the Office of the General Counsel ("OGC") that the referenced matter need not be reported to the Intelligence Oversight Board ("IOB"). A copy of this opinion should be retained in the control file for review by counsel to the IOB.

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

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Reference: (S) [redacted]

(U) **Details:** ~~(S)~~ By way of Electronic Communication dated 06/07/2006 (the "EC"), the [redacted] field office [redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does not. Our analysis follows.

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~~SECRET~~

b6
b7C

OIG/DOJ REVIEW: [redacted] DATE: 7/26/06
FBI INVESTIGATION: [redacted]
OIG/DOJ INVESTIGATION: [redacted]

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(S)

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(U) (S) timely brought this matter to the attention of the FBI OGC, National Security Law Branch, and the FBI Inspection Division. OGC and the Inspection Division received the matter for review and handling on 6/28/2006.

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(U) (S) Section 2-56 of the National Foreign Intelligence Policy Manual (NFIPM) requires the OGC to determine whether the facts discussed above must be reported to the IOB.

(U) Section 2.4 of Executive Order (EO) 12863, dated September 13, 1993, mandates that Inspectors General and the General Counsel of Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and OGC respectively), report to the IOB all information "concerning intelligence activities that they have reason to believe may be

unlawful or contrary to Executive Order or Presidential Directive".

(U) ~~(S)~~ In this case, [redacted] failure to extend or close the Investigation prior to the date that the Investigation expired constitutes an administrative oversight and was not an attempt to circumvent the preliminary investigation process. Support for this position lies in the fact that the reason for this oversight appears to be the original agent's retirement combined with the subsequently assigned agent's review of the Investigation's file in order to become familiar with the facts therein. Once SA [redacted] was familiar with the Investigation, she was able to determine whether to resume the Investigation or close it.

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(U) ~~(S)~~ Moreover, the late extension request was de minimus. No investigation took place during the time that the Investigation had expired. SA [redacted] commenced a timely review of the File and discovered that an NSL was outstanding in the Investigation. SA [redacted] then waited until the requested extension of the Investigation was granted before collecting the documents pursuant to the authority under the NSL.

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b7C

(U) ~~(S)~~ Based upon the foregoing, this matter will not be reported to the IOB, but will be placed in the control file for a period of three (3) years for review by the Counsel to the IOB.

LEAD(s):

Set Lead 1: (Info)

[redacted]

AT [redacted]

b2
b7E

(U) Read and clear.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Discretionary)

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 (3)years, for possible review by the Counsel to the IOB.

CC: Ms. Thomas

[redacted]

IOB Library

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b7C

♦♦

(Rev. 01-31-2003)

SECRET

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FEDERAL BUREAU OF INVESTIGATION

Precedence: DEADLINE 06/14/2006 **Date:** 06/30/2006

To: General Counsel **Attn:** NSLB

Inspection Division **Attn:** Internal Investigations Section

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From: [redacted]
SAC Squad
Contact: ASAC [redacted]

DATE: 06-06-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-06-2032

Approved By: [redacted]

Drafted By: [redacted] WC

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)- 1474
(U) 278-AT-C71404-93

b6
b7C

Title: (U) SA [redacted]
SSA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) VIOLATION
ATLANTA DIVISION

Synopsis: (U) Report of IOB violation for Atlanta Division.

Reference: (U) 278-HQ-C1229736 Serial 355
278-HQ-C1229736 Serial 1347
66F-HQ-A1247863 Serial 149
66F-HQ-A1247863 Serial 172

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Details: (S) [redacted]

(S) [redacted]

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(S) [redacted]

b1
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SECRET

[redacted]

Kas 08/03/06

7/31/06

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263-0-U-511

To: General Counsel From: [redacted]
Re: 278-HQ-C1229736-VI, 06/30/2006

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(S) [redacted]

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b7D

(S) [redacted]

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b7D

(U) This report is made past deadline due to administrative oversight.

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LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

For information and action deemed appropriate.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

For information and action deemed appropriate.

♦♦181wc01.ec

(Rev. 01-31-2003)

DATE: 06-06-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-06-2032

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: DEADLINE 06/14/2006 **Date:** 07/06/2006

To: General Counsel **Attn:** NSLB

Inspection Division **Attn:** Internal Investigations Section

From: [redacted]
IT-1/JTTF
Contact: SA [redacted]

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Approved By: [redacted]

Drafted By: [redacted] wc

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)
(U) 278-AT-C71404 (Pending)
(S) [redacted]

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b2
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Title: (U) SA [redacted]
SSA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) VIOLATION
[redacted] DIVISION

Synopsis: (U) Correction of telephone number included in report of IOB violation for [redacted] Division.

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b1

Reference: (U) 278-HQ-C1229736-VIO Serial 1474
278-AT-C71404 Serial 93
(S) [redacted]

b1

Details: (S) [redacted]

(S) [redacted]

b1
b7D

SECRET

To: General Counsel From: [redacted]
Re: 278-HQ-C1229736-VIO, 07/06/2006

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(S) [redacted]

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b7D

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b7E

LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

For information and action deemed appropriate.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

For information and action deemed appropriate.

♦♦187wc01.ec

(Rev. 01-31-2003)

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 7/11/2006

To: [redacted] **Attn:** [redacted]
SAC Squad

Inspection **Attn:** Internal Investigative Section
Attn: [redacted] Room 11865

From: General Counsel
National Security Law Branch/CTLU 1/LX-1 3S-100
Contact: [redacted] b2 b7E b6 b7C

Approved By: Thomas Julie F
[redacted]

Drafted By: [redacted] jkf

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 1500

Title: (U) Intelligence Oversight Board (IOB) Matter 2006-[redacted] b2

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

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

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial 1474 (Pending)
~~(S)~~ 278-AT-C71404 Serial 93 (Pending) b1
(S) [redacted]

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

(U) **Details:** ~~(S)~~ By electronic communication (EC) dated June 30, 2006 and referenced above, the [redacted] Division [redacted] reported to the OGC's National Security Law Branch (NSLB) and the Inspection Division this potential IOB matter. b2 b7E

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b7C

SECRET

OIG/DOJ REVIEW: DATE: 7/26/06
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

To: Counterterrorism From: General Counsel
(U) Re: (S) 278-HQ-C1229736-VIO, 7/11/2006

BACKGROUND

(S) [redacted]

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(S) [redacted]

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(S) [redacted]

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b7D

ANALYSIS

(S) [redacted]

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b7D

(S) [redacted]

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b7E

To: Counterterrorism From: General Counsel
(U) Re: (S) 27?-HQ-C1229736-VIO, 7/11/2006

(U) (S) As required by Executive Order (E.O.) 12863 (Sept. 13, 1993) and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters that should be reported to the IOB. We believe that the reported activity does not require IOB notification.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.[3] For the FBI, OGC submits reports to the IOB.[4] b1

(S) [redacted] NSIG (Introduction) at 4. Section 2-56 of the NFIPM identifies as reportable to the IOB unauthorized investigations, the use of unlawful methods and techniques, exceeding the authorized scope

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(U) [3] (S) See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The FBI is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) [4] (S) See id. at 4.

of permitted activities, and failing to adhere to minimization requirements.

(U) (S) In this instance, the FBI sought telephone records for a telephone number believed to be used by the investigative subject based on current information,[6] and obtained electronic data on a telephone number via an NSL that was properly authorized. Thus, the investigative method was authorized for purposes of E.O. 12333. See National Foreign Intelligence Program Manual (NFIPM) Section 2-56.G.5. Accordingly, this need not be reported to the IOB pursuant to Section 2.4 of E.O. 12863.

---

[5] (S) See also id. at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) [redacted] (5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order. b1

(S) b1 b2 b7E b7D

[6] (S) [redacted]

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(Rev. 01-31-2003)

DATE: 06-07-2007
CLASSIFIED BY 65179/dmh/ksr/cak
REASON: 1.4 (c)
DECLASSIFY ON: 06-07-2032

[redacted]

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b7C

SECRET

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 07/10/2006

To: Inspection **Attn:** IIS
Counterterrorism **Attn:** ITOS 1/CONUS 4/Team 15
SSA [redacted]
IA [redacted]
[redacted] **Attn:** SSA [redacted]
SA [redacted]

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b7C

From: General Counsel
National Security Law Branch/CTLU I/LX-1 3S-123
Contact: [redacted]

Approved By: Thomas Julie F
[redacted]

Drafted By: [redacted] kdm

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO (Pending) 1521
(S) 278-[redacted]136372 (Pending) 84

b2
b7E

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

b2

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

(U) (S) ~~Derived From: G-3~~
~~Declassify On: 07/10/2031~~

(S) ~~DRI~~ [redacted]

b1

(U)

Reference: (S) 278-HQ-C1229736-VIO Serial 1453
(U) ~~(S)~~ 278-[redacted]136372 Serial 62
(S) [redacted]

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SECRET

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OIG/DOJ REVIEW:
FBI INVESTIGATION:
OIG/DOJ INVESTIGATION:

DATE: 7-1-06

To: Inspection From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/10/2006

(U) **Details:** ~~(S)~~ By Electronic Communications (EC) dated June 15, 2006 and referenced above, the [redacted] Division reported this potential IOB matter. b2 b7E

b1 b2 b7E b6 b7C

(S) [redacted]

(S) [redacted]

b1 b2 b7E

(S) [redacted]

b1 b2 b7E

(U) [1] Safeguards are now in place to prevent such problems in the future. [redacted] has disseminated a revised "sample" EC, to ensure that the correct items will be placed in the lead and attention blocks. Furthermore, FBI HQ (CTD) instructed the field to forebear all investigative activity prior to the receipt of written authorization granting extensions. b2 b7E

(U) To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/10/2006

(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." 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)~~ With regard to the continuation of an FBI PI, Section II.C.4 of the NSIG provides in pertinent part that:

(S) [redacted] b1

(U) ~~(S)~~ Although this provision of the NSIG is primarily administrative in nature, it was designed in part to protect the rights of U.S. persons by limiting the length of time that the FBI can conduct a PI without periodic oversight.

(S) [redacted] b1 b2 b7E

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b7E

To: Inspection From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 07/10/2006

(S) [redacted]

(U) OGC requests that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

---

[2](U) Section II.A.1 of the NSIG, which is about Threat Assessments, provides in pertinent part that:

> The FBI may, without opening a preliminary or full investigation, engage in the following activities to investigate or collect information relating to threats to the national security, including information on individuals ...
>
> (S) 1. [redacted] ~~(S)~~

b1

In the NSIG, Section VIII, the definition of publicly available includes "information that ..... is obtained by visiting any place or attending any event that is open to the public." (U)

(U) To: Inspection From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 07/10/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) OGC requests that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Discretionary)

[redacted] b2 b7E

AT [redacted]

(U) For action deemed appropriate.

♦♦

To: Counterterrorism From: General Counsel
Re: (U) 278-HQ-C1229736-VIO, 7/11/2006

LEAD(s):

Set Lead 1: (Discretionary)

[redacted]

AT [redacted]

b2
b7E

(U) For review and action deemed appropriate.

Set Lead 2: (Discretionary)

COUNTERTERRORISM

AT ITOS1/CONUS 2, WASHINGTON, DC

(U) For review and action deemed appropriate.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

♦♦

because, for whatever reason, a grand jury subpoena or a FISA Court order is insufficient?

CAPRONI:
Any time I would say that we were at the very beginning of an investigation -- say, for example, after the London bombings, when the British authorities provided us with telephone numbers of the British bombers, so we were looking to see did we have anyone in the United States that had telephone contact with the London bombers -- in my view, the appropriate way to pursue that investigation is via national security letter.

KELLER:
Because you wouldn't have time under the other options?

CAPRONI:
Well, we wanted to know that very quickly. And, again, I think the American people would want us to know very quickly after the London bombings took place whether we had any cells or groups of people who were tightly related to the London bombers.
So we needed to move very quickly. And, in fact, the investigators did move very quickly on that to figure out who here was connected to there and was it an innocuous connection or was it a dangerous connection.

KELLER:
Thank you.
My time has expired.

CONYERS:
The distinguished gentlelady from Los Angeles, California, Maxine Waters?

WATERS:
Thank you very much, Mr. Chairman. May I ask: Were these witnesses sworn in?

CONYERS:
They were not.

WATERS:
May I respectfully request that they be sworn in?

CONYERS:
Too late.

WATERS:
Then, Mr. Chairman, I suppose we're going to have to rely upon them, particularly the general counsel, continuing to tell us that they're acting within the law.
I shall proceed with my questions.

CONYERS:
If the gentlelady will yield...

WATERS:
Yes.

CONYERS:
... testimony before this committee can constitute a violation in and of itself.
(CROSSTALK)

CONYERS:
A misstatement -- any deliberate misstatements.

WATERS:
Well, I would have preferred that they be under oath. But, however, the chair has made that decision and I shall proceed.
Let me just ask about the use of these exigent letters. As I understand it, these letters are used basically to get around having to get the NSL letters, is that right, Mr. Fine?

FINE:
These letters were used in advance of or in lieu of national security letters, that's right.

WATERS:
And there was information collected as a result of these letters, particularly the operation, I believe, that was set up with the contract with the three telephone companies or telecommunications companies, is that correct?

FINE:
Well, there were contracts with the telephone companies so that they would provide information to the FBI on an expedited basis.

WATERS:
Ms. Caproni, do you still have contracts with those telephone companies, any other telephone companies, or any other private businesses to supply you information in the manner that those companies did?

CAPRONI:
We continue to have contracts with the telephone carriers that obligate us to provide them with appropriate process to get records.
I don't -- I can't answer the balance of your question. I don't know if we have other contracts with other private parties.
The telephone companies, it made sense because of the volume of our requests.

WATERS:

How much do you pay them for the service? How much are the taxpayers paying the telephone companies that they pay to provide them services to spy on us?

CAPRONI:
I don't know what the dollar value of the contracts are.

WATERS:
You have no idea?

CAPRONI:
I actually don't.

WATERS:
You've never heard any discussion about it?

CAPRONI:
I'm sorry, I don't. I just don't know what the amount is.

WATERS:
Information was collected on millions of Americans using this as a tool. Now that you know that they were innocent, they probably should not have been under investigation, has all of this information been purged and gotten rid of?

CAPRONI:
We did not collect records on millions of Americans through...

WATERS:
How did it work?

CAPRONI:
The exigent letters were provided to the carriers, which promised future process. That future process, unfortunately, it was not always promptly provided.

WATERS:
What did they do? What did they do?

CAPRONI:
What did who do?

WATERS:
The companies. How did they mine the information? And did they mine information of innocent people?

CAPRONI:

The carrier has provided us with toll billing information, which was then placed into our databases. There is no connection between their databases and our databases. The information comes out electronically and moves into ours.

But, again, we're talking about -- I believe that the number of numbers at issue, according to the inspector general, is somewhere in the neighborhood of 3,000.

And it is my belief, though, again, we'll have to wait and see what the special inspection finds, that all of those numbers were tied to authorized investigations.

To the extent any were not, the records will be removed from our databases and destroyed.

WATERS:

When will they be removed? How long will it take?

CAPRONI:

Again, I am anticipating that that special inspection will take a couple of weeks, at least, but probably -- I just actually don't want to speculate.

As I have...

WATERS:

Did you have a court order relative to your contracts with these telephone companies?

CAPRONI:

No, ma'am.

WATERS:

Was there a court decision relative to the manner in which information was obtained?

CAPRONI:

The information was obtained from the carriers pursuant to -- it was supposed to be obtained pursuant to the laws of ECPA.

WATERS:

But they were not.

CAPRONI:

Well, again, as Mr. Fine has indicated, there were these exigent letters that were used.

What we're trying very hard to do is to unravel and to make sure that we do not have the records of anyone who -- as to which there was not -- it wasn't relevant to an authorized investigation.

(CROSSTALK)

WATERS:

How long have you been trying to do this?

CAPRONI:

We began the process with them last fall. And we are -- we, within OGC, are to the point that if they cannot demonstrate to our satisfaction very quickly, then any of those records have to be removed from the database and destroyed.

WATERS:
Certificate letters: Are you still issuing certificate letters?

CAPRONI:
No.

WATERS:
When did you stop?

CAPRONI:
Shortly after OGC learned about them, that process was stopped.
We entered into discussions with the Fed, the Federal Reserve Bank, in terms of whether or not it required a national security letter. There was some back and forth between lawyers that the decision was made that they would prefer a national security letter, and we've always now provided them.

WATERS:
So you collected information using these certificate letters. Had that information been destroyed?

CAPRONI:
No.

WATERS:
When are you going to do it?

CAPRONI:
I don't believe we're going to do it.

WATERS:
Why are you going to keep information that was improperly collected on financial records of innocent people? Why would you keep it?

CAPRONI:
One, it's not innocent people. And, second, it wasn't improperly collected.
The Federal Reserve Bank is not directly covered by the right to financial privacy. They can ask for a national security letter, which they now have done. And because they're asking...

WATERS:
Well, why did you stop using certificate letters if they were legal and proper?

CAPRONI:
Because we thought the better process was a national security letter. And the Fed asked us to provide them with national security letters.

WATERS:
How have you determined whether or not the information that you collected was on individuals who were suspicious, guilty, had committed a crime? I mean, how do you determine whether or not these people are innocent and the information should be destroyed?

CONYERS:
The gentlelady's time has expired.
Please answer the question.

CAPRONI:
Certainly.
The issue is whether the information is relevant to an investigation. There are times when we gather information that is relevant to an investigation but it turns out that the person was not engaged, for example, in terrorist financing.
Now, we don't then destroy the information, though the investigation is closed. So it's much like any other information that's gathered during the course of an investigation.
And the issue of whether that policy will continue is a matter that's under discussion by a group that's being chaired by the DNI, in terms of whether we should or we should not continue to retain information that's gathered via national security letters after the investigation is closed.

CONYERS:
The gentleman from Virginia, Mr. J. Randy Forbes?

FORBES:
Thank you, Mr. Chairman.
Mr. Chairman, I hope I can emulate your very calm and fair manner of handling this committee.
And I just want to tell the witnesses what I said at the beginning. I want to thank you both for being here. We know you have a tough job, and we appreciate you coming in here and answering our questions today.
I've listened to the committee as we've gone through this process, and we've had testimony from The Washington Post, we've had testimony from members of the audience, testimony from members of this committee. You're the only witnesses we have here.
And I think that you get the message, both of you, you had it when you came in here, that no one on this committee condones any of these lapses or feels that it's not urgent that they be corrected and corrected as quickly as possible.

We're also grateful that this committee requested this audit, because, Mr. Fine, through your good work we were able to find out what these problems were so that we can correct them.

The other thing, Ms. Caproni, you've been asked to take a lot of messages back to the FBI, all of which are good and valid messages.

But another one I want to ask you to take back today is that, although the FBI messed up in handling the NSLs, I wanted you to take a message back to those agents in the field who I know are working around the clock, they're away from their families a lot of times, and thank them for not messing up on what Mr. Fine said was one of their key missions. and that was to detect and deter terrorism and espionage in this country.

Because if you had messed up on that one, we'd have a lot more people in this room and we'd be a much harsher hearing than what we're having today.

The other question I'd just like to ask either of you to respond to, do either of you have any evidence today that anyone in a supervisory position gave instructions, either expressly or impliedly, to any person under his or her supervision to misuse the NSLs?

CAPRONI:
Not to my knowledge.

FORBES:
Mr. Fine?

FINE:
We didn't find that evidence. We did not find that there was an intent by people who knew they were misusing it to misuse it. So, no.

On the other hand, we did not do a thorough review of what people up and down the line knew and did. So we reported what we found.

FORBES:
And that's being conducted, as I understand it, now. Is that correct, Ms. Caproni?

CAPRONI:
Correct.

FORBES:
And if you find that information, you'll present that back to the committee, correct?

CAPRONI:
Absolutely.

FORBES:
Second question for either of you: Is there any evidence that any member of the FBI or the Justice Department provided any information, either orally or in writing, to this committee or to Congress which they knew to be inaccurate or false?

CAPRONI:
Not to my knowledge.

FORBES:
Mr. Fine, you don't have that?

FINE:
I don't have that information, no.

FORBES:
And just the balance that we've talked about -- we know the harm that comes from violation of privacy interests of our citizens. That's huge.

But I wish you would go back, Ms. Caproni, and, again, just take a minute and talk about what Mr. Fine has put in here about -- it says that these tools are indispensable to the FBI's mission to detect and deter terrorism and espionage.

We know there's been a lot on your plate since 9/11 and you had to do that. Can you tell us with as much specificity as you can exactly how these NSL letters have helped to do and accomplish that mission?

CAPRONI:
Again, national security letters provide the basic building blocks of an investigation, and starting with phone records. Phone records are critical to the counterterrorism agents to figuring out who is connected to whom. And that permits us to trace foreign terror acts that have occurred, obviously, since 9/11 and trace them in to individuals who are in the United States, and to determine whether those individuals are up to no good or, in fact, there's just an innocent connection.

But for national security letters, I don't know how we would do that.

They've also been absolutely indispensable in the area of terrorist financing. We've done a tremendous amount of work of getting bank records on individuals that we believe were funneling money to foreign terrorist organizations overseas.

And again, without national security letters, I'm not -- you know, could we go through a FISA order? We probably could. But we certainly couldn't do that very efficiently.

So a national security letter is an efficient way for us to get the basic building blocks of an investigation.

FORBES:
Have they stopped any terrorist attacks that you know of that could have possibly happened in the United States? You may not have that information.

CAPRONI:
I'm sorry, I don't.

FORBES:
OK. That's good. Thank you both.

And, Mr. Chairman, I yield back the balance of my time.

CONYERS:
I thank the gentleman.
The chair recognizes Stefan Cohen, the gentleman from Memphis, Tennessee.

COHEN:
Thank you, Mr. Chairman.
Stephen, yes, that's all right.
(LAUGHTER)
But you can call me "Stefan."
(LAUGHTER)

CONYERS:
Stephen.

COHEN:
Thank you, sir.
Mr. Fine, did you do any study of the people whose records were looked at illegally for any similarity in demographics?

FINE:
No. We looked at whether they were U.S. persons or non- U.S. persons. But, within those categories, we did not look at the demographics of those individuals.

COHEN:
Ms. Caproni said they were all within investigations that were ongoing. Did you find that to be true also?

FINE:
We could not verify that they were all connected to an ongoing investigation.
I know the FBI is trying to do that now. But as part of our audit, we could not do all of that.

COHEN:
Do you think it might be a good idea to look at those people, so see if there are any demographic consistencies, if there's a group of the American public that might be looked at in a closer manner than others and that that might...

FINE:
It's possible. That would be quite an undertaking. And one also has to realize a lot of these are not on individuals. They're on telephone numbers and things like that. There are certainly consumer credit reports and other things that do relate to individuals.
So that kind of a review is possible, but it would be incredibly intensive and require additional resources while we're trying to comply with this committee's and the Congress'

directive to do a review of the use of them in 2006 according to the guidelines that were set out here.

COHEN:
Thank you.
Ms. Caproni, you said that these were all tied to investigations, is that correct?

CAPRONI:
I said that I believed they were all tied to investigation, and that's what we're trying to work through with that unit now.

COHEN:
If you find that they're not tied to investigations, could you make a report to this committee of who those individuals were and why their records were sought when they weren't tied to investigations?

CAPRONI:
Yes. We will provide this committee with what we find through the course of the special inspection.
If I could just say, though, based on -- so there's no misunderstanding -- the unit at issue typically gets simply a telephone number. So they don't know -- that's part of what they're charged with finding out is who belongs to this telephone number? What are the toll billing records for this phone number? So the name of the person associated with the phone number is typically not part of what CAU does.
And for the exigent letters, to my knowledge -- though, again, the special inspection will reveal much more in terms of the ins and outs of what they were doing -- they were working off of telephone numbers and not off of names.

COHEN:
In the report, it says that some of these violations demonstrated FBI's agents' confusion and unfamiliarity with the constraints on national security letter authorities. Other violations demonstrated inadequate supervision over the use of these authorities. This is from Mr. Fine's statement.
Ms. Caproni, do you think that this is, maybe, indices of a systemic problem in the FBI, where the agents have confusion and unfamiliarity with other policies and other laws. And if so, are you doing something about it?

CAPRONI:
Congressman, that is exactly what I'm concerned about. And in the discussions that we've had -- and I can tell you that we've had a lot of soul searching at the FBI since then -- this is, you know, we got an F report card when we're just not used to that. So we've had a lot of discussions about this.
And one concern is, are we -- you know, most of the agents grew up, the agents my age in the FBI, all grew up as criminal agents in a system which is transparent, which, if they mess up in the course of an investigation, they're going to be cross-examined, they're going to have a federal district judge yelling at them.

CAPRONI:

The national security side occurs largely without that level of transparency.

And our concern is, and what this report has shown us, is that we have simply got to do a better job making sure that, although the actions that are taken in national security investigations are typically taken in secret and they don't have the transparency of the criminal justice system, that that imposes upon us a far higher obligation to make sure that we have a vigorous compliance system. that we have in place the training that is necessary. that we retrain agents. that when agents are working in this area...

COHEN:

I appreciate that. I think you're getting...

CAPRONI:

... we make sure they know.

COHEN:

I think that's what we need. And I appreciate your candor.

There's some signage in the Capitol, and one of them's a statement by Brandeis -- Louis Brandeis, and something to the effect that the greatest threats to liberty come from insidious men of zeal, well-meaning but without knowledge or understanding.

And I think that you'll find that if our agents, FBI agents, even though well-meaning and zealous, don't know what they're doing, then it's a threat to people having faith in the whole system.

And I hope you'll correct that. And I feel confident you will.

CAPRONI:

You're absolutely correct. And we will.

COHEN:

Thank you.

CONYERS:

I thank the gentleman, Stephen Cohen.

(LAUGHTER)

And the chair recognizes now the gentleman from Virginia, Bob Goodlatte.

GOODLATTE:

Thank you, Mr. Chairman. And thank you for holding this hearing.

And, Ms. Caproni and Mr. Fine, thank you for your testimony today. These are very serious concerns. And we appreciate your helping us understand how they occurred, why they occurred, and what is being done to correct them.

I have several questions I'd like to ask, starting with you, Ms. Caproni.

In Mr. Fine's report, on page eight, paragraph three, he notes: "In addition, we found that the FBI had no policy requiring the retention of signed copies of national security letters. As a result they were unable to conduct a comprehensive audit."

Can you explain why something as important and serious as a national security letter would not have a signed copy retained in the records of the bureau?

CAPRONI:

I can say that there were different processes in different field offices but, no, I can't. I mean, there's no reason why there wasn't a policy that said, "You have to keep a copy of the signed copy."

What we keep, which is typical of how our records are, is the carbon copy, in essence, which is typically initialed.

But no, in the world of Xerox machines, there's no reason why we hadn't told people to hang onto a signed copy.

GOODLATTE:

Mr. Fine, did you draw any further conclusions from that? And do you know why they were not retained? Or is there any...

FINE:

They weren't retained because there wasn't a clear policy that was enforced.

GOODLATTE:

No ulterior motive that you know of?

FINE:

We don't believe there is an ulterior motive. But this was an example of the incredibly sloppy practice that was unacceptable.

GOODLATTE:

I agree.

Let me ask you: When did you first learn of the problem with the FBI's improper use of exigent letters?

FINE:

Well, we began our audit in, as required by the Patriot reauthorization act, around the beginning of 2006. As you can see from this report, there are a lot of issues. And we did interviews and document request and field files.

FINE:

I think, sort of, the first indications that we learned about it were in the spring or summer of last year, but we had to work through those issues.

GOODLATTE:

And who did you learn that from?

FINE:
We learned it from, I believe, people in the Office of General Counsel, the National Security Law Branch of the FBI, about these issues. I think that's the first people we learned it from -- as well as review of documents and e-mails and things like that.

GOODLATTE:
And what steps have you taken to ensure that the practice was stopped?

FINE:
And what steps have we taken? The steps we've taken is to inform the FBI about the unacceptability of this practice, to note it, to report it, to let the people who were in charge of the FBI and the general counsel's office know about it, and make a recommendation that it do stop -- that it does stop.

GOODLATTE:
When did you make that recommendation?

FINE:
I think we made the recommendation when our report was issued to the FBI in draft, and I think that was in either December or January of this year -- December of last year or January of this year.

GOODLATTE:
And, Ms. Caproni, has that practice been stopped?

CAPRONI:
Yes.

GOODLATTE:
And what steps have you taken to ensure that it does not persist in any of the offices of the FBI?

CAPRONI:
Well, first, we're trying to find out whether it did happen in any office other than the unit at headquarters. And we should know that answer probably by the end of this week or sometime next week.

Second thing is, the practice of providing a letter with a promise of future legal process has been banned. And, again, we are also developing a vigorous compliance program to make sure that we don't simply make the rule, but we actually have in place some kind of process to make sure that the rules are being followed.

GOODLATTE:
Current law authorizes a full credit report request for only counterterrorism investigations. The inspector general discovered two instances in the same field office of a full credit report request under counterintelligence investigations.

How is this being corrected?

CAPRONI:
This is being corrected by we -- the deputy director ordered a full audit of every counterintelligence file that has been opened since January 1, 2002. This authority went into effect in the Patriot Act. So realistically we think the earliest one could have been issued would have been 2002.

So they have to review every file since then in which a Fair Credit Reporting Act NSL was issued and find out if they have any full credit reports. If they do, they need to remove them from their files and report it as a potential IOB violation.

Those will, in turn, be reported on to the IOB.

GOODLATTE:
One last question: In at least one instance, a national security letter issued under the Electronic Communications Privacy Act was determined by the inspector general to be seeking content. How was this remedied?

GOODLATTE:
And what steps do you field agents take to delineate between content and transaction information?

CAPRONI:
In that case, there was no need to remedy it because the Internet service provider refused to provide us with any records. So we actually did not have an overcollection.

GOODLATTE:
And have you remedied the...

CAPRONI:
Yes.

GOODLATTE:
... request? I mean, they shouldn't be asking for that. This was a big issue when we wrote the Patriot Act...

CAPRONI:
Correct.

GOODLATTE:
.. and was subject of a great deal of discussion with the administration about making sure that we had a clear line between what could be requested and what could not be requested.

CAPRONI:

The statute defining electronic communication transactions records actually doesn't define the term. And there had traditionally been the debate that says, "So we'll leave it up to the ISP to decide what is content and what is not."

We think that's a trap for the unwary, it's bad for our agents, and that we do better with bright lines.

And so OGC -- we're in the process of making sure that we have a list that makes sense; what is content and what isn't.

In the abstract, that seems like a very clear line. In practice, it is not. There are some difficult issues because some of the answers revolve around how the ISP keeps their records.

So we're working on it. My anticipation is that within the next week or two we will have out to the field, "These records you can seek; these records you cannot seek," and it will be a very bright line.

GOODLATTE:

Thank you, Mr. Chairman.

CONYERS:

The gentleman from Georgia, Mr. Hank Johnson?

JOHNSON:

Thank you, Mr. Chairman.

In these reports that I have read, it indicates that there were three phone companies that the FBI, particularly the FBI Communications Analysis Unit, the CAU, contracted with three telephone companies between May 2003 and March of 2004.

JOHNSON:

Who were those telephone companies?

CAPRONI:

The telephone companies were AT&T, Verizon and MCI, which has now been acquired by Verizon.

JOHNSON:

Now, are those contracts still in force at this time?

CAPRONI:

Yes, they are.

JOHNSON:

And are there any other phone companies that are contracted with the FBI through the Communications Analysis Unit or any other unit of the FBI?

CAPRONI:

Not through the Communications Analysis Unit. Broader than that, I don't know. We may have contracts -- not for this sort of information. We may have other contracts with phone companies, but not like this.

JOHNSON:
And nobody put a gun to these telephone companies' heads and made them sign the contracts, did they?

CAPRONI:
No.

JOHNSON:
They were just simply agreements with the FBI and the phone company.

CAPRONI:
Correct.
From our perspective, because these originated, given the volume of our requests, that this permitted us to get our records very quickly.

JOHNSON:
Well, I understand.
And then the phone companies received compensation for engaging in this contract with the FBI, is that correct?

CAPRONI:
That's correct.

JOHNSON:
And these -- this compensation, was it merely for expenses or was there profit involved, or you have no way of knowing?

CAPRONI:
I don't know.

JOHNSON:
And, really, you don't really care, as long as you get the information, correct?

CAPRONI:
Again, from our perspective, the goal was to get the information in a form that is readily usable for us, so that we don't have -- some phone companies give us paper records. That requires a lot of data entry.

JOHNSON:
All right. I understand.

And earlier in your testimony, ma'am, you stated that the phone companies were responsible for a lot of the errors that are cited in the compliance with the national security letters.

CAPRONI:
We do see third-party errors, correct.

JOHNSON:
You saw a substantial number. And so you are placing upon the phone company the obligation to properly document whether or not there has been a follow-up with an exigent letter.

CAPRONI:
Oh, no, sir. There are two separate things.
I do not excuse our lack of recordkeeping in connection with the exigent letters. They did keep the records, which was fortunate.

JOHNSON:
And it's important to note, Mr. Fine, that your analysis of the FBI's compliance with the Patriot Act found that there were woefully inadequate mechanisms for the collection of data on these national security letters.

JOHNSON:
In other words, the recordkeeping by the FBI was woefully inadequate as far as the issuance and follow-up on these national security letters and also the exigent letters, isn't that correct?

FINE:
We did find serious and widespread misuse and inadequate recordkeeping, absolutely.

JOHNSON:
And do you have any idea, Mr. Fine, how much the telecommunications companies were paid for their so-called contract with the government?

FINE:
I don't know it, no.

JOHNSON:
All right.
Which agency -- can you, Ms. Caproni, provide my office with that information, along with copies of the contracts between the CAU and the phone companies?

CAPRONI:
I have great confidence that we're going to get a number of questions for the record after this, and I'm assuming that will be one of them and we will respond appropriately.

JOHNSON:
Will it take a subpoena for us to get that information?

CAPRONI:
I don't believe so. I don't know what's in the context...

JOHNSON:
Will you provide it...

CAPRONI:
I don't know if there are any sensitive issues...

JOHNSON:
Will you provide it to my office?

CAPRONI:
Again, we'll respond to questions for the record as they come in.

JOHNSON:
All right.
Why is it that, if the NSLs are the FBI's bread-and-butter investigative technique, could the inspector general only identify one terrorism prosecution out of 143,074 people whose letters were -- or who investigatory information was obtained on?

CAPRONI:
Again. Mr. Fine can explain his methodology.
But I think the issue, and the difficultly of that question is that because there was no congressional -- we were not legally obligated to tag the data, so tracing it through is difficult.

JOHNSON:
So one out of 143,000 -- how does that equate into being the bread-and-butter investigative technique for uncovering terrorism by the FBI?

CAPRONI:
Again, we disagree that in only one case did NSL data contribute to a criminal prosecution.

JOHNSON:
But would you say more than 10 or less than 10?

CAPRONI:
I don't know. It is my belief that virtually every...

JOHNSON:

But you don't know?

CAPRONI:
... counterterrorism case that began in its normal course of affairs is likely to have a national security letter used sometime during it.

JOHNSON:
And it's also...

CONYERS:
Time has expired.

JOHNSON:
Thank you.

CONYERS:
And Mr. Johnson, any records that you request will come to the committee and then you will be advised.
The chair is pleased now to recognize the gentleman from Florida, Mr. Tom Feeney.

FEENEY:
Thank you very much, Mr. Chairman.
And, earlier, Mr. Smith alluded to your illustrious basketball career. I wish. I went to the same high school as Mr. Fine. He graduated a few years before me. And I wish I'd have had a jumpshot like Mr. Fine did, but not nearly so much as I wish I would have been able to hit a fastball like Mr. Reggie Jackson, who graduated a few years before Mr. Fine did.
But we thank you for your work.
By the way, none of us is the most famous graduate, because Benjamin Netanyahu, former prime minister of Israel, is a Cheltenham High grad.
I had to get that plug in.
We are very grateful for your work here, because a lot of us were supporters of the Patriot Act, but only with some serious restrictions. And I guess the first question I want to ask you, to remind people, is that it was the reauthorization of the Patriot Act that actually required the report that you've just completed, is that right?

FINE:
Yes.

FEENEY:
And I hope that not just your report, but the tenor of the questions from supporters of the Patriot Act as well as the critics is being listened to very carefully in the Justice Department and the FBI.

FEENEY:

We have got to get this balance correct.

And nothing could be more critical, because some of the most unthoughtful critics of the Patriot Act candidly will be the first ones when there's another 9/11 and when we didn't get the information accurately ahead of time to stop, maybe not 3,000 or 4,000 people, but 300,000 or 400,000 people -- they'll be the first ones jumping on the administration, the Justice Department and the FBI for not doing its job.

But those of us trying to strike a thoughtful balance between civil liberties and between the need to protect America from this new threat are very, very concerned about what we've heard.

And if the FBI doesn't take this to heart, we will correct the problem. I don't think anybody could have said it better than Jim Sensenbrenner -- again, a supporter of the Patriot Act -- who said that the overreaching that's apparent here within the FBI is going to erode support, if it hasn't already, from very important national security initiatives.

And I would hope that everybody down at Justice is listening, because this is the supporters -- people like Lungren and Feeney and Sensenbrenner -- that are telling you this isn't right, and it can't continue.

Mr. Fine, do you have an opinion as to whether or not the serious problems that you've discovered in initial compliance with the Patriot Act are largely because of ambiguities or poorly structured legislation? Is it statutory language that was the problem largely here, or is it abuses within the FBI in compliance?

FINE:

I don't think it was the statutory language that was ambiguous. I think it was the execution of the policy by the FBI that was woefully inadequate.

FEENEY:

And just to follow up, can you identify or does your -- does your report and investigation lead you to conclude that there are any important statutory improvements we could make?

I realize it's not in your typical arena to give us advice, but are there any specific pieces of advice that you would give the Congress in terms of oversight or statutory reforms here?

FINE:

Well, you're correct: It is not in my arena to do that. What I try and do is present the facts to this committee and Congress, and let the facts lead this committee and Congress to do what they believe is appropriate.

There is one section of the report that does talk about an ambiguity in the meaning of toll billing records. I think there ought to be something done about that, because that was a concern of what that meant, and it should be clarified.

I do think in...

FEENEY:

Could the A.G. do that by opinion?

FINE:

I don't think so. It has to be done by Congress.

I do think that the committee does need to strike a balance and, sort of, balance the need for protections and controls over civil liberties with the need for tools to prevent and detect and deter terrorism.

And that's the difficulty in this task. And that's the real concern that we have about how the FBI implemented this.

FEENEY:

You said you sampled 77 case files, your report indicates. How many case files are there all together, roughly?

FINE:

That I couldn't tell you.

FEENEY:

Do you believe that the 8,850 failed reportings are systemic and that if you extrapolate we'd probably see that elsewhere?

FINE:

I do believe that the files we looked at were a fair sample and that there's no reason to believe that it was skewed or disproportionate. We didn't cherrypick them.

FEENEY:

Do you have any reason to believe that there were more abuses in the 8,850 requests that were not properly reported? Are they any more likely to be abuses of civil liberties or the law or the A.G.'s rules than the requests that were properly recorded?

FINE:

Well, we don't know how many requests were not recorded in the FBI's databases. There were some problems with the database structurally so that things weren't in there. There were delays in entering the database so Congress didn't get the information they wanted.

And when we looked at the files, there were NSLs that were in the files that didn't go into the databases -- approximately, I think it was, 17 percent of the ones we found weren't in the database. Now, that's a significant number.

And now I know the FBI's trying to find them in the database as we speak, but we have no confidence in the accuracy of that database.

FEENEY:

Finally, if I could, Mr. Chairman, Ms. Caproni, you alluded to the culture of the FBI, which was traditionally a crimefighting institution.

Some people have called for an MI5 type of intelligence agency with a different culture. And it might be interesting that you take back the interest that some of us in

Congress have. If the FBI can't change its culture or have a separate culture for intelligence than it has had traditionally, we may very much need a different type of institution to get intelligence right to protect this country on a day-to-day basis.

CAPRONI:
Again, I believe that we can do this, we're going to do this, we can get this right, and we're going to get it right.

FEENEY:
Mr. Chairman, I yield back the balance of my time.

CONYERS:
Thank you. There wasn't any left.
(LAUGHTER)

FEENEY:
That's why I did it.
(LAUGHTER)

CONYERS:
I see.
OK. We're now going to recognize the gentleman from California, Mr. Adam Schiff.

SCHIFF:
Thank you, Mr. Chairman.
Inspector General Fine, you've said that you didn't find that any of the violations were deliberate or intentional.

SCHIFF:
And yet you also report the issuance of blanket NSLs, which, to me, appear to be an effort to cover up what was recognized to be flawed issuance of these exigent letters.
Given that NSL letters are supposed to be case-specific, the NSLs were a blanket violation of the law, weren't they? And how can they be described as unintentional or anything but deliberate?

FINE:
I think what you're referring to, Congressman Schiff, is issuance, of what we've heard about, of blanket NSLs in 2006. We haven't reviewed 2006 yet. We reviewed 2003 to 2005.
We've heard about this. It happened past the review period. And we're concerned about it, and we'll look at that.

SCHIFF:
Well, Ms. Caproni, in your briefing on the Hill last week, you acknowledged that when agents realized that they had been issuing these letters -- these exigent letters saying that

subpoenas were forthcoming when they were never forthcoming, that blanket NSLs were issued as a way of basically trying to clear up or cover up or in other words make up for the failure to use correct processes in the past.

Assuming those are the facts, Inspector, doesn't that show a level of deliberateness and intention that far exceeds what you describe in your report?

FINE:

It certainly shows us concern, and what were they thinking? They clearly were not following the procedures. They clearly were not providing NSLs in advance or even quite reasonably soon thereafter. And it did give us concern.

And there were a lot of people who did this. It was done as a sort of a routine practice, which is in our view completely unacceptable.

But I am -- I think it is important for the FBI to look at this and to interview these people and find out what happened, up and down the line, and we will be looking at it as well in 2006.

SCHIFF:

Well, even the false statements themselves, these exigent letters that said that subpoenas were forthcoming when they weren't -- let me ask you, Ms. Caproni, if a local cop in the city of Burbank, in my district, wrote letters to the phone company or went out and served letters on the phone company saying that federal grand jury subpoenas would be forthcoming, because that local cop wanted to get information, that maybe they couldn't get another way or couldn't get as quickly another way, and you learned about this practice, that cop would be under federal investigation, wouldn't they?

CAPRONI:

Congressman, I really don't know. I don't think you've given me enough facts to say that whether that would or wouldn't be (inaudible).

SCHIFF:

Well, a local police officer, acting under color of federal law, demanding records that -- claiming a federal process that's nonexistent, that wouldn't be an issue for federal investigation?

CAPRONI:

It would certainly be troubling, much as the practices that were taking place in the CAU unit are troubling.

SCHIFF:

Well, you know, having worked in the corruptions section in the U.S. attorney's in L.A., I can tell you, it would be more than troubling. You'd have FBI agents assigned to investigate that local cop.

It doesn't seem to me any different to have FBI agents giving telecommunications providers letters saying that subpoenas are forthcoming when they're not.

When did your office discover that these old New York form letters were being used to get information?

CAPRONI:
Sometime in '06.

SCHIFF:
You know, there's a report in The Washington Post indicates the head of the Communications Analysis Unit, the same unit that drafted most of these letters, warned superiors about the problems in early '05. Do you know anything about that?

CAPRONI:
I know what I've read in the paper. And I know that the Inspection Division is going to do a full inspection of this to see what exactly the unit chief said...

SCHIFF:
Well, I'm asking you beyond what you've read in the paper, and we all know what the I.G.'s going to do.
When did you first learn about the fact that the head of the unit that was drafting these letters had warned superiors?
Do you know who those superiors are?

CAPRONI:
I don't know who he says he warned.

SCHIFF:
Were you warned by him?

CAPRONI:
No.

SCHIFF:
Do you know if anybody in your office was warned by him?

CAPRONI:
I'm not sure that I even necessarily agree that there was a warning.
I don't -- I know that there were -- and I knew generally that there were some what I understood to be bureaucratic issues within that unit. That did not include...

SCHIFF:
You keep on describing these bureaucratic issues. I mean, I find an interesting, kind of, mix of acceptance of responsibility in your statement and denial of responsibility. You seem to accept responsibility for mistakes others made, but acknowledge very little responsibility on behalf of the office you run.

It's primarily your office that is intended to advise the agents about how to comply with the law, particularly in an area where the courts aren't scrutinizing it, as you pointed out, in a process that lacks transparency.

SCHIFF:
Isn't that fundamentally the job of your office?

CAPRONI:
That is fundamentally the job of my office.

CONYERS:
The time of the gentleman has expired.
The chair recognizes Louie Gohmert of Texas.

GOHMERT:
Thank you, Mr. Chairman. I appreciate that.
And I am very pleased that, when we renewed the Patriot Act, we did insert the provision that would require this inspector general report so that we could find out this information that is so very important.
In your report, your indications, Mr. Fine, was the FBI did not provide adequate guidance, adequate controls, adequate training on the use of these sensitive authorities; oversight was inconsistent and insufficient.
And Ms. Caproni, as I understood Director Mueller to say last week that he took responsibility for the lack of training and experience. And that troubled me a great deal.
You'd indicated earlier that people of, I guess, our generation and especially those in the FBI have grown up with accountability, knowing that you're going to be cross-examined. And yet it seems that the overzealousness that Mr. Cohen spoke of often is found in maybe new agents that don't have the time on the ground, the experience.
Wouldn't you agree that's sometimes found in newer agents that lack the training and experience?

CAPRONI:
I don't know in this case if this is an issue of young agents versus old agents. I just don't know the answer to that.

GOHMERT:
Well, are you familiar with the new personnel policy that this director instituted in the FBI that's affectionately -- or unaffectionately -- called the up-or-out policy?

CAPRONI:
Yes, sir, I am.

GOHMERT:
And, you know, I appreciate the director last week saying that, "We welcome more oversight." I appreciate your openness in that regard.

But just in my couple of years of being in Congress is it seemed to me that the FBI, at the very top at least, was not interested in oversight and was set on intimidating anybody that really wanted to pursue that.

I know we have one members of Congress, a former FBI agent, who had indicated to me that because many of us who are very familiar with many FBI agents, we've been hearing that this policy was causing the FBI to lose some of their best supervisors.

The policy basically, as I understand it: Once you've been a supervisor for five years, then you either have to move up to Washington or move out; that you can't be a supervisor; and that we've lost many of our best supervisors, which has put new, inexperienced people in supervisory capacities; and that this was something that Mike Rogers, a former FBI agent, a member of Congress, wanted to talk to someone about. And when he finally was able to get somebody to agree in a supervisory position, he goes back to his office, and his whole office staff is out in the hall because the FBI's come over and done a sweep of his office that was really unnecessary and seemed to be more about intimidation.

GOHMERT:

One of the most outspoken critics of the FBI the last couple years has been Kirk Weldon, and we know that back in September and October, the FBI announces, "Well, gee, he's under investigation," just at a perfect time to get him defeated.

And so, it seems that -- and then we find out there were all these 143,000 letters that were inappropriately requested, well, gee, somebody asks tough questions of FBI personnel, they may very well be the 143,001st letter in the next batch inquiring about their own records; that there has not been this desire for oversight, but there's been quite some intimidation.

So I'm curious, has there been any revisiting of this up-or-out policy to get rid of the best-trained and experienced supervisors, since this lack of training and experience and inadequate guidance and controls has come to light?

CAPRONI:

Congressman, the period of time covered by Mr. Fine was at a period of time when those supervisors would have still been in place.

What we've seen, actually, is that the five-year up-or-out has encouraged people to bid for and seek promotion to higher positions, which has been a net positive.

Now, I know that you have an interest in this, and I know that there were agents who were not happy about the policy. The director feels very strongly that it's an appropriate policy, that it does move good supervisors up in management so that they have a greater span of control, so that we can further benefit from the skill set that they have from their tenure at the bureau.

GOHMERT:

So the answer is no, you're not revisiting the policy, is that your answer?

CAPRONI:

That is correct.

GOHMERT:

OK, just wanted to wade through and get to the answer.

Thank you.

Now, with regard to these letters, it is deeply troubling, because we've been hearing about how important they were in order to get this information, but, you know, we had assurances from everybody, from the A.G. on down, that there was adequate oversight, that there was adequate training.

What suggestions -- since you're not changing any personnel policies, what actual, structural policies within the FBI are going to change to make sure that there would be adequate oversight, just in case the NSLs were allowed in the future?

CAPRONI:

Again, we're going to do substantially more training. Agents are now being placed into career paths and they're going to be required, after their time at Quantico, to return to Quantico for, sort of, a post-graduate period. That will have extensive training for those agents who are on the national security career track.

We're also implementing an auditing practice that will include Department of Justice lawyers, inspectors in the FBI and FBI lawyers to go out and methodically audit the use of the national security letters.

More generally, we are going to create a compliance program within the bureau that will be interdisciplinary and it will make sure that not just with national security letters -- I mean, this is one tool, and it's a tool that, as indicated in this report, we need better controls on.

Our concern is that there may be other things that we need to make sure that we've got better controls on; that we think we've given perfectly clear guidance but, in terms of execution in the field, we've got some problems.

So again, I can't say enough that we take this report extremely seriously. We know we've got issues. We know we've got problems. The director and upper management is absolutely committed that we're going to fix this.

CONYERS:

Time has expired.

GOHMERT:

Thank you, Mr. Chairman.

CONYERS:

Mr. Artur Davis from Alabama is recognized.

DAVIS:

Thank you, Mr. Chairman.

Ms. Caproni, give me your best legal assessment: Will the exclusionary rule apply to any evidence obtained from the improper issuance of these letters?

CAPRONI:
Probably not. But I haven't quite, frankly, given that a great deal of thought.
It's not a Fourth Amendment violation. Exclusionary rule clicks in usually when you've got a Fourth Amendment violation. These records are being held by third-party businesses. So it's not a...

DAVIS:
Why would there not be Fourth Amendment implications if information was obtained as a result of the improper use of federal statutory authority?

CAPRONI:
There would be other problems, but I don't think there's a Fourth Amendment problem.

DAVIS:
Well, do you think that there would be a practical problem -- classic hypothetical -- if a national security letter was improperly issued and it turned out later on there were perhaps a valid basis for the issuance of a warrant? Wouldn't that possibly be compromised, or the emergence of a valid basis later on be compromised by the misuse of an NSL?

CAPRONI:
Again, I'm always leery of responding to hypotheticals. All I can say is there's no -- we are not -- we're not minimizing this. We do not...

DAVIS:
So you're not sure.
Let me follow up on Mr. Schiff's questions.
Are you familiar with the name Bassem Youssef?

CAPRONI:
Yes, sir, I am.

DAVIS:
And Mr. Youssef, as I understand it, was in charge of the Communications Analysis Unit at the bureau, is that right?

CAPRONI:
He was, beginning in the spring of '05.

DAVIS:
And is it accurate that Mr. Youssef raised concerns about the misuse of the NSLs to his superiors?

CAPRONI:

That will have to be determined through the inspection. I do not know the answer to that question.

DAVIS:
Well, you know that that's been reported. And I assume, Mr. Fine, neither you nor Ms. Caproni have any basis to dispute what Mr. Youssef's lawyers are saying about him making that report.

CAPRONI:
I would note that Mr. Youssef is in litigation with the FBI.

DAVIS:
That's not what I asked you. I asked you if you had any basis to dispute the report.

CAPRONI:
I don't know one way or the other...

DAVIS:
Mr. Fine, do you have a basis to dispute that there were complaints raised by the former head of the Communications Analysis Unit?

FINE:
We didn't review what he did...

DAVIS:
Mr. Fine, how is it possible that you did not review the fact that the former head of the unit raised questions about the misuse of the NSLs? How is it remotely possible that was not reviewed?

FINE:
We reviewed what happened in that unit and what was issued. And we did review the discussions that occurred between the Office of General Counsel and...

DAVIS:
Mr. Fine, if the head of the unit, not a secretary, not an intern, not a line officer, but the head of the unit raised concerns, how is it possible that you didn't conduct an interview of Mr. Youssef?

FINE:
We did interview Mr. Youssef. And he did not -- we did not hear that concern from him. And, in fact, from the interview of Mr. Youssef, and also from the review of the records, we saw that he signed a letter. And many...

DAVIS:
Are you disputing that Mr. Youssef complained about the improper issuance of NSLs?

FINE:
To his superiors?

DAVIS:
Yes.

FINE:
I don't know that. I do know...

DAVIS:
Did you ask him?

FINE:
I don't believe -- I don't believe -- I'm not sure whether we asked that question.

DAVIS:
Mr. Fine, how do you possibly not ask the head of the unit if he had any concerns about whether or not the statute was followed? How does that possibly not come up as a question?

FINE:
We did ask him and we questioned him extensively, our attorneys did, about the communications between the Office of General...

DAVIS:
Well, did he say that he raised questions?

FINE:
Not that I'm told, no.

DAVIS:
Not that you remember or not that you're told, which one?

FINE:
Well, I actually didn't -- but let me just check.

DAVIS:
And while you're working on the answer there, Mr. Fine, that rather obvious observation -- I hope that your time to get the answer is not taken out of my time -- if you have the head of the Communications Analysis Unit raising questions about how that unit does its work, it's a little bit amazing to me that you're having to search your memory as to what happened during the interview.
But let me move on.

FINE:
Well, can...

DAVIS:
Is it true that -- well, my time's limited, Mr. Fine -- is it true that Mr. Youssef won the Director of Central Intelligence Award in 1995 for his work infiltrating the group that tried to blow up the Trade Center in 1993?

FINE:
I have heard that.

DAVIS:
Do you have any reason to dispute it?

FINE:
No.

DAVIS:
Is it true that Mr. Youssef was the legal attache to Saudi Arabia during the time of the Khobar Towers bombing was being investigated?

FINE:
I have no reason to dispute that.

DAVIS:
Is it true that Mr. Youssef received outstanding personnel evaluations during the time?

FINE:
I have no reason to dispute that.

DAVIS:
So you have someone who was the head of a unit, who had won awards for his intelligence work, who apparently received superior evaluations, raising concerns about how his unit was being conducted, is that accurate?

FINE:
No, I'm not sure it is accurate. I am...

DAVIS:
What is inaccurate about it?

FINE:
What is inaccurate is that it is not clear what concerns he raised and what he did to stop this. And we did look...

DAVIS:

Well, again, Mr. Fine, how -- I know my time is up, but if the chair will indulge me one question -- I guess I'm searching for what is opaque about this. This gentleman was in a very important position. He was in charge of the unit.

You admit that you interviewed him, but your memory seems foggy as to what you asked him and your memory seems foggy as to whether or not he raised concerns to his superiors and what the concerns were.

I can't imagine a more important interview that you could have conducted.

FINE:

We did conduct that interview, and we went over extensively what the concerns were between him and the General Counsel's Office and the attempts to put the exigent letters...

DAVIS:

Who did he register his concerns with?

CONYERS:

The gentleman's time has just about expired. What I'd like to do is give the inspector general an opportunity to fully finish his answer.

FINE:

We did interview Mr. Youssef, Congressman. And we did not find that, as a result of his actions, that the problems were corrected.

We did find through review of the NSLs that he signed, one, that under his leadership these exigent letters continued, and we saw the efforts between the Office of General Counsel and the CAU to correct this, which did not occur. And we did not see that he put a stop to this.

However, we did not do...

DAVIS:

Was he empowered to put a stop to it?

FINE:

He was the head of the unit.

DAVIS:

What if his superiors didn't consent?

CONYERS:

Just a moment. If my colleague will suspend, I want him to be able to complete his answer before we go on to the next member.

FINE:

We did not see that this practice was stopped during his time.

There was an attempt, to sort of, provide NSLs reasonably soon after the exigent letters. But the exigent letters continued. And it is important to determine who did what, when and how.

FINE:

And the FBI's going to do that. And we are going to look at that very carefully as well.

But our review was not to look at everybody's actions up and down the line, including his or others', to determine what steps each one of them took. What we tried to do is present the problem and the issue and make sure that it stopped as a result of it.

CONYERS:

The gentleman's time has expired.

The chair recognizes Darrell Issa, the gentleman from California.

ISSA:

Thank you, Mr. Chairman.

I guess I'll start off slow and just follow up on Mr. Gohmert for a second.

It does seem amazing that an organization of excellence, as the FBI has historically been, would adopt a "We've got you to the Peter principle achievement level" with this up-or-out policy.

And I would strongly second Mr. Gohmert's -- what I think he was saying, which is if you have people who can be very good at what they do at the beat level, so to speak, of the FBI, in various positions, if they can, in fact, be superb leaders at a level that they're comfortable, and, quite frankly, in a community that they're comfortable living and working in and building more capability, rapport and analysis capability, and you adopt an up-or-out program, what you do is, you force them either to leave because they don't want to leave communities they're attached to, or, quite frankly, you force them to a management level they may not be comfortable with.

It's bad enough that the Army will not allow a great company commander to continue being a company commander and must force them to a staff position somewhere where they endlessly see papers in the hopes that they someday will get a battalion command, but there's a certain amount of history there.

I strongly suggest that the FBI shouldn't have a history that people doing a good job at a given level be forced on.

ISSA:

Having said that, that's a management decision that the next administration, hopefully, will straighten out.

But speaking of management decisions, Mr. Fine, I am -- or General Fine -- I'm a little shocked that, under this attorney general, this administration seems to look at violations of constitutional rights for limited capabilities that we have granted from this body as, as the general counsel said, troubling.

If what the FBI did was done by a private-sector individual, wouldn't the FBI be arresting them? Wouldn't the U.S. attorneys be prosecuting people who played fast and loose with these rules?

FINE:

It depends on the intents involved and what happened.

ISSA:

OK. Let me back up.

If there was a pattern over time, as there is, of abuses piling up to where it was clear that people knew it was happening, even some people clearly made comments that it shouldn't be happening, that it was inconsistent with the law, but it continued, isn't that a poster child for the FBI and the U.S. Attorney's Office criminally prosecuting people who do these things?

FINE:

Again, if there was an intent to do that, as opposed to a pattern of negligence, and also a knowledge of this.

And we went in and looked at it after the fact and found all sorts of problems and compiled a 126-page report which lays it out in pretty black and white. And it is a serious, serious abuse.

But at the time, were they aware of it, did they know about that, and what their intent was -- that's much harder to say.

We did not find evidence of criminal misconduct, but we certainly found evidence...

ISSA:

Well, wait a second. Wait a second.

Piling up evidence that crosses the guidance we allow to pile up that evidence, and you're saying that it's not criminal.

FINE:

Well, you have to look at the individual allegations as well. We looked at the files. We found in many files that there were no abuses. We found in others that there were problems with them.

ISSA:

But there are no prosecutions and no dismissals, is that correct?

FINE:

Well, there are no prosecutions.

The FBI is looking at the evidence right now to see what people knew and what they did. Whether it was because of any intentional conduct that they knew they were doing wrong, we didn't see that. But we didn't do a review where we asked each individual, "What did you do and why?" we did a review of an audit of this to lay out the problems for the Congress.

ISSA:

Well, I would suspect that I join the chairman and many members on both sides of the aisle in saying I have serious doubts about whether or not the Congress can continue to extend capabilities that are not 100 percent adhered to and there are no significant results when they're not adhered to, and then not feel that what we're doing is giving the FBI the ability to violate people's constitutional rights.

And, you know, I heard today, "Well, geez, we wouldn't exclude this" --and Congressman Schiff brought it out -- "we won't exclude this information, even though we played fast and loose. And we won't dismiss and we won't prosecute."

Well, with all due respect, from the attorney general on down, you should be ashamed of yourself.

We stretched what we could give in the Patriot Act. We stretched to try to give you the tools necessary to make America safe. And it is very, very clear that you've abused that trust.

And when the reauthorization of the Patriot Act comes up or any bill coming down the pike, if you lose some of these tools, America may be less safe, but the Constitution will be more secure. And it will be because of your failure to deal with this in a serious fashion.

I yield back.

CONYERS:

Thank you very much.

The chair recognizes Keith Ellison, the gentleman from Minnesota.

ELLISON:

Thank you, Mr. Chair.

Mr. Fine, I want to talk to you about your report recommendations, starting with the exigent letters.

Wouldn't it be better, simply, to adopt the FBI's current practice of simply banning the use of exigent letters? I noticed that in your recommendations -- or in what I believe are your recommendations -- your suggestion is to take steps that the FBI not improperly use the letters. But why not just say: "No exigent letters"?

FINE:

Well, there shouldn't be an exigent letter of the sort that they use. There is a process under the statute to get emergency information under certain conditions. And that's the way they ought to do it. So that is a proper use of such a request.

They surely should ban the way they did it in the past.

ELLISON:

And that would be a change by statute or a rule change?

FINE:

Well, it doesn't need to be a statute. There is a statute that allows voluntary disclosure if there is an imminent threat and danger to the safety of an individual or others.

And if there is that exigent circumstance, they can get the information and should use such a letter.

But what they shouldn't do is combine it with an NSL, the way they did in the past. They ought to completely separate that and follow the statute..

ELLISON:

Right.

So what you're saying is that if the practice in which the FBI was using the exigent letters combined with the NSL, if the statute were properly followed, then there wouldn't be the problem that we see today, is that right?

FINE:

That's correct.

ELLISON:

Now, what sort of sanctions do you think should be applied, given the way that the FBI did use the NSL and the exigent letters?

FINE:

I think the FBI ought to look at this and look at the individuals involved and find out if they inappropriately and knowingly misused the authorities. They ought to take appropriate action against individuals, either management individuals who allowed it to occur or individuals in the field. And if they had poor performance, that ought to be assessed as well.

So I think that ought to be something that the FBI is looking at. But I don't think they ought to say, simply because there was a misuse of the statute inadvertently, that that would necessarily require misconduct charges against them.

ELLISON:

Right.

Well, you know, part of the problem here is the very nature of the act that allows for the expanded use of the NSL is below the radar; it's not subjected to neutral.

And so it by nature lacks transparency, which is why people are so upset that the abuses took place.

But I guess my next question is -- another recommendation that you have made is that there be greater control files for the NSLs. How would you envision that working?

FINE:

There should be greater controls on the use of NSLs. They ought to make sure that the people know when they can be used and under what statute they can be used. There need to be signed copies of the NSLs so that there can be an audit trail. They have to be connected to an investigative file, not a control file.

ELLISON:

Excuse me -- I'm sorry, Mr. Fine. Do you see this as essentially a training problem?

FINE:

I think it's a training problem. I think it's a supervision problem. I think it's an oversight problem. And I think it's a lack of adequate internal controls in auditing problem as well.

ELLISON:

Now, that brings me to a few questions I had for Ms. Caproni.

Ms. Caproni, do you have a staff to make all the changes that are needed in order to have this program work properly?

CAPRONI:

I would always like more resources.

ELLISON:

No, I'm asking you -- that's not my point.

My question is: In order to -- we could just simply go back to the status quo ante, back to the pre-Patriot Act, where NSLs were authorized but not the expanded use of them that we have now. That could be one way to simply solve this problem.

But my question is: At this time, do you have the staff to provide the training, provide the controls that are called for by the recommendations?

CAPRONI:

I do. We're going to get some more staff that we've already discussed. We're going to get some more analytic help, because we think that some of this would have been detected if we had had good analytic help so that we could see trends.

But I think that we have enough lawyers. I think we can do what needs to be done. We're going to have assistance from Department of Justice lawyers for some of this, but I think we have sufficient resources.

ELLISON:

Ms. Caproni? If you have the sufficient resources, why didn't you use them before?

ELLISON:

I mean, I guess the question that comes up in my mind is that you either don't have the resources to effectuate the changes that have been recommended, or you do; and if you do, why weren't they applied?

CAPRONI:

This report told us a lot that we just didn't now. I mean, I will fall on that sword again, which is, we learned a lot from this report, and we're going to make changes.

I think I've got the personnel to do it. I think we've got the resources. We're going to make the resources available. This is important to us. It is important to us to regain the confidence of the American people and to regain the confidence of this committee. You're one of our oversight committees and you're very important to us.

So we're not -- trust me, I'm not happy that we have this report and that I'm in a position of saying, you know, we failed.

ELLISON:

Excuse me, Ms. Caproni, if I could just go back to Mr. Fine.

Mr. Fine, one of the changes that was made in the Patriot Act was to say, I think, people other than headquarters officials could issue these letters.

Should the authority for issuance of the letters be retracted to what it was before the Patriot Act?

FINE:

I'm not sure of that, and I don't want to necessarily give legislation that should occur.

I do think it's important, if that authority is out there, that it has to be overseen.

And bringing things back to headquarters may or may not be the answer. As you recall in the September 11th attacks with the Moussaoui case, one of the concerns was headquarters was controlling the field too much.

And so, there are considerations on both sides of this issue. I do think that when it does go out there, it has to be used appropriately and overseen appropriately.

ELLISON:

But if you had a narrower route through which these letters were authorized, wouldn't you have greater accountability?

FINE:

You could. You could have greater accountability. On the other hand, the effectiveness could be diminished significantly.

So I think that's the balance that has to be struck, Congressman.

CONYERS:

Time of the gentleman has expired.

But I would like to say to Mr. Ellison, he's raised the point that we need to try to figure out at this hearing: Are there in existence the resources that are required and needed to reveal all of these people who have been abused or violated by this system?

CONYERS:

For this hearing to close down with the gentleman from California, Mr. Berman, who will be recognized next, without us having figured out, for example, that we don't have anywhere near the resources, as I've been talking with the gentleman from California, Mr. Lungren, about, either in the Federal Bureau of Investigation or in the Office of the Inspector General.

If resources don't exist here, we may end up very well correcting everything from this point on, but how many thousands of people will have been violated that will -- we'll all be saying from now on, "Not to worry. It's all over with."

And that is a troubling consideration, Mr. Lungren, that we've had under discussion, that I'm still looking for the answer to.

So I recognize the gentleman from California, Mr. Berman.

BERMAN:
Thank you very much, Mr. Chairman.
Mr. Fine, Section 126 (a) of the Patriot Act requires that not later than one year after the date of enactment of this act, the attorney general shall submit to Congress a report on any initiative of the Department of Justice that uses or is intended to develop pattern-based data mining technology.
The one-year deadline expired March 9th of this year. To my knowledge, we haven't received this report. Can you give us an update on the progress of this report?

FINE:
From the attorney general? No, I don't -- I can't give you progress. That's not my office.
But I certainly can bring back that question to the department.

BERMAN:
But I thought...

CAPRONI:
Congressman, I, unfortunately, can tell you. Yes, it was not submitted on time. I think we sent a letter indicating that. It's still being worked on. I saw a draft going back across between us and DOJ. So it's being worked on.

BERMAN:
OK, well, then, let me ask you: As I understand the audit that the inspector general has undertaken, information from the national security letters is routinely added to the FBI's internal automated case system, which has about 34,000 authorized users, and then, is periodically downloaded into the investigative data warehouse, which has approximately 12,000 users.
Is it possible that other agencies of the federal government or anywhere are using information in that investigative data warehouse for data mining purposes?

CAPRONI:
For data mining purposes -- I don't know the answer to that.
I mean, they could get access to it as appropriate for their agency.

BERMAN:
So it is possible.

CAPRONI:
I don't know the answer. I don't know.

BERMAN:
You don't know if it's possible or you don't know if they are?

CAPRONI:
I don't know what they're doing with it. And I don't know what rule and restrictions govern them, so I just can't answer that question.

BERMAN:
Well, let me get one thing clear. Maybe I'm under -- is the report that we are awaiting an inspector general's report or an attorney general's report?

CAPRONI:
It's attorney general.

BERMAN:
Attorney general's report. All right.
So will that report include data mining of information in the investigative data warehouse by agencies not within the Justice Department -- this report that you've seen circulating, will it include data mining of information by other agencies from the Justice Department's Investigative Data Warehouse?

CAPRONI:
No, it does not. But I don't know whether that means that no such that no such activities are occurring or because it's not within the scope of the request.

BERMAN:
Well, we think -- since I was involved in this language -- we think that since the database is under the purview of the Department of Justice, use of it by other agencies would be included in that report, under Section 126(a).

CAPRONI:
I will make sure that the people at DOJ understand that that's your interpretation of it. I just, unfortunately, I've been in the world of NSL and this report, and I haven't been in the world of the data mining report, so I just haven't read it. So that's why I can't answer your question.

BERMAN:
So you have not been personally involved, then, in determining whether other agencies are being cooperative on how they're using the data from the IDW. I take it you don't...

CAPRONI:
I have not. I just haven't been involved in it.

BERMAN:
If you, subsequent to this hearing, could get that information and pass it on to me, I'd be very grateful.

CAPRONI:

Certainly...

BERMAN:
The information about whether the report will talk about other agencies' use of the Justice Department's Investigative Data Warehouse for data mining purposes.

CAPRONI:
Again, I will make sure that the department understands your position.

BERMAN:
Thank you.

(UNKNOWN)
Will the gentleman yield to me?

BERMAN:
I'd be happy to.

(UNKNOWN)
To ask a question.
Ms. Caproni, one question just came to my mind, and that is, part of this testimony today has talked about how agents in the field and special agents in charge in the field didn't get the proper legal advice from, I presume, people that report to you, that they were not challenged as to the legal sufficiency of the NSLs or the exigent letters.
Is that correct?

CAPRONI:
Let me -- I think that comment was relative to the lawyers in the field who actually do not report to me.

(UNKNOWN)
Who do they report to?

CAPRONI:
They report to the special agents in charge.
They report to their field office head. That's one of the things that Mr. Fine has suggested that we look at, and that is actively under discussion at the bureau right now, whether that reporting structure should change.

(UNKNOWN)
So they don't report to you at all?

CAPRONI:
No, sir, they do not.

(UNKNOWN)

So they were on their own in the advice they were giving of a legal nature to the agents and the special agents in charge to whom they report.

CAPRONI:
On a reporting basis, they do not report to me. I do not supervise them. I am in charge of the legal program. So we provide the CDCs -- that's their title -- we provide them with substantial legal advice, and they frequently call us when they have questions. But I do not rate them, and they do not report to me.
I don't hire them; I don't fire them.

(UNKNOWN)
I know, but what I'm trying to figure out is if these attorneys report to the SAC, does that make it more difficult for them to tell the SAC that he or she's wrong when they're asking for one of these letters?

CAPRONI:
That's the concern that Mr. Fine has raised. I mean, I...

(UNKNOWN)
Well, do you share that concern?

CAPRONI:
I do share that concern.

(UNKNOWN)
And could that be one of the real problems we've got here?

CAPRONI:
I will say there are arguments both ways, Congressman. It is not -- and the reason I say that is because I report to the director of the FBI, and I don't have any problem telling the director of the FBI my legal advice. And if he doesn't like it, it's still my legal advice. That's what the CDCs should be doing. But whether they...

(UNKNOWN)
But at least my experience has been SACs are pretty important people in their various offices and most people generally think they're the top dog. And we have this problem where, apparently, good legal advice either was not given or not accepted, and maybe that is something we ought to look at, if you folks won't look at it.

CAPRONI:
Again, we are actively looking at that very question, of whether the CDC reporting structure should change.

(UNKNOWN)
And I thank the gentleman from California for yielding, although he's not here to receive it back.

CONYERS:

I thank you all.

The gentleman from Minnesota had one last question that I've agreed to entertain, if you will.

ELLISON:

Thank you, Mr. Chair.

My question is, of all the letters that have been issued and all the inaccurate and improper data that has been sent forth, clearly some information came back. And in the cases where individual's information was obtained in violation of the rules and statutes, what has happened? Have these individuals been notified? What recourse do they have? What's the story on the people?

CAPRONI:

The people are not notified. The records are removed from our databases and the records are destroyed.

FINE:

That's correct.

CONYERS:

Thank you very much.

Ladies and gentlemen, this has been an excellent hearing. We thank the witnesses for a continued and extended period of examination. We'll all be working together.

There are five legislative days in which members may submit additional questions to you, and send them back as soon as you can.

CONYERS:

We also want to enter into the record Caroline Fredrickson's statement on behalf of the American Civil Liberties Union; Congressman Coble's Department of Justice fact sheet release.

We also have the New York Times, which officially alerted FBI to rules abuse two years ago, dated March 18. And we also have a letter being hand-delivered to the general counsel, dated today, March 20th, which asks her for additional information.

The record will be open for five additional days. And without any further business before the committee, the hearing is adjourned. We thank you for your attendance.

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ECPA NSL Definitions Proposal

Section 1. Counterintelligence and counterterrorism access to electronic communication service and remote computing service records.

Section 2709 of Title 18 is amended—

(a) by striking the title and inserting "Counterintelligence and counterterrorism access to electronic communication service and remote computing service records";

(b) in subsection (a) by striking "A wire or electronic communication service provider" and inserting "A provider of electronic communication service or remote computing service" before "shall comply with a request for";

(c) in subsection (a) by striking "subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession" and inserting "records in its possession, custody, or control" before "made by the Director of the Federal Bureau of Investigation";

(d) striking subsection (b) and inserting the following:

"**(b) Required certification.**--The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may request the records described below if the Director (or his designee) certifies in writing to the provider of electronic communication service or remote computing service to which the request is made that the records pertaining to the subscriber to or customer of such service 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:

(1) name;

(2) address;

(3) local and long distance telephone connection records, or records of session times and durations;

(4) length of service (including start date) and types of service utilized;

(5) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address;

(6) means and source of payment for such service (including any credit card or bank account number); and,

(7) records identifying the origin, routing or destination of electronic communications.";

(e) in subsection (c)(1) by striking "no wire or electronic communications service provider," and inserting "no provider of electronic communication service or remote computing service," after "danger to the life or physical safety of any person,";

(f) in subsection (f) by striking "is not a wire or electronic communication service provider for purposes of this section," and inserting "is not a provider of electronic communication service or remote computing service for purposes of this section," after "for their use, review, examination, or circulation,"; and

(g) in subsection (f) by inserting "or section 2711(2) ('remote computing service')" after "section 2510(15) ('electronic communication service')".

Section 2. Technical and Conforming Changes

(a) The table of sections for chapter 121 of title 18, United States Code, is amended by striking "Counterintelligence access to telephone toll and transactional records." and inserting "Counterintelligence and counterterrorism access to electronic communication service and remote computing service records."

Analysis

Section 1. Counterintelligence and counterterrorism access to electronic communications service and remote communications service records

This proposed revision clarifies the scope of the Electronic Communications Privacy Act's national security letter provision, 18 U.S.C. § 2709, by specifically listing the types of records and information that the FBI may obtain pursuant to an ECPA national security letter (NSL).

The list of items contained in this proposal parallels that in 18 U.S.C. § 2703(c)(2) – which identifies the records and information that may be obtained by administrative or grand jury subpoenas – with one exception. In addition to the records and information that may be obtained under section 2703(c)(2), the proposed revision would permit the FBI to obtain "records identifying the origin, routing or destination of electronic communications" using an ECPA NSL. This change would not expand the categories of records and information that may be obtained by an ECPA NSL, but rather would clarify what records or information are obtainable – a change that was suggested by the Department of Justice's Inspector General in his recent report on the use of NSLs by the FBI.

The proposed revision also clarifies the types of providers covered by the ECPA NSL statute by using the language of § 2703(c)(1) to indicate that providers of electronic communication services (which, under the definition contained in § 2510(15), also includes providers of wire communications services) and remote computing services are covered by this provision.

Section 2. Technical and Conforming Changes

The proposed revision changes the table of sections for chapter 121 of title 18 of the United States Code to account for the new title of section 2709.

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NSL GUIDANCE BY NSLB

DATE:	TO:	SUMMARY
10-26-2001	EC: All Divisions	Summarizes recent changes to FCI/IT legal authorities relating to NSLs, and describes implementation procedures. - Advises of 2001 Patriot Act signing - States and explains new standard predication - Explains statutory delegation authority - includes redline version and clean version of 3 statutes governing NSLs (ECPA, RFPA, FCRA)
10-1-2003	EC: FO, CTD, CD	Guidance on preparation, approval and service of NSLs to obtain Credit Reports in IT cases pursuant to 15 U.S.C. § 1681v of FCRA. - Introduction to Procuring Credit Information - General Policy on the Use of NSL Authority - The Mechanics of Producing NSLs - NSL Preparation Assistance
3-4-2005 b6 b7C	Email to CDCs from [redacted]	Full credit reports in CI cases are available through grand jury subpoenas Followup to email sent 2-25-2005 which stated that full credit reports in FCI cases with no nexus to terrorism is inappropriate. No 1681v full credit report in a CI matter but can get a 1681u NSL for limited credit information.
5-27-2005	EC: All FO, CTD, CD, CYD	Guidance on change to NSLs to allow for a return date. Due to problems receiving information requested through NSLs in a less than timely fashion, OGC opines: - NSLs may contain a return date which info must be provided. - Date must be reasonable & not oppressive, but should also account for how quickly the info is needed. - Actual time allotted is an operational call. - Suggest date be stated in terms of time that has elapsed since the NSL was served upon the recipient. - Absent extraordinary circumstances, OGC suggests a recipient be given at least 10 business days to produce - Suggestion of where return date should be inserted until OGC model is updated.

6-29-2005	EC: All FO, CTD, CD, CYD (EC also sent via email to CDCs by [redacted] on 7/1/05)	Provides revised guidance on service of NSLs and the use of approved delivery services. In the past, OGC has opined that NSLs should be personally served or secure faxed to recipient, and responsive information personally delivered or secure faxed (extensive discussion on security issues in EC). Due to delays as a result of this policy, OGC revises restrictions on service as follows: - Use of controlled delivery services (such as USPS & FedEx) to serve NSLs upon recipients now allowed to designated person. - Use of controlled delivery services to return responsive information to FBI.. - Prohibition on use of non-secure fax to serve NSLs and return responsive information to FBI remains unchanged.
7-22-2005	Email to CDCs from [redacted]	Email sending out the new NSL narrative that would be placed on our website.
8-22-2005	Email to CDCs from [redacted]	Regarding need to have a lead to NSLB for us to report to congress; do not need to reference the 66 NSL file number anymore.
8-25-2005	EC: FO, Legats, CTD, CRIM, CYD, CTD	Emergency Disclosure Provision for information from Service providers under 18 U.S.C. § 2702(b). EC outlines emergency disclosure provision and provides a sample letter. Lays out approval requirements.
11-10-2005	Email to CDCs from [redacted]	Regarding standard that should be applied in getting NSLs - we generally cannot get second generation calls unless we know something about first generation calls.
11-22-2005	Email to CDCs from [redacted]	Improper NSL collection Provides stopgap measures on how to handle information on what to do if FBI obtains information improperly from issuance of an NSL, whether it be from FBI mistake or carrier mistake. - seal & sequester; remove any information uploaded into ACS.
2-17-2006	Email to CDCs from [redacted]	Advising CDCs not to hesitate in requiring more facts to support an NSL. EC forms on our website were changed to reflect that the agent had to give a full explanation of the investigation, not just a barebones explanation.

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3-9-2006	EC: All Divisions from the Director 3-9-2006 new Standard NSLs and ECS sent out via email to SACs & CDCs email sent to CDCs on 3-16-2006 advising them of new delegations under the new Patriot Act.	Inform of delegation of: signature authority for NSLs; non-disclosure certification authority; non-disclosure recertification authority. 2005 USAPA IRA enacted 3-9-06 provides for procedural changes in the issuance of NSLs: - FBI must certify that certain harm may come if the NSL recipient disclosed the request. - If NSL is challenged more than one year later, FBI must recertify that certain harm may come if NSL request disclosed. - Recipient of NSL can challenge receipt of NSL. - FBI has explicit enforcement authority and contempt penalties that attach to unlawful noncompliance with NSLs. EC includes director's delegations of authority to sign NSLs, make the initial non-disclosure certification and any necessary subsequent non-disclosure recertification.
3-16-2006	Email from [redacted]	Email requesting that 7 NSL forms be replaced on website.
3-20-2006	EC: FO, CTD, CD, CYD	Guidance on service of NSLs by fax, and follow-up EC on expansion of approved methods of delivering NSLs. Use of non-secure fax is now permissible by FBI in its service of an NSL upon the recipient. EC outlines conditions to do this. The same is not true of faxing of NSL return information.
3-21-2006	Email to CDCs from [redacted]	Classification guidelines regarding all NSLs. Generally all NSLs should be declassified automatically in 10 years.
4-5-2006	Email to CDCs from [redacted]	email on IOBs and issuance of NSLs
4-7-2006	Email to CDCs from [redacted]	Email stating current IOB policy, including with respect to receiving information pursuant to an NSL that was not sought by the NSL.
4-11-2006	EC: CTD, CD, CYD, FO email with EC sent 5-2-2006	FBI Policy re: reimbursement of costs to recipients of NSLs. Details requirements, or lack thereof, in the 4 statutes that provide for issuances of NSLs. Touches on current variations in cost reimbursement policies among field offices. Provides policy on reimbursement costs incurred by recipients of NSLs under ECPA, and FCRA §§ 1681v, 1681u.
4-14-2006	Email to CDCs from [redacted]	Email of an example of what needs to be in an EC for more accuracy in Congressional reporting.

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4-21-2006	Email to CDCs from [redacted]	Email sent out documenting a change in the standard attachment for telephone billing records so that it is clear what we consider "toll billing records;" so that we get additional relevant information; and to obviate some potential IOBs where we get additional account information we didn't ask for.
5-31-2006	Email to CDCs from [redacted]	In response to carriers giving us more than we asked for because of convenience, we changed the transaction record attachment sent with NSLs.
10-27-2006	Email from [redacted]	email to change narratives on website with respect to NSLs.
10-31-2006	Email to CDCs from [redacted]	Reiterating importance of including the following in NSL ECS: whether subject is USP or non-USP; and what kind of NSL is being issued. These details are important for Congressional reporting requirements.
11-16-2006	EC: All Divisions	Provides revised procedures on IOBs. Details potential IOBs involving NSLs and set forth procedures on sequestering overcollected material.
12-7-2006	Email to CDCs from [redacted]	OGC believes Congressional reporting requirements apply to the subject of the NSL even though it is unclear that NSL ECS have only been reporting the USP status of the target of the investigation.
12-8-2006	Email to CDCs from [redacted] on behalf of DGC Julie Thomas	FBI should not issue NSLs in cases involving leaks to the media..
1-3-2007	EC: FOs, CTD, CD, Cyber	NSL-derived information should be reviewed before being uploaded.
2-23-2007	EC: FOs, CTD, CD, Cyber	Provided guidance requiring NSL authorizing ECs to cite the investigative case file to which the request information relates.
3-1-2007	EC: All Divisions	Provided guidance on the appropriate use of 18 USC 2702 emergency disclosure provision. Required use of "exigent letters" to cease.
3-5-2007	Email to all CDCs from [redacted]	Informed CDCs of update to NSL website reflecting change to narrative on reporting requirements.
3-5-2007	[redacted] CD, Cyber	1681v NSLs cannot be obtained for counterintelligence investigations. EC required a review of NSLs to determine whether full credit reports were obtained through NSLs for counterintelligence investigations.
3-9-2007	EC: All Divisions from RMD	Interim guidance on the retention of NSLs.
3-19-2007	EC: All Field Offices	Requirement of a monthly count of NSLs by field office.

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3-21-2007	Email to all CDCs from [redacted]	Guidance on IOB Issues Relating to the Inspection Division's Audit.
3-28-2007	Email to all CDCs from [redacted]	Additional guidance related to IOB issues.
4-04-2007	EC: All field offices	Guidance on CDC handling of overcollected information in the context of an NSL.
4-13-2007	Email to all CDCs from [redacted]	Informed CDCs of changes to the NSL website regarding model cover ECs.

NATIONAL SECURITY LETTERS
TRAINING

What, if any, training is provided to FBI personnel regarding the legal constraints on their authority?

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Response:

- NSL requests must be reviewed for legal sufficiency. All NSLs and NSL cover ECs must be reviewed by CDCs/ADCs in the field or NSLB attorneys at FBIHQ.

- OGC also provides guidance in the form of ECs, checklists, and other documents that are easily accessible on their internal website from any investigator or analyst's desktop.

- Additional guidance has been issued to address issues raised by the Inspector General's report on the FBI's NSL usage. This new guidance:

  A. Prohibits the use of "exigent letters" and sets forth procedures for properly obtaining ECPA-protected information pursuant to the emergency disclosure provision of 18 U.S.C. § 2702.
  B. Prohibits issuance of NSLs solely from control files.
  C. Requires signed copies of NSLs to be retained.
  D. Sets forth procedures for sequestering overcollected material.
  E. Clarifies that full credit reports cannot be obtained through an NSL unless there is an International Terrorism nexus.

- At Quantico, all new agents receive training on NSLs during the National Security blocks of instruction. Although interspersed throughout, NSLs are primarily addressed during the instructional block on investigative techniques. This training includes a practical exercise in which students draft an NSL.

- Since publication of the IG's Report, National Security Law Branch attorneys are routinely conducting training at FBI field offices. The 90-minute NSL training module is presented as part of all training programs.

- NSLB conducts periodic training at FBIHQ. All HQ agents will receive NSL and FISA Accuracy training at one of four sessions scheduled for May 2007.

- Since 2003, NSLB has provided training for at least 1,986 FBI employees involved in NSL drafting and approval.

NSL REVIEW CHECKLIST

All NSLs must be drafted using the appropriate pony from the OGC/NSLB Website National Security Letters (CTRL + click to follow link for anything underlined)

Drafting the Cover EC

☐ Have you ensured you are using the most up to date pony? Periodically there are updates to the NSL ECs on the NSLB NSL website. You should draft your EC from the ponies on the website.

☐ Is your SAC available to approve the NSL? A/SACs do not have authority to sign NSLs. Arrangements can be made with SACs from other divisions to sign NSLs or you can send an EC to NSLB requesting that the NSL be drafted, reviewed, and approved.

☐ Is your CDC/ADC available to approve the NSL? There must be legal review of the NSL.

☐ Does your EC document the approval of the NSL by the proper individuals? (SSA, CDC, ASAC, SAC)

☐ Have you included the investigative case file number of the investigation (not a control file) related to the NSL? You should ensure the case was opened appropriately and is still open.

☐ Is the synopsis for the EC clear? It should be readily apparent from the synopsis that the EC pertains to an NSL request. Synopsis should read:

Synopsis: (U) Approves the issuance of a/an [cite statute] National Security Letter (NSL)for [insert type of records requested here]; provides reporting data; and, if necessary, transmits the NSL for delivery to [NSL recipient].

☐ Does the EC specify the type of NSL requested? Does the statute cited match the information sought?

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Telephone Subscriber- 18 USC §2709 (no content information)

Toll Record- 18 USC §2709 (no content information)

E-mail Subscriber- 18 USC §2709 (no content information)

Transactional Record- 18 USC §2709 (no content information)

RFPA- 12 USC §3414

List of Financial Institutions/ Consumer Identifying Information- FCRA 15 USC §1681(u)

Full Credit Report- FCRA 15 USC §1681(v) **(Only CT Cases)** - Remember, full credit reports sought pursuant to FCRA 1681v require must be related to international terrorism. CD investigations must have an international terrorism nexus in order for this type of NSL to be used.

☐ Is the EC classified properly in accordance with the case information contained therein?

☐ Is the NSL included as an enclosure to the EC?

☐ Does the cover EC document the predication for the NSL by clearly stating why the information sought is relevant to an authorized investigation and that the authorized investigation is still lawfully predicated?

☐ Is there a reporting paragraph stating the USP status of the subject of the investigation, as well as the USP status of the person about whom the NSL is seeking information?

☐ Does the reporting paragraph specify the number of phone numbers, email addresses, account numbers or individual records being requested by the NSL and break down the numbers by recipient?

☐ Does the EC provide a paragraph specifying the manner in which the NSL recipient should be instructed to return the information?

☐ Is the certification of the necessity for nondisclosure (when applicable) documented?

If a nondisclosure provision is sought (not required but used in the vast majority of cases), the EC must set forth a factual predicate to require such a provision. As a general matter, the certification must assert that disclosure may endanger national security, interfere with a criminal, counter terrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. A non-exhaustive list of reasons for non-disclosure is found on the OGC NSL website. (National Security Letters)

If Nondisclosure invoked, the EC should contain this language:

(U) In accordance with [cite to pertinent statute] I, the senior official approving this EC, certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counter terrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person.

(S) Brief statement of the facts justifying my certification in this case:

If Nondisclosure declined, the EC should contain this language:

(U) I, the senior official approving this EC, have determined that the facts of this case do not warrant activation of the nondisclosure requirements under the applicable National Security Letter statute.

☐ Does the EC state the dissemination rules with respect to the information received from the NSL?

☐ Does the document provide a lead to NSLB for reporting requirements?

Action lead should read: "(U) NSLB is requested to record the appropriate information needed to fulfill the Congressional reporting requirements for NSLs"

☐ Does the document provide a lead to CTD, CD or Cyber for informational purposes, and, in the case of personal service, to the requesting squad or delivering field division for delivery?

Drafting the NSL

☐ Have you ensured you are using the most up to date pony? Periodically there are updates to the NSLs on the NSLB NSL website. You must draft your NSL from the ponies on the NSLB website.

☐ Is the NSL addressed to a specific POC? (Contacts)

☐ Is the correct statute cited?

Telephone Subscriber- 18 USC §2709

Toll Record- 18 USC §2709

E-mail Subscriber- 18 USC §2709

Transactional Record- 18 USC §2709

RFPA- 12 USC §3414

List of Financial Institutions/ Consumer Identifying Information- FCRA 15 USC §1681(u)

Full Credit Report- FCRA 15 USC §1681(v) **(Only CT Cases)**

☐ Does the requested information match the statutory language and NOT include any extraneous requests?

☐ Does the information in the NSL match exactly the information in the EC?

☐ Is sufficient identifying information provided so that the company can process the request?

☐ If the NSL is for financial records, toll billing records, or ISP transactional records, does the NSL include an attachment suggesting the type of information that the recipient may consider to fall within the parameters of the request?

☐ Does the NSL have the proper certification language which matches that statute – must include fact that records sought are relevant to an authorized investigation of international terrorism or counterintelligence (except 1681v NSL should only reference international terrorism investigation).

Proper certification language by statute:

Certification language for 18 USC §2709- (telephone subscriber, toll record, e-mail subscriber, transactional record):

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.

Certification language for RFPA (12 USC §3414):

In accordance with Title 12, U.S.C. Section 3414(a)(5)(D), I certify that these records are sought for foreign counterintelligence investigation purposes 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.

In accordance with Title 12, U.S.C., Section 3403(b), I certify that the FBI has complied with all applicable provisions of the Right to Financial Privacy Act.

Certification language for FCRA 15 USC §1681u (a) or (b)

In accordance with Title 15, U.S.C., Section 1681u [(a) or (b)], I certify that such information is sought for the conduct of an authorized investigation to protect against 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.

Certification language for FCRA 15 USC §1681(v) (Full Credit Report- Only CT Cases)

In accordance with Title 15, U.S.C. § 1681v, I certify that the information sought is necessary to conduct an authorized investigation of, or intelligence or counterintelligence activities or analysis related to, international terrorism.

☐ Does the NSL have a nondisclosure provision? Is so, ensure the justification is in the EC.

If yes, these three paragraphs must be included:

In accordance with [cite to pertinent statute], I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, [cite pertinent statute] prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with [cite to pertinent statute], you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with [cite to pertinent statute], if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this request.

☐ Is the recipient informed that he/she must convey the nondisclosure requirement to those to whom he/she has disclosed the information, i.e., those with need to know, and that, if asked, he must inform the FBI of those names, excluding the name of an attorney to whom disclosure was made for the purpose of responding to the NSL?

☐ Does the NSL inform the recipient of his right to challenge the NSL?

In accordance with [cite to pertinent statute], you have a right to challenge this request if compliance would be unreasonable, oppressive, or otherwise unlawful and the right to challenge the nondisclosure requirement set forth above.

☐ Does the NSL inform the recipient of the right of the USG to enforce the NSL?

In accordance with [cite to pertinent statute], an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

☐ If the letter is an RRPA NSL for financial information, ensure language is included indicating the FBI is not requesting a SAR be filed (see NSLB NSL website for detailed language).

☐ Is the recipient notified that he may return the information to the FBI via Federal Express or personal delivery but not via regular mail? (EC dated 6/29/2005)

☐ Ensure that no classified information is contained in the NSL. NSLs are not classified.

☐ Ensure the SAC has signed the letter before delivery.

☐ Have you double-checked the information requested? Make sure names and numbers are typed correctly in the NSL. Typographical errors can result in the collection of information not relevant to a national security investigation. This is a potential IOB violation.

☐ You must document service of the NSL. This documentation should include the date of service, the type of service, and identify the person served.

☐ After the NSL is served, make sure to retain a copy of the signed NSL in the investigative file and upload the document under the appropriate NSL document type in ACS.

Receipt of NSL-Derived Information

☐ Is the company seeking to be compensated for providing the NSL-derived information? Is so, see EC dated 11 April 2006 (319X-HQ-A1487720-OGC, Serial 222) for guidance the FBI's policy on payment for NSL-derived information.

☐ Before entering the information received as a result of an NSL into any database, double-check to ensure the information received is relevant to your investigation and has not been an overcollection.

☐ If the information you received is not relevant to your investigation, contact your CDC or NSLB for advice on how to proceed with a potential IOB report. Your CDC will sequester the information and determine the next appropriate action.

Dissemination of NSL-Derived Information

☐ Dissemination of NSL information is limited by the dissemination provisions of the NSIG. In addition, EPCA and RFPA NSL-derived information can be disseminated to other agencies only when the information is clearly relevant to the responsibilities of the recipient agency. FCRA NSL-derived information is permitted to be disseminated to other federal agencies as may be necessary for the approval or conduct of an FCI investigation.

b6
b7C

MessageFrom: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 3:52 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-16-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-16-2032

Now that I've opened this can of worms:

First, I wasn't trying to accuse [redacted] of glibness. I was just trying to stiumlate some honest debate, discussion, etc.

I think [redacted] initial advice is pretty sound. And I like [redacted] notion

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[redacted]

Let me hasten to add that while I think [redacted] gut reaction was a good one, I also think the additional discussion has been healthy. I wish we had time to do more of it.

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:53 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

b6
b7C

SECRET
RECORD 66

[redacted]

b5

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:33 PM
To: [redacted] (OGC) (FBI)

b6
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b6
b7C

Cc: [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted]
(OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

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b7C

[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:22 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC)(FBI); [redacted] (OGC) (FBI) [redacted]
(OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

b5

[redacted]

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-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:07 PM
To: [redacted] (OGC) (FBI)

b6
b7C

Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted]
(OGC) (FBI); [redacted] (OGC) (OGA); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

b5

[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:00 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC)
(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (OGA); [redacted]
(OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI)
Subject: RE: Question . . .

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SECRET
RECORD 66

b5

[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 1:43 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted]
(OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
[redacted] (OGC) (FBI)
Subject: RE: Question . . .

b6
b7C

SECRET
RECORD 66

i agree with [redacted] therefore, it must be right!!!
-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 1:31 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

b6
b7C

SECRET
RECORD 66

b5 [redacted]

-----Original Message-----
From: [redacted] (OGC)(FBI)
Sent: Friday, August 19, 2005 1:28 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: Question . . .

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SECRET
RECORD 66

[redacted] called me w/ this question below. [redacted]

b5 [redacted]

SECRET

[redacted]

b6
b7C

-----Original Message-----
From: [redacted] (FBI)
Sent: Friday, August 19, 2005 1:17 PM
To: [redacted] (OGC)(FBI)
Cc: [redacted] (PH) (FBI)
Subject: Question . . .

SECRET
RECORD 66

(S)

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b5

[redacted]

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97,
Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97,
Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97,
Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1

SECRET

SECRET

SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
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SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

SECRET

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTO | CD | Volume 16

Federal Bureau of Investigation

SECRET

RE Question.txt

b6
b7C

MessageFrom: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:53 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

b5

[redacted]

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

b6
b7C

From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:33 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

b5

[redacted]

[redacted]

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

b6
b7C

From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:22 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

DATE: 06-15-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-15-2032
1073946

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

SECRET

SECRET
RECORD 66

b5 [redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:07 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

b5 [redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 2:00 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

b5 [redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 1:43 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (OGA); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);

[redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted]

b6
b7C

(OGC) (FBI)
Subject: RE: Question . . .

SECRET
RECORD 66

i agree with [redacted] therefore, it must be right!!!
-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, August 19, 2005 1:31 PM
To: [redacted] (OGC)(FBI); [redacted] (OGC) (OGA); [redacted]
(OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted]
[redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Question . . .

b6
b7C

SECRET
RECORD 66

b5

[redacted]

-----Original Message-----
From: [redacted] (OGC)(FBI)
Sent: Friday, August 19, 2005 1:28 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (OGA);
[redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)
(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted]
M. (OGC) (FBI)
Subject: FW: Question . . .

b6
b7C

SECRET
RECORD 66

[redacted]
[redacted] called me w/ this question below. [redacted]

b5
b7D

[redacted]

Any thoughts [redacted]

thanks,
[redacted]

b6
b7C

-----Original Message-----
From: [redacted] (FBI)
Sent: Friday, August 19, 2005 1:17 PM

RE Question.txt
To: [redacted] (OGC)(FBI)
Cc: [redacted] (FBI)
Subject: Question . . .

b6
b7C

SECRET
RECORD 66

(S) [redacted]
b1
b5

b6
b7C
b2

SSA [redacted]

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

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DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD | CD | Volume 17

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 43
Page 1 ~ Duplicate 2007 1681 u (a) and (b) ec
Page 2 ~ Duplicate
Page 3 ~ Duplicate
Page 4 ~ Duplicate
Page 5 ~ Duplicate
Page 6 ~ Duplicate 2007 1681 u (a) ec
Page 7 ~ Duplicate
Page 8 ~ Duplicate
Page 9 ~ Duplicate
Page 10 ~ Duplicate
Page 11 ~ Duplicate 2077 1681 u (b) ec
Page 12 ~ Duplicate
Page 13 ~ Duplicate
Page 14 ~ Duplicate
Page 15 ~ Duplicate
Page 16 ~ Duplicate 16811681 v ec full credit report
Page 17 ~ Duplicate
Page 18 ~ Duplicate
Page 19 ~ Duplicate
Page 20 ~ Duplicate
Page 42 ~ Duplicate E-mail subsriber ec
Page 43 ~ Duplicate
Page 44 ~ Duplicate
Page 45 ~ Duplicate
Page 46 ~ Duplicate
Page 68 ~ Duplicate RFPA ec I
Page 69 ~ Duplicate
Page 70 ~ Duplicate
Page 71 ~ Duplicate
Page 72 ~ Duplicate Telephone subscriber ec I
Page 73 ~ Duplicate
Page 74 ~ Duplicate
Page 75 ~ Duplicate
Page 76 ~ Duplicate
Page 77 ~ Duplicate Toll record ec I
Page 78 ~ Duplicate
Page 79 ~ Duplicate
Page 80 ~ Duplicate
Page 81 ~ Duplicate
Page 82 ~ Duplicate Trannsactional record ec I
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Page 84 ~ Duplicate
Page 85 ~ Duplicate

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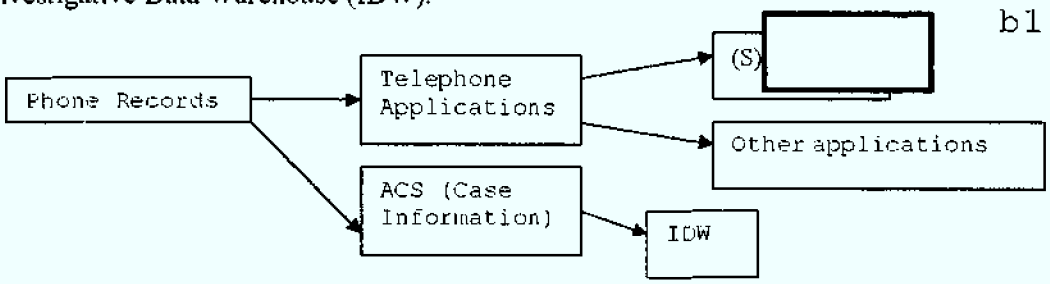
Typical NSL Retention and Database Use

Phone Records:

NSL toll billings records are typically uploaded into Telephone Applications (TA) after receipt. A subset of Counterterrorism information is uploaded into (S) [redacted] for analysis. The information can also be uploaded from TA to other applications (such as [redacted] for analysis. NSL-derived toll billings records are also placed in Automated Case Support (ACS) with case information. ACS information is uploaded into Investigative Data Warehouse (IDW).

(S) b1 b2

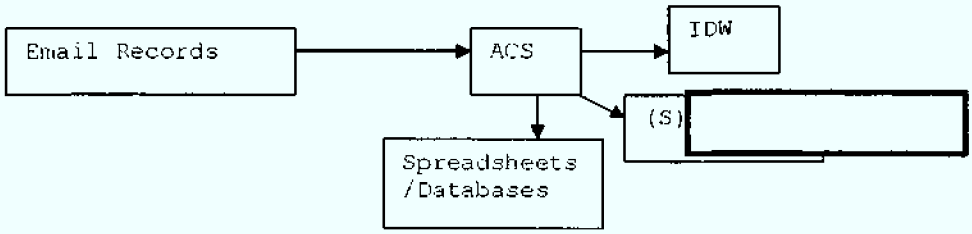


b1

Email Records:

NSL electronic transactional information is typically entered into ACS upon receipt. ACS information is uploaded into Investigative Data Warehouse (IDW). Counterterrorism email information can be manually entered into (S) [redacted] Email information may in some cases be entered into spreadsheets and other databases for analysis.

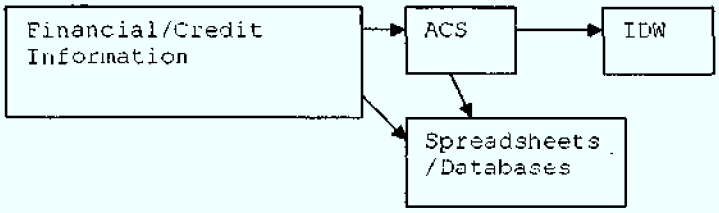
(S) b1



b1

Financial and Credit Information:

Financial and credit information is typically entered into ASC upon receipt. ACS information is uploaded into Investigative Data Warehouse (IDW). Financial and credit information may in some cases be entered into spreadsheets and other databases for analysis.



1073946

DATE: 06-15-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (g)
DECLASSIFY ON: 06-15-2032

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Effect of Closing a Case in ACS:
A case is closed when all investigative and legal activity has ceased. It is still as accessible as it was while it was opened. Documentation is placed in ACS to indicate that the case is closed. Action leads cannot be set from closed cases. Records are maintained according to the records disposition schedule for the particular file classification or the General Records Schedule. Criminal cases are kept for a minimum of 20 years and intelligence for 30 years before disposition.

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE **Date:** 03/02/2007

To: All Field Offices **Attn:** ADIC
SAC
CDC
FCI Supervisors

Counterintelligence **Attn:** AD Bereznay
DADs
Section Chiefs

From: National Security Branch
Contact: [redacted] 202-324-[redacted]

b6
b7C
b2

1073946

Approved By: Hulon Willie T

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

Drafted By: [redacted] bls

Case ID #: 319X-HQ-A1487720-OGC

Title: GUIDANCE ON USE OF FAIR CREDIT
REPORTING ACT NSLS IN COUNTERINTELLIGENCE INVESTIGATIONS;
REVIEW OF FAIR CREDIT REPORTING ACT
NSLS ISSUED IN CY 2006 IN
COUNTERINTELLIGENCE INVESTIGATIONS

Synopsis: Provides guidance on the statutory restrictions controlling the issuance of national security letters (NSLs) to obtain full credit reports in counterintelligence investigations. Directs Counterintelligence Division (CD) and Field Office personnel involved in counterintelligence investigations to review NSLs issued pursuant to the Fair Credit Reporting Act (FCRA) to determine if full credit reports were improperly requested or received; and to report the results of such review.

Details: The FCRA provides for the protection of personal information assembled by credit reporting agencies. Two provisions of the FCRA, 1681u and 1681v, authorize the FBI to obtain information from credit reporting agencies in the context of national security investigations. Section 1681u(a) authorizes the FBI to obtain the identity of all financial institutions at which the consumer maintains or has maintained an account; 1681u(b) authorizes the FBI to obtain consumer identifying information, that is, the name, address, former addresses, place of employment, and former places of employment of the consumer. This information can be obtained when "sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities."

Section 1681v of the FCRA was added by the 2001 USA PATRIOT Act. This section authorizes the FBI to obtain full consumer credit reports. However, NSLs can be issued pursuant to this section only to conduct investigations related to international terrorism. **The FBI may not use an NSL to obtain a full credit report in a counterintelligence investigations absent an international terrorism nexus.**

Nonetheless, it has come to the attention of the National Security Branch (NSB) that in some instances full credit reports for counterintelligence investigations unrelated to international terrorism have been obtained or requested under a FCRA Section 1681v NSL. The request or receipt of such information in this context violates FCRA statutory requirements.

Therefore, receiving offices are directed to review FCRA NSLs issued in CY 2006 in the context of a counterintelligence investigations unrelated to international terrorism in order to determine if any such NSLs requested full credit reports or resulted in the receipt of full credit reports. If such reports were requested or obtained, the incident should be reported to the National Security Law Branch (NSLB) as a potential Intelligence Oversight Board (IOB) violation (regardless of who was at fault). NSLB will determine whether in fact the incident should be reported to the IOB.

Further, if such information has been obtained improperly, the information should be sequestered with the Chief Division Counsel pending the issuance of the IOB opinion by NSLB. The EC that is issued by NSLB will provide guidance as to how the information is to be permanently handled. Most likely, NSLB will suggest that the information be returned to the credit reporting agency.

AN EC TO NSB AND NSLB DOCUMENTING THE RESULTS OF THIS SEARCH IS MANDATORY, EVEN IF THE SEARCH IS NEGATIVE. RESULTS OF THIS SEARCH SHOULD BE SENT WITHIN 30 DAYS FROM THE DATE OF THIS EC.

b6
b7C
b2

You may direct any questions concerning this matter to NSLB attorney [redacted] at 202-324-[redacted]

LEAD(s):

Set Lead 1: (Action)

ALL RECEIVING OFFICES

Receiving offices are directed to review FCRA NSLs issued in CY 2006 in the context of a counterintelligence investigation and determine if any such NSLs requested full credit reports or resulted in the receipt of full credit reports. If such reports were requested or obtained, the incident should be reported to NSLB as a potential IOB violation. Further, the results of such review must be reported by EC to NSB and NSLB within 30 days of the date of this EC.

♦♦

b6
b7C

From: [redacted] (OGC) (FBI)
Sent: Friday, March 02, 2007 5:30 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: Comprehensive EC and Issue List
SECRET
RECORD xxxx

All,
In case it comes up while I'm out, attached is the latest version of the Uber EC and the preliminary NSL issue list. The EC definitely needs to be tightened up and certain issues will need to be inserted once the shorter ECs go out. Hopefully that won't need to happen until I come back.

Comprehensive NSL EC.wpd (65 K...

National Security Letter Cheat...

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-08-2007

1073946

4-750 (Rev. 12-14-88)

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FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

14 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☒ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552		Section 552a
☒ (b)(1)	☐ (b)(7)(A)	☐ (d)(5)
☐ (b)(2)	☐ (b)(7)(B)	☐ (j)(2)
☐ (b)(3)	☐ (b)(7)(C)	☐ (k)(1)
_____	☐ (b)(7)(D)	☐ (k)(2)
_____	☐ (b)(7)(E)	☐ (k)(3)
_____	☐ (b)(7)(F)	☐ (k)(4)
☐ (b)(4)	☐ (b)(8)	☐ (k)(5)
☒ (b)(5)	☐ (b)(9)	☐ (k)(6)
☐ (b)(6)		☐ (k)(7)

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s): _____

☐ For your information: _____

☐ The following number is to be used for reference regarding these pages:

CTD. CD. Volume 17

XXXXXX
XXXXXX
XXXXXX

XXXXXXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXXXXXX

FBI/DOJ

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 20, 2007 9:50 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Document for DOJ/DNI NSL Retention Working Group

b6
b7C

~~**SECRET**~~
~~**RECORD xxxx**~~

All,
Pat Kelley and I are in a DOJ/DNI working group examining the FBI's retention of NSL-derived information. The group has asked that we provide a chart outlining how NSL-derived information is used and where it is stored. They also asked us for a description of what effect closing a case has on the accessibility of the case. Please take a look at the attached and let me know if you have any comments. If you would like to run this by operators, feel free. The group is composed of DOJ/DNI and other intelligence agencies, and is cleared at least to the Secret level.

If you have any comments, please get them to me by 2pm tomorrow.

Thanks,
[redacted]

b6
b7C

Retention Paper.doc (42 KB)

~~**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations**~~
~~**DECLASSIFICATION EXEMPTION 1**~~
~~**SECRET**~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-08-2007

From: [redacted] (OGC) (FBI)
Sent: Monday, March 05, 2007 4:21 PM
To: [redacted] OGC) (FBI)
Subject: FW: Telephone EC and NSL

b6
b7C

Importance: High
~~**SECRET//NOFORN**~~
~~**RECORD xxxx**~~

At the bottom is the banner we added on March 9 to assure that everyone knew the changes were effective immediatley

b6
b7C

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 15, 2006 9:33 AM
To: [redacted] OGC) (FBI)
Subject: Telephone EC and NSL
Importance: High

~~**SECRET//NOFORN**~~
~~**RECORD xxxx**~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-08-2007

1073946

b6
b7C
b2

[redacted]
Assistant General Counsel
National Security Law Policy and Training Unit
National Security Law Branch
Office of the General Counsel, FBI, JEH, Room 7947
[redacted]
Unclassified email: [redacted] gov
[redacted] gov
[redacted] gov

This is a Privileged Attorney-Client/Attorney Work Product Communication

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Thursday, March 09, 2006 3:20 PM
To: [redacted] (OGC) (FBI) [redacted] (ITOD)(CON)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] OGC) (FBI)
Subject: RE: URGENT OGC NSLB Revisions - New EC and NSL ponies and Banner for posting on OGC website
Importance: High

b6
b7C

~~**SECRET//NOFORN**~~
~~**RECORD xxxx**~~

[redacted] you have it correct

Attached are the two missing documents for links 1 and 2 (Telephone Subscriber EC and Telephone Subscriber NSL). I have also attached the EC just approved by the Director that delegates signature authorities for NSLs. There is no existing link for this document. Please add it to the other 16.

NSL delegation EC approved by ...

telephone ibscriber EC.wpd (1

telephone ibscriber NSL.wpd (.

Finally, please edit the banner for this folder to delete the last sentence: "NOTE: NEW NSLs SHOULD NOT BE APPROVED UNTIL THE DIRECTOR HAS DELEGATED THE SIGNING AUTHORITY." -- as that has now occurred in the document you are posting.

Thanks to you both for your WONDERFUL HELP on this on such short notice.

[redacted]

[redacted]
Assistant General Counsel
National Security Law Policy and Training Unit
National Security Law Branch
Office of the General Counsel, FBI, JEH, Room 7947
[redacted]
Unclassified email: [redacted] gov
[redacted] gov
[redacted] gov

b2
b6
b7C

This is a Privileged Attorney-Client/Attorney Work Product Communication

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Thursday, March 09, 2006 2:38 PM
To: [redacted] ITOD)(CON)
Cc: [redacted] (OGC) (FBI)
Subject: FW: URGENT OGC NSLB Revisions - New EC and NSL ponies and Banner for posting on OGC website
Importance: High

b6
b7C

~~**SECRET//NOFORN**~~
~~**RECORD xxxx**~~

b6
b7C

[redacted]

Thank you. This is my best interpretation of what NSLB needs.

First, please disable the links for the model EC and NSLs listed about three-fourths of the way down the National Security Letters webpage [redacted] DO NOT DELETE the files on your end as I don't know if NSLB will need them in the future.

b2

At the top and bottom of the NSL webpage please post the following notation - in bold/caps, etc.

The President will be signing the USA PATRIOT Improvement and Reauthorization Act at approximately 3 p.m.(EST) today, March 9, 2006. At that point, all NSLs

must comply with the new law. FBI OGC NSLB has posted new NSL forms on this website. The new law makes adjustments to the Director's delegation authority. Under the new law, FBI HQ Section Chiefs do not have the authority to approve NSLs. NOTE: NEW NSLs SHOULD NOT BE APPROVED UNTIL THE DIRECTOR HAS DELEGATED THE SIGNING AUTHORITY.

After that notation at the top of the page, please insert the following and link to the documents referenced below (feel free to modify the filenames as you deem appropriate in order to differentiate them from the existing filenames). These documents should all stay in the Word Perfect format as they are ponies/samples to be used by Field Office personnel.

Model ECs and NSLs (as at March 9, 2006)

1. Telephone Subscriber EC [link to follow by separate e-mail when received from NSLB]
2. Telephone Subscriber NSL [link to follow by separate e-mail when received from NSLB]
3. Toll Record EC [link to toll record EC 2006.03.09.wpd]
4. Toll Record NSL [link to toll record NSL 2006.03.09.wpd]
5. E-Mail Subscriber EC [link to email EC 2006.03.09.wpd]
6. E-Mail Subscriber NSL [link to email NSL 2006.03.09.wpd]
7. Transactional Record EC [link to transactional record EC 2006.03.09.wpd]
8. Transactional Record NSL [link to transactional record NSL 2006.03.09.wpd]
9. RFPA EC [link to RFPA EC 2006.03.09.wpd]
10. RFPA NSL [link to RFPA NSL 2006.03.09.wpd]
11. 1681u(a) EC [link to 1681u(a) EC 2006.03.09.wpd]
12. 1681u(a) NSL [link to 1681u(a) NSL 2006.03.09.wpd]
13. 1681u(b) EC [link to 1681u(b) EC 2006.03.09.wpd]
14. 1681u(b) NSL [link to 1681u(b) NSL 2006.03.09.wpd]
15. 1681v EC [link to 1681v EC 2006.03.09.wpd]
16. 1681v NSL [link to 1681v NSL 2006.03.09.wpd]

A thousand Thank Yous for your help with this. Please call if any of this is confusing.

b2
b6
b7C

[redacted] OGC
[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Thursday, March 09, 2006 1:03 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: New EC and NSL ponies and Banner for posting on OGC website

b6
b7C

Importance: High

~~**SECRET//NOFORN**~~
~~**RECORD xxxx**~~

H[redacted]

b6
b7C

We have 14 documents that need to be posted to our website this afternoon if at all possible. The President is signing the PATRIOT Act renewal at about 3:00 pm today and it changes the rules regarding NATIONAL SECURITY LETTERS. There are seven different types of NSLs. The attached documents are 7 ECs and the corresponding 7 NSL forms.

Please post them under the Banner below in the email from [redacted]

<< File: transactional record NSL 2006.03.09.wpd >> << File: 1681u(a) NSL 2006.03.09.wpd >> << File: 1681u(b) EC 2006.03.09.wpd >> << File: 1681u(b) NSL 2006.03.09.wpd >> << File: 1681v EC 2006.03.09.wpd >> << File: 1681v NSL 2006.03.09.wpd >> << File: email EC 2006.03.09.wpd >> << File: email NSL 2006.03.09.wpd >> << File: RFPA ec 2006.03.09.wpd >> << File: RFPA NSL 2006.03.09.wpd >> << File: toll record EC 2006.03.09.wpd >> << File: toll record NSL 2006.03.09.wpd >> << File: transactional record EC 2006.03.09.wpd >> << File: 1681u(a) EC 2006.03.09.wpd >>
Please let us know when they are available on the website.

Many thanks

b2
b6
b7C

[redacted]

[redacted]

Assistant General Counsel
National Security Law Policy and Training Unit
National Security Law Branch
Office of the General Counsel, FBI, JEH, Room 7947
[redacted]
Unclassified email: [redacted]gov
[redacted]gov
[redacted]gov

This is a Privileged Attorney-Client/Attorney Work Product Communication

-----Original Message-----
From: [redacted]OGC) (FBI)
Sent: Thursday, March 09, 2006 12:50 PM
To: [redacted](OGC) (FBI)
Cc: [redacted](OGC) (FBI) [redacted](OGC) (FBI) [redacted]OGC) (FBI); [redacted](OGC) (FBI)
Subject: Banner for webpage re new NSLs.

b6
b7C

~~**UNCLASSIFIED**~~
~~**NON-RECORD**~~

[redacted]

b6
b7C

The new NSL forms should be posted with this banner prominently displayed at the top and bottom of the page.

The President will be signing the USA PATRIOT Improvement and Reauthorization Act at approximately 3 p.m.(EST) today, March 9, 2006. At that point, all NSLs must comply with the new law. FBI OGC NSLB has posted new NSL forms on this website. The new law makes adjustments to the Director's delegation authority. Under the new law, FBI HQ Section Chiefs do not have the authority to approve NSLs. NOTE: NEW NSLs SHOULD NOT BE APPROVED UNTIL THE DIRECTOR HAS DELEGATED THE SIGNING AUTHORITY.

[redacted]
Assistant General Counsel
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: [redacted]
Unclassified Fax: [redacted]
Secure Fax:

b2
b6
b7C

Privileged Attorney-Client/Attorney Work Product Communication

UNCLASSIFIED

DERIVED FROM: Multiple Sources
DECLASSIFY ON: 20160309
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DERIVED FROM: Multiple Sources
DECLASSIFY ON: 20160309
SECRET//NOFORN

DERIVED FROM: Multiple Sources
DECLASSIFY ON: 20160309
SECRET//NOFORN

DERIVED FROM: Multiple Sources

DECLASSIFY ON: 20160309
SECRET//NOFORN

DERIVED FROM: Multiple Sources
DECLASSIFY ON: 20160309
SECRET//NOFORN

From: [redacted] (OGC) (FBI)
Sent: Monday, March 19, 2007 11:01 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Information for NSL Retention Group
SECRET
RECORD xxxx

b6
b7C

All,
Could you please take a quick look at the attached? The DOJ/DNI NSL Retention Working group has asked for a description and chart of NSL analysis/retention and a description of the effect of closing a case in ACS. Let me know if anything is wrong or missing. I will send this to UCs later today but wanted you to have a look first.

Thanks,
[redacted]

b6
b7C

Retention Paper.doc (41 KB)

~~**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations**~~
~~**DECLASSIFICATION EXEMPTION 1**~~
~~**SECRET**~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-08-2007

From: [redacted] OGC) (FBI)
Sent: Friday, March 02, 2007 5:41 PM
To: [redacted] (OGC) (FBI); [redacted] OGC) (FBI); [redacted] OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: Latest Version of ECs

b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

All,
Attached are the latest versions of the other ECs I've been working on, in case action is required while I'm out. You probably already have these, but I wanted to make sure. They are also in the NSLPTU Folder [redacted] EC Drafts. If you need to contact me, I will have my cell (703-635 [redacted]

Thanks,
[redacted]

b6
b7C
b2

CD - Full Credit EC.wpd (15 KB...
NSL Retention EC (with edits)....
NSL C of S.wpd (7 KB)

SENSITIVE BUT UNCLASSIFIED

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

4-750 (Rev. 12-14-88)

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2 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552		Section 552a
☐ (b)(1)	☐ (b)(7)(A)	☐ (d)(5)
☐ (b)(2)	☐ (b)(7)(B)	☐ (j)(2)
☐ (b)(3)	☐ (b)(7)(C)	☐ (k)(1)
_____	☐ (b)(7)(D)	☐ (k)(2)
_____	☐ (b)(7)(E)	☐ (k)(3)
_____	☐ (b)(7)(F)	☐ (k)(4)
☐ (b)(4)	☐ (b)(8)	☐ (k)(5)
☒ (b)(5)	☐ (b)(9)	☐ (k)(6)
☐ (b)(6)		☐ (k)(7)

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s): _____

☐ For your information: _____

☐ The following number is to be used for reference regarding these pages:

CTD - CD - Volume 17 PAGES

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X NO DUPLICATION FEE X
X FOR THIS PAGE X
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FBI/DOJ

CERTIFICATE OF SERVICE OF A NATIONAL SECURITY LETTER

Personal Service
Date, Time, and Place of Service _____
NSL Custodian of Record (including business name)_____
NSL Recipient (if different from above)_____
Served by_____
Serving Office_____
Originating Office (if different)_____
Type of NSL Request (cite statute used)_____

Delivery Service (attach return receipt)
Date, Time, and Place of Pickup_____
Date, Time, and Place of Delivery_____
NSL Custodian of Record (including business name)_____
Name and Type of Delivery Service (overnight, two day, etc)_____
Served by_____
Serving Office_____
Type of NSL Request (cite statute used)_____

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DATE 06-08-2007 BY 65179/DMH/KSR/RW

Fax (attach fax cover letter and return receipt)
Date, Time, and Place of Fax_____
Recipient of Fax_____
NSL Custodian of Record (including business name)_____
Type of NSL Request (cite statute used)_____
Serving Office_____

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Certificate of Service of a National Security Letter is true and correct.

Executed on _____ By: _____
Date Signature of Server

Inquiries Regarding Production May Be Directed to:

[Name], Special Agent
Federal Bureau of Investigation
[Name of] Field Office
[Telephone number]

From: [redacted] (OGC) (FBI)
Sent: Monday, March 12, 2007 3:05 PM
To: [redacted] (INSD) (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: NSL Checklist for INSD

b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted]

Attached is the checklist we discussed. As I said, it has not been approved by the General Counsel. I will go about putting together another checklist to meet your needs but any input on what you are looking for would be appreciated.

b6
b7C

Thanks,
[redacted]

NSL REVIEW
HECKLIST.doc (74 K

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HEREIN IS UNCLASSIFIED
DATE 06-08-2007 BY 65179/DMH/KSR/PW

4-750 (Rev. 12-14-88)

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FEDERAL BUREAU OF INVESTIGATION
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7 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552		Section 552a
☐ (b)(1)	☐ (b)(7)(A)	☐ (d)(5)
☐ (b)(2)	☐ (b)(7)(B)	☐ (j)(2)
☐ (b)(3)	☐ (b)(7)(C)	☐ (k)(1)
_____	☐ (b)(7)(D)	☐ (k)(2)
_____	☐ (b)(7)(E)	☐ (k)(3)
_____	☐ (b)(7)(F)	☐ (k)(4)
☐ (b)(4)	☐ (b)(8)	☐ (k)(5)
☒ (b)(5)	☐ (b)(9)	☐ (k)(6)
☐ (b)(6)		☐ (k)(7)

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s): _____

☐ For your information: _____

☐ The following number is to be used for reference regarding these pages:

CTD - CD - Volume 17 pages

XXXXXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

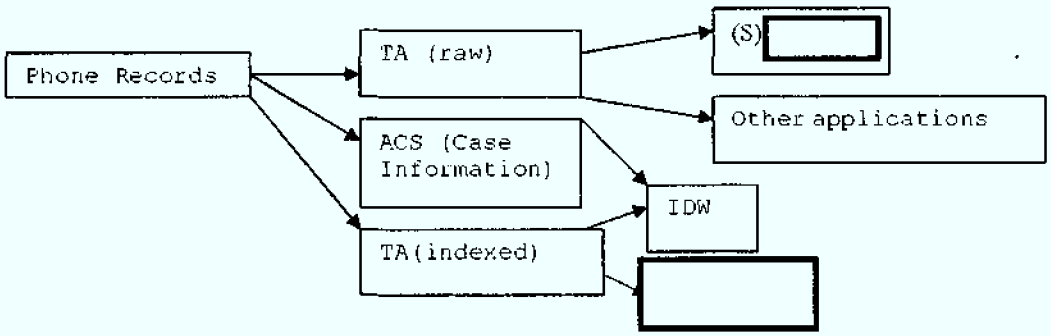
FBI/DOJ

Typical NSL Retention and Database Use

Phone Records:

(S) NSL toll billings records are typically uploaded into Telephone Applications (TA) after receipt. Most information in TA is uploaded into FBI [redacted] for analysis. TA is shared in two forms: a "raw" version that contains individual phone call events, and an "indexed" version that does not contain individual phone call events. Most indexed TA information is a dataset of IDW and FTTTF. The information can also be uploaded from TA to other applications (such as [redacted] for analysis. NSL-derived information is also placed in Automated Case Support (ACS) with case information. With the exception of designated restricted case files, most ACS information is available as a dataset in Investigative Data Warehouse (IDW).

(S) b1 b2

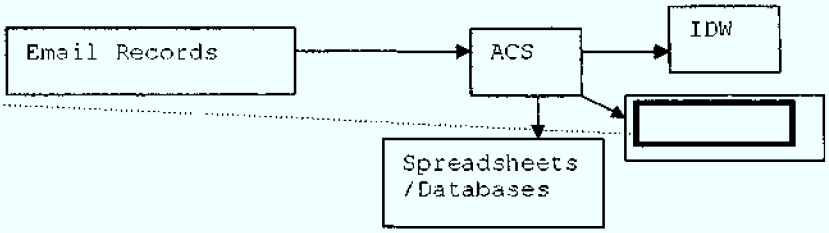


b1

Email Records:

(S) NSL electronic transactional information is typically entered into ACS upon receipt. With the exception of designated restricted case files, most ACS information is available as a dataset in IDW. Counterterrorism email information can be manually entered into FBI [redacted] Email information may in some cases be entered into spreadsheets and other databases for analysis.

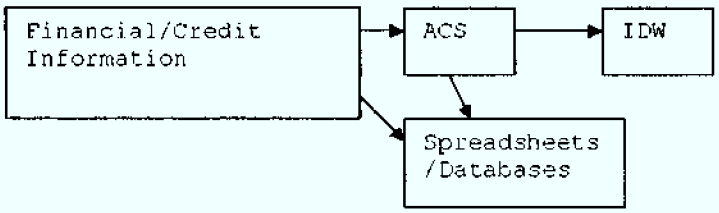
(S) b1



(S) b1

Financial and Credit Information:

(U) Financial and credit information is typically entered into ASC upon receipt. ACS information is uploaded into Investigative Data Warehouse (IDW). Financial and credit information may in some cases be entered into spreadsheets and other databases for analysis.



DATE: 06-15-2007
CLASSIFIED BY 675179/DMH/KSR/RW
REASON: 1.4 (g)
DECLASSIFY ON: 06-15-2032

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Effect of Closing a Case in ACS:
(U) A case is closed when all investigative and legal activity has ceased. The closed case is as accessible as it was while it was opened. Documentation is placed in ACS to indicate that the case is closed. Action leads cannot be set from closed cases. Records in ACS are maintained according to the records disposition schedule for the particular file classification or the General Records Schedule. Criminal cases are kept for a minimum of 20 years and intelligence for 30 years before disposition. Retention can be extended if one of various exceptions apply.

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTO|CO| volume 18

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD | CD | Volume 20

Federal Bureau of Investigation

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 15, 2007 8:24 AM
To: HQ-Div09-NSLB
Subject: FW: Audit of NSL

UNCLASSIFIED
NON-RECORD

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DATE 06-06-2007 BY 65179/DMH/KSR/RW

1073946

Please let [redacted] know if you are available for a quick trip next week to destinations unknown. We need to have a roster put together of available people by COB today.

Thanks.

-----Original Message-----
From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Wednesday, March 14, 2007 5:49 PM
To: HQ-Div09-NSLB
Cc: KAISER, KENNETH W. (INSD) (FBI); [redacted] (INSD) (FBI)
Subject: Audit of NSL

UNCLASSIFIED
NON-RECORD

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As some of you may have heard, the Director has ordered a special inspection of all field offices' use of NSLs. Inspectors are hitting the field offices on Friday and will work through the weekend sampling files that are known to have NSLs and those that are not known to have NSLs. We need a lawyer or 2 to be on call for any questions that might arise. [redacted] can you get those names to [redacted]?

Also, there is some likelihood that DoJ will want to send NSD lawyers out to at least a few of the field offices next week to observe the process. If that happens, I would like to pair an OGC attorney with each NSD attorney. So, we may need a few people to take trips next week. I will know more on Friday.

Thanks,

VC

UNCLASSIFIED

UNCLASSIFIED

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b7C

From: [redacted] (OGC) (FBI)
Sent: Sunday, March 18, 2007 11:28 AM
To: HQ-Div09-NSLB
Subject: Inspection Division's Special NSL Audit
UNCLASSIFIED
NON-RECORD

Many of you are already aware but beginning last Friday and continuing this week, the Inspection Division is conducting a Special NSL Audit in all 56 field offices. Over the weekend [redacted] were on call to take questions from the auditors regarding NSLs. They were busy and we should expect a lot of question this week. Additionally, the AG has directed that NSD attorneys -from OIPR specifically- attend certain of these audits to serve as "observers." Ms. Caproni has directed that NSLB also have an attorney in attendance with OIPR. Currently six offices are scheduled to be visited by NSD/OIPR. They are:

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Monday:

b2
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b7C

[redacted] OGC atty [redacted]
[redacted] OGC atty [redacted]

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DATE 06-06-2007 BY 65179/DMH/KSR/RW

Tuesday:

[redacted] OGC atty [redacted]
[redacted] OGC atty [redacted]

Wed or Thurs:

[redacted] OGC atty [redacted]
[redacted] TO BE DESIGNATED

For your info, I have attached the scope of the audit as stated by Inspection Division.

Director Mueller has mandated that a National Security Letter (NSL) Audit be conducted within all 56 field offices beginning Friday, March 16, 2007. The audit will take approximately one week to complete in each office.

Each ADIC/SAC is immediately requested to identify the names of AIIPs who currently are involved in the inspection process or who may have already been certified. At a minimum, small field offices are requested to identify two AIIPs, medium sized field offices three AIIPs, and larger field offices at least seven AIIPs

who can travel to another field office on Friday, March 16, 2007, to conduct the audit. The names of these individuals should be provided to Inspector [redacted] by close of business Tuesday, March 13, 2007.

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Additionally, each ADIC/SAC should prepare for a team to arrive in his/her office on Friday, March 16th, to begin the audit. Upon notification of the number of personnel assigned to each team, field offices should ensure hotel rooms are reserved for personnel, office space and supplies are available, and all files containing NSLs are available review. ADICs/SACs are also requested to identify their CDC as the point of contact for the Inspection Division Team Leader.

UNCLASSIFIED

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b7C

From: [redacted] OGC) (FBI)
Sent: Wednesday, March 14, 2007 3:13 PM
To: HQ-Div09-NSLB
Subject: Valerie Caproni tasking

Importance: High

UNCLASSIFIED
NON-RECORD

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If you worked one of the 22 NSL related IOB's, Valerie has requested that we had 3 points of consideration to our chart. Specifically, Valerie wants to know: 1. did the CDC/ADC review the NSL/NSL-EC; 2. under the existing guidance controlling at the time, should the matter have been reported to OGC as a potential IOB; and 3. in the final analysis, is the matter reportable to the IOB. The chart has been augmented and is saved now as a Word document on the s drive, OGC, units, CILU as "Valerie's chart." Please augment the chart as soon as possible as Valerie needs this to prepare for her testimony.

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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD | CD | volume 21

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
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#07-168: 03-20-07 Fact Sheet: Department Of Justice Corrective Actions on the FBI's Use of National Security Letters

FOR IMMEDIATE RELEASE
TUESDAY, MARCH 20, 2007
WWW.USDOJ.GOVNSD
(202) 514-2007
TDD (202) 514-1888

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DATE 06-08-2007 BY 65179 DMH/KSR/JW

1073946

Fact Sheet:
Department Of Justice Corrective Actions
on the FBI's Use of National Security Letters

WASHINGTON - Nearly two weeks ago, the Attorney General commended the work of the Inspector General in uncovering serious problems in the FBI's use of National Security Letters (NSLs). The Attorney General and the Director of the FBI agreed that that such mistakes would not be tolerated, and the Attorney General ordered the FBI and the Justice Department to put in place safeguards to ensure greater oversight and controls over the use of NSLs.

Since that time, the FBI and Justice Department have moved expeditiously to implement the recommendations of the Inspector General's report and to create additional safeguards to ensure that NSLs are used properly. Below are some of the actions that the FBI and Justice Department have taken to date and will be taking in the near future to address these shortcomings:

New Oversight and Auditing of the FBI's Use of NSLs

*Initial Audit - Last Friday, the FBI's Inspection Division launched a retrospective audit of the use of NSLs in all 56 FBI field offices nationwide. The FBI consulted with and received input from the Justice Department's National Security Division (NSD) and the Department's Chief Privacy and Civil Liberties Officer (CPCLO) in developing its plan for the audit, which is based upon the Inspector General's methodology for identifying potential Intelligence Oversight Board (IOB) violations. While this audit is being led by the FBI's Inspection Division, the Justice Department's NSD and CPCLO are also participating in the audits at various FBI field offices.

*Regular Audits Going Forward - Starting next month, the Justice Department's NSD, in conjunction with the CPCLO, the FBI's Inspection Division and the FBI's Office of General Counsel, will begin conducting comprehensive reviews of the use of NSLs at FBI headquarters and in field offices around the country. It is expected that the findings of the FBI's initial audit will inform the process of these ongoing reviews. This is a new level of oversight by Department of Justice lawyers with years of experience in intelligence and law enforcement.

Prohibition on the Use of "Exigent" Letters

*On March 5, 2007, the FBI issued a Bureau-wide directive prohibiting the use of the exigent letters described in the Inspector General's report. All FBI field offices have been asked to identify any use in their office of an exigent letter or anything akin to an exigent letter.

*The FBI Director in February 2007 ordered an expedited review by the Inspection Division of the unit that issued the exigent letters described in the Inspector General's report, for the purpose of determining management accountability.

*The NSL audits described above will also include a review of whether exigent letters described in the Inspector General's report were issued in other FBI field offices.

*The Associate Deputy Attorney General and the Justice Department's Office of Professional Responsibility are also examining the role FBI officials played in the use of NSLs and exigent letters.

New Oversight of FBI-Reported IOB Violations

*The Justice Department's NSD will now review all Intelligence Oversight Board (IOB) violations that the FBI reports to the IOB. When reviewing these IOB

referrals from the FBI, the NSD will promptly notify the Attorney General if it appears that the incident suggests the need for a change in policy, training or oversight mechanisms. The NSD will also report to the CPCLO any IOBs that raise serious civil rights or privacy issues. *The NSD will also report to the Attorney General every six months on all IOB referrals reported by the FBI during the preceding six-month period. This mechanism will help identify trends and potential future problems.

New Measures to Address NSL Tracking

*In early 2006, the FBI began developing a new NSL tracking database. The Web-based system will be piloted in the FBI's Washington Field Office in the summer of 2007 and will be deployed to four large field offices in late 2007. The new system will include a field that will identify whether the NSL recipient complied with the request and will possibly allow for entry of notes or comments on the response.

*Until the new system is deployed, FBI field offices will report monthly on NSLs that have been issued. The FBI Office of General Counsel will ensure that the NSLs comply with applicable statutes, guidelines, and policies.

*To obtain a better accounting of past use of NSLs and correct inaccuracies in past Congressional reports, the FBI Director has ordered an intensive process to query other computer systems to locate files where NSLs may have been issued but not reported to FBI Office of General Counsel for inclusion in its tracking database. In addition, the FBI Office of General Counsel is correcting any data entry errors in the existing database. The Attorney General has also mandated that the Justice Department's NSD and CPCLO advise him on additional steps that should be taken to correct the inaccurate numbers reported to Congress.

*On March 5, 2007, the FBI issued a new policy requiring the retention of copies of signed NSLs.

New Training and Guidance on NSLs

*The FBI will re-issue comprehensive guidelines throughout the Bureau concerning the proper use of NSLs. The FBI Office of General Counsel will evaluate existing guidance and make necessary revisions in consultation with the Department of Justice's National Security Division.

*The FBI has begun developing a new training course on the proper use of NSLs that will be available to FBI personnel through the Internet. After the course development is complete, the FBI will issue a directive mandating training for all Special Agents-in-Charge, Assistant Special Agents-in-Charge, as well as all appropriate FBI agents and analysts.

*In the meantime, the FBI has ordered that anytime an FBI Office of General Counsel attorney is traveling in the field for any reason, the attorney must schedule mandatory NSL training. The FBI will consider whether additional training on NSLs for new agents is needed.

*The Justice Department's Executive Office of U.S. Attorneys will review its existing training materials and guidance for terrorism investigations and prosecutions to ensure that NSLs are properly described in such materials.

New Oversight of the Use and Retention of NSL-Derived Information

*A working group co-chaired by the Office of the Director of National Intelligence and the Justice Department's CPCLO has been convened to examine how NSL-derived information is used and retained by the FBI. The FBI's Privacy Officer as well as a representative from the Justice Department's NSD will be represented on this working group. The working group will examine how the NSL records are stored and disseminated and determine the retention practices of other agencies with NSL authorities.

Review of Role of FBI's Division Counsel

*The Justice Department's NSD and the FBI have begun examining whether the FBI's organizational structure should be changed to have FBI's Division Counsel in field offices report to the FBI's Office of General Counsel in Headquarters rather than to field office Special-Agents-in-Charge.

Proposed Legislation

*The Inspector General recommended in its report that the term "toll billing records information" in the Electronic Communications Privacy Act NSL statute be clarified. The Justice Department and FBI are developing a proposal to address this concern.

Future Oversight

*The Attorney General has asked the Inspector General to report to him in four months on the FBI's implementation of the recommendations contained in the Inspector General report.

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07-168

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DATE 06-08-2007 BY 65179 DMH/KSR/JW

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 21, 2007 12:04 PM
To: [redacted] (OGC) (FBI); [redacted] (FBI);
[redacted] (FBI); [redacted] (FBI);
(FBI); [redacted] (PH) (FBI);
[redacted] (FBI); [redacted] (FBI);
[redacted] (FBI); [redacted] (FBI); [redacted]
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(OGC) (FBI); [redacted] FBI); [redacted]
[redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

Subject: DOJ Fact Sheet RE NSL corrective actions
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DATE 06-08-2007 BY 65179 DMH/KSR/JW

From: [redacted] (OGC) (FBI)
Sent: Wednesday, August 16, 2006 4:52 PM
To: CAPRONI, VALERIE E. (OGC) (FBI); LAMMERT, ELAINE N. (OGC) (FBI)

[redacted]

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b7C

OGC) (FBI)

Subject: DOJ Guidance RE National Security Letters
SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Ladies and Gentlemen,

Attached is a recent DOJ Monograph titled, **Guidance on the Use of National Security Letters to Obtain Certain Information Relevant to an FBI National Security Investigation (June 2006).**

As soon as the next CD for DOJ USABOOK comes out, this will be added to the OGC Law Library webpage.

nslm.wpd (358 KB)

Please forward to appropriate personnel.

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DATE 06-08-2007 BY 65179 DMH/KSR/JW

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 14, 2007 5:40 PM
To: KELLEY, PATRICK W. (OGC) (FBI) [redacted] (OGC) (FBI);

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Subject: DOJ IG Reports
UNCLASSIFIED
NON-RECORD

CDCs/ADCs:

Please note that the DOJ IG Reports RE "National Security Letters" and "Section 215 Orders for Business Records" are now available on the OGC Main Law Library website http://30.30.204.57/libraries/doj_ig_reports/

I believe DGC Elaine Lammert has already sent you an e-mail RE the IG report on NSLs.

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DATE 06-08-2007 BY 65179 DMH/KSR/JW

From: [redacted] (OGC) (FBI)
Sent: Tuesday, December 06, 2005 4:00 PM
To: CAPRONI, VALERIE E. (OGC) (FBI); STEELE, CHARLES M. (DO) (FBI); WEISSMANN, ANDREW (DO) (OGA); WILLIAMS, JEFFERY A. (OGC) (FBI); BOWMAN, MARION E. (OI) (FBI) [redacted]

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Subject: DOJ's response to Congress re Washington Post article on NSLs
UNCLASSIFIED
NON-RECORD

Attached is the letter from William Moschella, AAG at DOJ, to the House and Senate Judiciary Committees, re the *Washington Post* article from last monthre NSLs (which I previously sent all of you).

NSL_rebuttal_letter .pdf (529 K...

UNCLASSIFIED

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 13, 2007 4:02 PM
To: [redacted] (OGC) (FBI); CAPRONI, VALERIE E. (OGC) (FBI);

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Subject: IG report
UNCLASSIFIED
NON-RECORD

[redacted]

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The OIG Report RE NSLs is now on the Main Law Library website under the DOJ IG REPORTS Category http://30.30.204.57/libraries/doj_documents/ig_national_security_letters.pdf ********Note that because this is such a large document, it may take a minute or two for some folks to open**********

[redacted] will post the IG Report RE section 215 of the PATRIOT Act tomorrow.

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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD|CD| volume 22

Federal Bureau of Investigation

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From: [redacted] FBI)
Sent: Wednesday, March 28, 2007 2:12 PM
To: [redacted] (OGC) (FBI); HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI)
Subject: RE: Further Guidance Relating to IOB Issues

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~~RECORD IOB~~

[redacted] Thanks for your helpful FAQs. Just a few comments in regard to Numbers 7 and 11.

In regard to [redacted]

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b5
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In regard to [redacted]

[redacted]

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 06-08-2007

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CDC [redacted]

[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 28, 2007 11:40 AM
To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI)
Subject: Further Guidance Relating to IOB Issues

~~SECRET~~
~~RECORD IOB~~

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD/CD/Volume 23

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
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Page 9 ~ Duplicate
Page 11 ~ Duplicate 3/19/07 letter

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JOHN CONYERS, JR., Michigan
CHAIRMAN

LAMAR S. SMITH, Texas
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515–6216
One Hundred Tenth Congress

March 20, 2007

Ms. Valerie Caproni
General Counsel
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-09-2007 BY 65179 DMH/KSR/JW

Dear Ms. Caproni:

As part of our oversight regarding the Inspector General's Review of the F.B.I.'s Use of National Security Letters, please provide us with the following information (by close of business on April 4 if possible):

1) copies of all e-mails, memoranda, and other documents that relate to the F.B.I.'s use of "exigent letters," as well as transcripts of your interviews conducted on the issue.

2) please identify all of the F.B.I. personnel who participated in the creation and issuance of the "exigent letters."

3) copies of all documents, including internal memoranda, pertaining to the F.B.I.'s Communications Analysis Unit's contracts with the three telephone companies identified in the Inspector General's Report, and identify all F.B.I. attorneys who participated in the review and approval of those contracts.

4) copies of all documents pertaining to the information that the F.B.I. acquired through the use of National Security Letters (NSLs) pertaining to individuals who the F.B.I. concluded were irrelevant to terrorism investigations.

5) copies of all documents pertaining to the F.B.I.'s standards regarding the maintenance of the Office of General Counsel's National Security Letter database.

6) please detail the internal F.B.I. standards for the reporting of possible Intelligence Oversight Board violations, and provide any documents related thereto.

7) please identify F.B.I. standards pertaining to the review of investigative files to ensure that supervisory review of National Security Letter approval memoranda has occurred, and that the relevant authorizing statutes are in the NSLs.

8) copies of all internal communications relating to the F.B.I.'s use of Certificate Letters to obtain financial records from the Federal Reserve Bank.

9) please detail the F.B.I.'s reasons for the retention of data pertaining to individuals who the F.B.I. has concluded are irrelevant to terrorism investigations.

10) please explain why the F.B.I. had no policy or directive requiring the retention of signed copies of NSLs, or any requirement to upload NSLs in the F.B.I.'s case management system. Provide any documents relating to any decisions pertaining to this issue.

11) please detail why the F.B.I. does not have a uniform system for tracking responses to NSLs, either manually or electronically. Provide any documents relating to any decisions pertaining to this issue.

12) please detail why the F.B.I.'s database was unable to filter NSL requests for the same person in the same investigation.

13) please explain why the F.B.I. does not maintain records on NSL usefulness in criminal investigations and prosecutions.

Sincerely,

John Conyers, Jr.
Chairman

cc: Hon. Lamar S. Smith

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Saturday, March 24, 2007 1:44 PM
To: HQ-Div09-NSLB
Subject: FW: Congressional Request for Documents relating to OIG Review of NSLs / CAU Use of Exigent Letters

UNCLASSIFIED
NON-RECORD

Please read and begin gathering all email and other memoranda with respect to the exigent letter issue.

Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
202-324[redacted]
b2 *202-324[redacted] (fax)*
[redacted]

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DATE 06-11-2007 BY 65179 DMH/KSR/JW

-----Original Message-----
From: CAPRONI, VALERIE E. (OGC) (FBI)
Sent: Saturday, March 24, 2007 11:11 AM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: FW: Congressional Request for Documents relating to OIG Review of NSLs / CAU Use of Exigent Letters

UNCLASSIFIED
NON-RECORD

Please have people gather all their email and documents relative to the exigent letter issue. Please interpret that broadly so all the recent email traffic on the spring audit, etc. should ba included.

-----Original Message-----
b6 **From:** BEERS, ELIZABETH RAE (OCA) (FBI)
b7C **Sent:** Friday, March 23, 2007 12:46 PM
To: [redacted] (INSD) (FBI); [redacted] (INSD) (FBI); [redacted] (INSD) (FBI)
Cc: HARDY, DAVID (RMD) (FBI); [redacted] (OGC) (FBI); CAPRONI, VALERIE E. (OGC) (FBI); KALISCH, ELENI P. (OCA) (FBI); [redacted] (OCA) (FBI)
Subject: Congressional Request for Documents relating to OIG Review of NSLs / CAU Use of Exigent Letters

UNCLASSIFIED
NON-RECORD

Following up on our conversations, we have two congressional oversight requests for copies of documents relating to issues raised in the OIG audits on FSLs. Specifically, the **Senate Judiciary Committee** requests copies of any and all unclassified e-mails related to the exigent letters issued by CAU and **House Judiciary Committee** requests copies of all e-mails, memoranda, and other documents that relate to the F.B.I. use of exigent letters and copies of all documents, including internal memoranda, pertaining to the FBI CAU's contracts with the three telephone companies identified in the Inspector General's Report.

b6
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Based on my conversation with [redacted], I understand that documents that may be responsive to these requests were provided to the OIG by INSD and that INSD can provide copies of this production to OCA. To the extent that there are documents responsive to the congressional request that were not produced to the OIG, [redacted] advised that the material will be gathered in connection with the anticipated CAU inspection and a set of the gathered material provided to OCA.

I've also cc'd Dave Hardy and [redacted] to this email as there is a pending FOIA request that overlaps with the requests made by congressional oversight committees. If material is gathered in connection with the FOIA request that would be responsive to the congressional requests, please provide OCA with a copies of these documents.

Finally, I've attached an email from [redacted] in ITOD responding to our query concerning the ability to pull backups of email. She identified individuals in ITOD who can assist in gathering emails that people still have. That info is offered to assist INSD, if appropriate, for the upcoming CAU inspection.

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Welcome further discussion and appreciate your assistance. Thanks,

Beth Beers
Office of Congressional Affairs
202-324[redacted]

RE: E-Mails

Conyers incoming re NSLs.pdf (...

Grassley request for CAU email...

UNCLASSIFIED

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EXEC Sec

United States Senate

WASHINGTON, DC 20510

March 19, 2007

The Honorable Robert S. Mueller, III
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

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DATE 06-11-2007 BY 65179 DMH/KSR/JW

Dear Director Mueller:

I am writing today in response to the Justice Department Inspector General's March 9, 2007, report entitled "A Review of the Federal Bureau of Investigation's Use of National Security Letters" and in anticipation of the Inspector General's testimony next week before the Judiciary Committee. In my view, the most troubling section of the report begins on p. 86 and is entitled "Using 'Exigent Letters' rather than ECPA National Security Letters." That section describes how an FBI headquarters division known as the Communications Analysis Unit ("CAU") obtained information on about 3,000 telephone numbers by issuing 739 so-called "exigent letters."

In exercising our oversight responsibilities, it is critical for the Judiciary Committee to obtain a fuller understanding of who at the FBI knew what about these exigent letters, and when they knew it. Therefore, in order to prepare for next week's hearing, please provide copies of any and all unclassified e-mails related to the exigent letters issued by CAU.

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If you have any questions about this request, please contact [redacted] at (202) 224[redacted]. A copy of all correspondence in reply should be sent electronically in PDF format to [redacted] or via facsimile to (202[redacted]

Sincerely,

Charles E. Grassley
U.S. Senator

cc: Senator Patrick Leahy, Chairman
Committee on the Judiciary

Senator Arlen Specter, Ranking Member
Committee on the Judiciary

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Friday, March 09, 2007 8:59 AM
To: HQ-Div09-NSLB
Subject: FW: Key excerpts

UNCLASSIFIED
NON-RECORD

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Food for thought

Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
202-324-8528
202-324-1023 (fax)
Julie.Thomas@ic.fbi.gov

-----Original Message-----
From: MONACO, LISA (DO) (OGA)
Sent: Thursday, March 08, 2007 8:36 PM
To: PISTOLE, JOHN S. (DO) (FBI); CAPRONI, VALERIE E. (OGC) (FBI); MILLER, JOHN J. (OPA) (FBI); KORTAN, MICHAEL P. (OPA) (FBI); BEERS, ELIZABETH RAE (OCA) (FBI); KALISCH, ELENI P. (OCA) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: Key excerpts

UNCLASSIFIED
NON-RECORD

All -- attached is a document worked up by Val's folks with a few additions by me with key quotes

NSL quotes unclass report.wpd ...

from the report. The boss will have it in the a.m.

UNCLASSIFIED

UNCLASSIFIED

Key Excerpts from the Unclassified IG Report

The FBI self-identified the inaccurate reporting, and told Congress a year ago

(pg. xvii and 33) : In March 2006, the FBI acknowledged to the Attorney General and Congress that NSL data in the semiannual classified reports may not have been accurate and stated that the data entry delays affected an unspecified number of NSL requests. After the FBI became aware of these delays, it took steps to reduce the impact of the delays to negligible levels for the second half of CY 2005.

The IG Found No Criminal Misconduct

(pg. xxviii, fn.26) : In this report, we use the terms "improper or illegal use" as contained in the Patriot Reauthorization Act. As noted below, the improper or illegal uses of the national security letter authorities we found in our review did not involve criminal misconduct. However, as also noted below, the improper or illegal uses we found included serious misuses of national security letter authority.

No deliberate or intentional violations; but rather, good faith mistakes; confusion

(pg. xxx): Our examination of the 26 possible IOB violations reported to FBI OGC did not reveal deliberate or intentional violations of NSL statutes, the Attorney General Guidelines or internal FBI policy. Although the majority of the possible violations - 22 of 26 - arose from FBI errors, most of them occurred because of typographical errors or the case agent's good faith but erroneous belief that the information requested related to an investigative subject.

(pg. xxxiii:) Our review did not reveal intentional violations of national security letter authorities, the Attorney General Guidelines or internal FBI policy. Rather, we found confusion about the authorities available under the various NSL statutes.

IG found in most cases we sought information we were entitled to

(pg. xlviii and 124): Finally, in evaluating the FBI's use of national security letters, it is important to note the significant challenges the FBI was facing during the period covered by our review and the major organizational changes it was undergoing. Moreover, it is also important to recognize that in most cases the FBI was seeking to obtain information that it could have obtained properly if it had followed applicable statutes, guidelines, and internal policies. We also did not find any indication that the FBI's misuse of NSL authorities constituted criminal misconduct.

FBI seeking information to which it was entitled

(pg. 67): In evaluating this matters, it is important to recognize that in most cases, the FBI was seeking to obtain information that it could have obtained properly if it had followed applicable statutes, guidelines, and internal policies. We also did not find any indication that the FBI's misuse of NSL authorities constituted criminal misconduct.

Errors were not deliberate attempts to circumvent statutes

(pg. 77): While the errors resulted in the acquisition of information not relevant to an authorized investigation, they did not manifest deliberate attempts to circumvent statutory limitations or Departmental policies and appropriate remedial action was taken.

(pg. 103) (control file issue) We believe that the CAU officials and the EOPS Unit. Chief concluded in good faith that the FBI had sufficient predication either to connect these national security letters with existing investigations or to open new investigations in compliance with the Attorney General's NSI Guidelines.

FBI has now provided the needed guidance

(pg. 107): Overall, we believe that the FBI has now provided needed guidance and support to field personnel to facilitate production of approval documentation compliant with statutory requirements, Attorney General Guidelines and internal FBI policies. Nonetheless, we believe the FBI should improve its compliance with the internal controls governing its exercise of national security letter authorities...

(pg. 126) We believe that these recommendations, if fully implemented, can improve the accuracy of the reporting of the FBI's use of national security letters and ensure the FBI's compliance with the requirements governing their use.

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Wednesday, March 21, 2007 2:24 PM
To: HQ-Div09-NSLB
Subject: Please await an all CDC email
UNCLASSIFIED
NON-RECORD

We are getting a tremendous amount of questions from the CDCs reflecting confusion about the ongoing NSL audit in the field offices. I have met with Inspection Division and will shortly send out an all CDC email giving some additional guidance regarding the reporting of potential IOBs. Please wait to read that advice before answering questions that are not clearly set forth in the November 2006 external guidance.

Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
b2 *202-324*[redacted]
202-324[redacted]*(fax)*
[redacted]

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b6
b7C

From: [redacted] (ITOD) (FBI)
Sent: Thursday, March 22, 2007 7:45 AM
To: BEERS, ELIZABETH RAE (OCA) (FBI)
Cc: HARDY, DAVID (RMD) (FBI); [redacted] (ITOD) (FBI)
Subject: RE: E-Mails

UNCLASSIFIED
NON-RECORD

Beth,
Unfortunately, we only keep backups of emails for 90 days. There is no way that we can go back to this time period and search for emails. If there is a requirement to search on-line emails that people still have, the ESOC can assist in that. You can contact [redacted] Sorry we couldn't have helped out with this.

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[redacted]

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-----Original Message-----
From: BEERS, ELIZABETH RAE (OCA) (FBI)
Sent: Wednesday, March 21, 2007 5:26 PM
To: [redacted] (ITOD) (FBI)
Cc: HARDY, DAVID (RMD) (FBI)
Subject: FW: E-Mails

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UNCLASSIFIED
NON-RECORD

[redacted] - Per our conversation, we have two congressional requests seeking copies of any and all unclassified e-mails related to the exigent letters issued by the Communications Analysis Unit (CAU), Counterterrorism Division. Copies of the letters are attached. For your background, the DOJ OIG Rpt referenced in the letters reviewed the use of 'exigent letters' by CAU during the 2003 - 2005 timeframe. I've provided a link to the OIG Rpt in the event it can assist in determining ability to retrieve potentially responsive records.

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[redacted]

In addition, I'm aware that FOIA is in receipt of a request seeking emails TO, FROM and CC'd to [redacted] on topics addressed in recent NY Times and Wash Post articles regarding NSLs. I've cc'd Dave Hardy of the FOIA Section.

I look forward to talking with you tomorrow re whether ITOD can assist in retrieving responsive records. Thanks,

<< File: Conyers incoming re NSLs.pdf >> << File: Grassley request for CAU emails.pdf >>

Beth Beers
Office of Congressional Affairs
202-324-[redacted]

b2

-----Original Message-----
From: KALISCH, ELENI P. (OCA) (FBI)
Sent: Wednesday, March 21, 2007 5:01 PM
To: [redacted] (ITOD)(FBI)
Cc: [redacted] (ITOD)(FBI); [redacted] (ITOD)(FBI); BEERS, ELIZABETH RAE (OCA) (FBI)
Subject: RE: E-Mails

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UNCLASSIFIED

NON-RECORD

Thanks so much for the response. OCA will be in touch to follow up on the requests.

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b7C

-----Original Message-----
From: [redacted] (ITOD)(FBI)
Sent: Wednesday, March 21, 2007 4:54 PM
To: KALISCH, ELENI P. (OCA) (FBI)
Cc: [redacted] (ITOD)(FBI); [redacted] (ITOD)(FBI)
Subject: RE: E-Mails

UNCLASSIFIED
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Eleni,

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Good Afternoon. Your contact regarding Congressional requests for copies of FBI E-mails is [redacted] She is the ITOD Unit Chief over the E-Mail Unit.

[redacted]

-----Original Message-----
From: [redacted] (ITOD)(FBI) **On Behalf Of** [redacted] (ITOD) (FBI)
Sent: Wednesday, March 21, 2007 4:35 PM
To: [redacted] (ITOD) (FBI); [redacted] (ITOD)(FBI)
Subject: FW: E-Mails

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NON-RECORD

[redacted]

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I talked to [redacted] regarding this email and he asks that you respond back to Eleni Kalisch soon. He thinks this is time sensitive.

thanks

-----Original Message-----
From: KALISCH, ELENI P. (OCA) (FBI)
Sent: Wednesday, March 21, 2007 2:16 PM
To: [redacted] (ITOD) (FBI)
Cc: AZMI, ZALMAI (DO) (FBI)
Subject: E-Mails

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NON-RECORD

[redacted]

We are receiving Congressional requests for copies of FBI e-mails by the Communications Analysis Unit and others regarding the use of exigent letters in lieu of National Security Letters. Please let me know who the ITOD contact will be for my office to work with in ensuring that these requests are addressed expeditiously.
Thanks,
Eleni

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From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Thursday, March 22, 2007 9:07 AM
To: FBI_ALL CDCs; HQ-Div09-NSLB
Cc: [redacted] (INSD) (FBI); CAPRONI, VALERIE E. (OGC) (FBI)
Subject: Receipt of Information in Response to NSLs
UNCLASSIFIED
NON-RECORD

As the current NSL inspection continues, NSLB continues to receive numerous questions. Of particular note, in response to an NSL for subscriber information only, certain carriers are providing information in excess of that which is requested. NSLB/OGC is determining the appropriate manner in which to proceed. In the interim, regarding NSLs for subscriber information only -- if you receive information from a phone carrier in response to a subscriber-only NSL, and it contains **ANY** information other than the customer's name, address, length of service, and/or account/telephone number subscribed to, please notify your CDC/ADC as soon as practical. **DO NOT** enter or upload that information into any file system or database, especially Social Security Numbers and dates of birth. CDCs and ADCs are instructed to sequester this information and await forthcoming guidance.

Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
b2 *202-324* [redacted]
202-324 [redacted] *(fax)*
[redacted]

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UNCLASSIFIED

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Thursday, March 22, 2007 12:27 PM
To: FBI_ALL CDCs
Cc: CAPRONI, VALERIE E. (OGC) (FBI); HQ-Div09-NSLB
Subject: Response to Guidance
UNCLASSIFIED
NON-RECORD

Thank you to all for the responses we have been receiving to interim guidance we have been giving. I look forward to those responses but, unfortunately, the press of business will not allow me to respond individually to each. They are being reviewed and will assist us as we craft **permanent** guidance going forward.

I know this is an extremely difficult and uncertain time. OGC/NSLB is doing everything humanly possible to respond to Congress, the OIG, and the field's concerns about the use of NSLs and our other national security tools.

Thank you for your patience.

Julie F. Thomas
DGC, National Security Law Branch
Office of the General Counsel
Room 7975
202-324-[redacted]
202-324-[redacted]

b2

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1073946

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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD | CD | volume 24

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 17
Page 1 ~ Duplicate 8/19/05 e-mail/Folder 15/CTD
Page 2 ~ Duplicate
Page 3 ~ Duplicate
Page 4 ~ Duplicate
Page 5 ~ Duplicate
Page 6 ~ Duplicate
Page 7 ~ Duplicate
Page 8 ~ Duplicate
Page 9 ~ Duplicate
Page 10 ~ Duplicate
Page 11 ~ Duplicate
Page 12 ~ Duplicate 8/19/05 e-mail/CTD folder 16
Page 13 ~ Duplicate
Page 14 ~ Duplicate
Page 15 ~ Duplicate
Page 16 ~ Duplicate
Page 17 ~ Duplicate

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XXXXXXXXXXXXXXXXXXXXXXXX
X    Deleted Page(s)    X
X No Duplication Fee    X
X    for this Page      X
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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD/CD/ volume 25

Federal Bureau of Investigation

b6
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b5

2RE Drafat Letter re [redacted] .txt
MessageFrom: [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 2:34 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (CID) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Drafat Letter re: [redacted]

UNCLASSIFIED
NON-RECORD

The letter for the most part looks fine to me.

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[redacted]

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Assistant General Counsel
National Security Law Branch
Room [redacted]
571[redacted]
Ext. [redacted] (internal use only)

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 2:06 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (CID) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Drafat Letter re: [redacted]

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NON-RECORD

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[redacted]

Should I recommend t[redacted]

[redacted]

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[redacted]

Assistant General Counsel
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) 324[redacted]
Unclassified Fax: (202) 324[redacted]
Secure Fax: (202) [redacted]

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

1073946

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DATE 06-06-2007 BY 65179/DMH/KSR/RW

2RE Drafat Letter re [redacted].txt

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 1:56 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (CID) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Drafat Letter re [redacted]

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NON-RECORD

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[redacted] I sent this to CID [redacted]

[redacted]

Assistant General Counsel
Policy & Training Unit
National Security Law Branch
(202) 324 [redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 1:53 PM
To: [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: RE: Drafat Letter re: [redacted]

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UNCLASSIFIED
NON-RECORD

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[redacted]

[redacted]

-----Original Message-----
From: [redacted] (OGC)(FBI)
Sent: Tuesday, October 25, 2005 1:00 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: Drafat Letter re: [redacted]

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UNCLASSIFIED

2RE Drafat Letter re [redacted] .txt
NON-RECORD

b5 [redacted]
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I have no experience w/ or knowledge [redacted] - so being ignorant, the letter looks fine to me.

I've forwarded this to [redacted] and to [redacted] b/c she knows everything, to see what their thoughts are.

[redacted]

-----Original Message-----
From [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 12:54 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted]
(OGC) (FBI)
Subject: FW: Drafat Letter re: [redacted]

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UNCLASSIFIED
NON-RECORD

[redacted]

Would you mind taking a look at this DOJ letter? Let me know if you have any comments/objections.

Thank you,

[redacted]

b6
b7C

[redacted]
Assistant General Counsel
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) 324[redacted]
Unclassified Fax: (202) 324-[redacted]
Secure Fax: (202) 324[redacted]

b2

-----Original Message-----
From: [redacted] (OCA) (FBI)
Sent: Tuesday, October 25, 2005 9:33 AM
To: [redacted] (OGC) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OI) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OCA) (FBI)
Subject: Drafat Letter re: [redacted]

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UNCLASSIFIED
NON-RECORD

The attached letter is being provided for review. Provide comments, if any, to OCA. Please indicate if your division is in favor or opposed to the letter, as well as

2RE Drafat Letter re [redacted]xt
the reasons for your division's position. If your division opposes the legtter fully or in part, but believes that it can be remedied by changes in the verbiage, please describe in detail what should be added, deleted, or changed, including recommendations for substitute language sufficient to correct the objectionable section(s).

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Please E-mail your comments to SSA [redacted] (ext. [redacted] with a cc to [redacted] [redacted] Your comments should be prepared in Microsoft Word format which is suitable for dissemination to DOJ and to congressional staff. Please send these comments to the OCA contact person as an attachment to your E-mail. If you have additional comments which are not suitable for dissemination, please include them in the body of your E-mail separate and apart from the attachment. If your division is not taking a position and has no comments, please send an E-mail to the OCA contact person stating such.

DEADLINE COB 10-25-05. We appreciate your attention to this matter.

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UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

RE Drafat Letter re: [redacted].txt

b6 MessageFrom: [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 2:34 PM
b7C To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted]
[redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
b5 Cc: [redacted] (CID) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Drafat Letter re: [redacted] (BSA)

UNCLASSIFIED
NON-RECORD

The letter for the most part looks fine to me.

[redacted]

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[redacted]

b6 Assistant General Counsel
National Security Law Branch
b7C Room [redacted]
b2 Ext. [redacted] (internal use only)

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HEREIN IS UNCLASSIFIED
DATE 06-06-2007 BY 65179/DMH/KSR/RW

b6 -----Original Message-----
From: [redacted] (OGC) (FBI)
b7C Sent: Tuesday, October 25, 2005 2:06 PM
To: [redacted] (OGC) (FBI) [redacted] (OGC) (FBI); [redacted]
b5 [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] LAURA F. (CID) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Drafat Letter re: [redacted]

UNCLASSIFIED
NON-RECORD

[redacted]

b6
b7C Should I recommend [redacted]
b5 [redacted]
b6 [redacted]
b7C [redacted]
b2 Assistant General Counsel
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) 324-[redacted]
Unclassified Fax: (202) 324-[redacted]
Secure Fax: (202) 324-[redacted]

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

b6
b7C
b5

RE Drafat Letter re [redacted].txt
From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 1:56 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted]
(OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (CID) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Drafat Letter re: [redacted] (BSA)

UNCLASSIFIED
NON-RECORD

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[redacted] I sent this to CID. [redacted]

[redacted]

Assistant General Counsel
Policy & Training Unit
National Security Law Branch
(202) 324 [redacted]

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b7C
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-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 25, 2005 1:53 PM
To: [redacted] (OGC)(FBI); [redacted] (OGC) (FBI); [redacted]
(OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] P. (OGC) (FBI)
Subject: RE: Drafat Letter re: [redacted]

UNCLASSIFIED
NON-RECORD

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[redacted]

[redacted]

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-----Original Message-----
From: [redacted] (OGC)(FBI)
Sent: Tuesday, October 25, 2005 1:00 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted]
[redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: Drafat Letter re: [redacted] (BSA)

UNCLASSIFIED

RE Drafat Letter re [redacted] txt
NON-RECORD

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[redacted]

I have no experience w/ or knowledge of [redacted] - so being ignorant, the letter looks fine to me.

I've forwarded this to [redacted] and to [redacted] b/c she knows everything, to see what their thoughts are.

[redacted]

-----Original Message-----
From: [redacted] OGC) (FBI)
Sent: Tuesday, October 25, 2005 12:54 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (FBI)
Subject: FW: Drafat Letter re: [redacted]

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UNCLASSIFIED
NON-RECORD

[redacted]

b6
b7C

Would you mind taking a look at this DOJ letter? Let me know if you have any comments/objections.

Thank you,

[redacted]

[redacted]
Assistant General Counsel
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) 324 [redacted]
Unclassified Fax: (202) 324 [redacted]
Secure Fax: (202) 324 [redacted]

b6
b7C

-----Original Message-----
From: [redacted] (OCA) (FBI)
Sent: Tuesday, October 25, 2005 9:33 AM
To: [redacted] (OGC) (FBI); [redacted] (CTD) (FBI); [redacted] (CTD) (FBI) [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); [redacted] (CID) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] E. JR (OGC) (FBI); BOWMAN, MARION E. (OI) (FBI); [redacted] (OGC)(FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OCA) (FBI)
Subject: Drafat Letter re: [redacted] (BSA)

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UNCLASSIFIED
NON-RECORD

The attached letter is being provided for review. Provide comments, if any, to OCA. Please indicate if your division is in favor or opposed to the letter, as well as

RE Drafat Letter re [redacted] txt
the reasons for your division's position. If your division opposes the legtter fully or in part, but believes that it can be remedied by changes in the verbiage, please describe in detail what should be added, deleted, or changed, including recommendations for substitute language sufficient to correct the objectionable section(s).

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Please E-mail your comments to SSA [redacted] (ext. [redacted] with a cc to [redacted] [redacted] Your comments should be prepared in Microsoft Word format which is suitable for dissemination to DOJ and to congressional staff. Please send these comments to the OCA contact person as an attachment to your E-mail. If you have additional comments which are not suitable for dissemination, please include them in the body of your E-mail separate and apart from the attachment. If your division is not taking a position and has no comments, please send an E-mail to the OCA contact person stating such.

DEADLINE COB 10-25-05. We appreciate your attention to this matter.

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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD/CD/ Volume 26

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 9
Page 1 ~ b1, b2, b6, b7C, b7E
Page 2 ~ b1, b2, b6, b7C, b7E
Page 3 ~ b2, b7E
Page 10 ~ Duplicate e-mail 6/23/06
Page 11 ~ Duplicate
Page 12 ~ Duplicate
Page 13 ~ Duplicate E-mail dated 6/30/06
Page 14 ~ Duplicate
Page 15 ~ Duplicate

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

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From: [redacted] CTD) (FBI)
Sent: Monday, July 03, 2006 9:12 AM
To: [redacted] OGC)(FBI)
Subject: FW: Overcollection of Records RELATED TO ISSUED NSLs

(S) b1 **SECRET**
RECOR [redacted]

[redacted]

NSL embedded below for review per your request.

b6
b7C

[redacted]

b2

Supervisory Special Agent
CTD/ITOS I/CONUS II

[redacted] Desk)
[redacted] Pager)

b6
b7C
b2
b7E

-----Original Message-----
From: [redacted] (OGA)
Sent: Monday, July 03, 2006 8:55 AM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (CTD) (FBI) [redacted] (FBI); [redacted] (FBI)
Subject: RE: Overcollection of Records RELATED TO ISSUED NSLs

(S) b1 **SECRET**
RECOR [redacted]

b6
b7C

[redacted]

(S)

b1
b7D

I am attaching the NSL that I submitted [redacted] and ended up getting an overcollection of information. I asked for records from [redacted] through the present and got records that were available from the date of inception through the "present." I had written two ECs that included information that was listed in the "overcollection." I already charged one of them out, because when I submitted a new NSL for all available records from the date of inception through the present some of the data had changed. I removed any data that was not included with the NEW results. Regarding the second EC I wrote using information from the "overcollection" - if the data is the same can I keep my original EC in ACS or should I charge it out? Right now it appears that times that some of the e-mails were sent may vary, based on it being reported [redacted] I didn't know if this second serial should be charged out since it was dated prior to the NEW results being received. Or if it can stand as it is.

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b7C
b2

[redacted]

DATE: 06-08-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-08-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

SECRET

SECRET

14.NSL (42 KB)

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b7C

b6
b7C
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-----Original Message-----
From: [redacted] (CTD) (FBI)
Sent: Friday, June 30, 2006 5:33 PM
To: [redacted] (OGA)
Cc: [redacted] (FBI); [redacted] (CTD) (FBI) [redacted] (OGC)(FBI)
Subject: RE: Overcollection of Records RELATED TO ISSUED NSLs

(S) **SECRET**
RECORD [redacted]

b1

[redacted]

One more necessary evil, but it could be of benefit.

NSLB would like to get copies of the NSLs you've issued that resulted in the Provider sending more than what was requested. We would like to check the specific language to see if there is anything in the body that would cover the extra material they gave. If not, as in the past "over collections," they will need to be reported as "potential IOBs" even if you've issued a new NSL for that info.

b6
b7C

[redacted] here have no way of know which ones resulted in the Provider errors If you could attach all the related ones to a reply e-mail with some background explanation related to each we will review them. Let's hope that the boiler plate language covers you regardless of your specific listed time frames, bu[redacted] is a you know what. Any questions, let me know. Thanks.

[redacted]

b6
b7C
b2

Supervisory Special Agent
CTD/ITOS I/CONUS II
[redacted] (Desk)
(Pager)

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-----Original Message-----
From: [redacted] (OGA)
Sent: Friday, June 23, 2006 9:00 AM
To: [redacted] (CTD) (FBI); [redacted] CTD) (FBI)
Cc: [redacted] FBI)
Subject: Overcollection of Records

(S) **SECRET**
RECORD [redacted]

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[redacted]

SECRET

(S) b1 b6 b7C

I just wanted to inform you about an overcollection of records [redacted] I am working on getting the situation corrected at this time. There were a couple of instances within the past few months and even though I didn't ask for these records I need to report it to the IOB.

The first instance [redacted] provided records [redacted] I did not realize that it was a big deal to use the "extra"records. [redacted] No NSLs were issued off the "extra" records. [redacted] our CDC brought up the "overcollection" issue since it has been in the news. [redacted] I am not supposed to use these records [redacted] I submitted another NSL to ask for the records again.

b1 b7D b6 b7C

The problem I am running into now - is the records are not exactly the same - since [redacted] I will charge out the EC and resubmit another without [redacted] so I can be in compliance with not "overcollecting." [redacted] was not referenced in any other ECs associated with my case. However, it did pop up in anothe [redacted] No references were made to my case based upon [redacted] in any other case investigations.

b1 b7D b6 b7C b2 b7E

The second serial I wrote has to do with [redacted] I got the same results from the second NSL results [redacted] are off by 8 hours - which probably has to do with how [redacted] captures it - whether it is GMT or PST. I asked San Francisco to check with [redacted] on the times - so I will know if the times reported in my original EC are correct. If they are not, I can charge out that EC and fix the times. If you think I should charge it anyways, since I wasn't supposed to have those records at that time - I can do that and resubmit another EC with the same information, but dated later. By the way, with the new NSL results there is also one more [redacted] that showed up [redacted]

b1 b7D b6 b7C

One of the phone companies gave me subscriber results I did not request, so that will be reported to the IOB. I wanted subscriber information for the phone number they provided, they just gave it to me for the wrong time period.

Also - it appears that I got "extra" records [redacted]

b1 b2 b7E b6 b7C

(S) [redacted] I have been working with [redacted] and the [redacted] tech guys to get this resolved. Our CDC thinks these records should be sequestered - so it is up to [redacted] to do this. I will let you know when it is done. [redacted]

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(S) I will most likely report to the IOB that [redacted] gave me transactional records I did not request. At the time I got them our CDC thought it would be good enough for [redacted] to document that [redacted] willingly provided the records - and that was the end of it. [redacted] Now we are re-visiting this, I am going to double check with our CDC and make sure these records need to be sequestered.

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I am keeping my fingers crossed that there are no more after this.... If you have any questions, and I have thoroughly confused you let me know. I will provide you with a copy of the EC regarding the IOB violations when it is done.

[redacted]

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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

b6
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From: [redacted] (CTD) (FBI)
Sent: Friday, June 30, 2006 3:43 PM
To: [redacted] (OGC) (OGA)
Cc: [redacted] (OGA) [redacted] (OGC)(FBI); [redacted] (OGC) (FBI)
Subject: FW: Overcollection of Records

(S) **SECRET**
RECORD [redacted] b1

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(S) b1

[redacted] has advised that after the provider was served the court orders [redacted] they inadvertently provided [redacted] pre-dated the court authorization period. Correct me if I'm wrong, but we will probably want to let the FISC know about the Provider error. We should be able to issue an NSL to legally collect that data if necessary.

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b7C
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[redacted]
Supervisory Special Agent
CTD/ITOS I/CONUS II
[redacted] (Desk)
[redacted] ager)

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-----Original Message-----
From: [redacted] (OGA)
Sent: Friday, June 23, 2006 9:00 AM
To: [redacted] (CTD) (FBI) [redacted] (CTD) (FBI)
Cc: [redacted] (FBI)
Subject: Overcollection of Records

(S) **SECRET**
RECORD [redacted] b1

b6
b7C

Hi [redacted]

I just wanted to inform you about an overcollection of records [redacted] I am working on getting the situation corrected at this time. Appears that I got "extra" records [redacted] (S) [redacted] I have been working with [redacted] to get this resolved. Our CDC thinks these records should be sequestered - so it is up to [redacted] to do this. I will let you know when it is done.

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[redacted]

DATE: 06-08-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-08-2032

ALL INFORMATION CONTAINED
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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET

Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: CTD/CD / volume 27

Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 5
Page 2 ~ Duplicate 8/19/05 e-mail/folder 8
Page 3 ~ Duplicate
Page 4 ~ Duplicate
Page 5 ~ Duplicate
Page 6 ~ Duplicate

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X    Deleted Page(s)    X
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MessageFrom: [redacted] Question.txt
(FBI)
Sent: Friday, August 19, 2005 1:17 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (FBI)
Subject: Question . . .

~~SECRET~~
RECORD 66

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[redacted]

(S) [redacted]

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b2

SSA [redacted]

[redacted]

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations~~
~~DECLASSIFICATION EXEMPTION 1~~
~~SECRET~~

DATE: 06-15-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-15-2032

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office
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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office
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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Freedom of Information and Privacy Acts

SUBJECT: NATIONAL SECURITY LETTERS
FOLDER: OIG - DATA - NSL - USAGE - Volume 18

Federal Bureau of Investigation

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Consumer Identifying Info (Non US Persons)

22-Feb-06 7/1/2005 through 12/31/2005

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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DATE: 06-24-2007
CLASSIFIED BY 65179dmh/ksr/lmé
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-24-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Identity of Financial Inst. (US Persons)

24-Feb-06 7/1/2005 through 12/31/2005

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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DATE: 06-24-2007
CLASSIFIED BY 65179dmh/ksr/lmf
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-24-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office
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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

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b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S) b1
b2
b7E

Consumer Identifying Info (US Persons)

22-Feb-06 7/1/2005 through 12/31/2005

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

DATE: 06-24-2007
CLASSIFIED BY 65179dmh/ksr/lmf
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-24-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

{S}

b1
b6
b7C
b2
b7E
b7A

(S)

b1

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

Identity of Financial Inst. (Non US Persons)

22-Feb-06 7/1/2005 through 12/31/2005

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

DATE: 06-25-2007
CLASSIFIED BY 65179dmh/ksr/lmf
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-25-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

{S}

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Toll Billing / Electronic Transactional Records

(US Persons)

09-Mar-06 7/1/2005 through 12/31/2005

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

DATE: 06-25-2007
CLASSIFIED BY 65179dmh/ksr/lmf
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-25-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A

Subject Name (Project Number)	Numbers Requested in NSL	Requesting Office

(S)

b1
b6
b7C
b2
b7E
b7A