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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



INSPECTOR GENERAL

REPORT OF INVESTIGATION

19 December 2013

IV-13-0055

Misuse of Government Resources

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Approved for Release by NSA on 09-28-2018, FOIA Case # 79204 (litigation)

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(U) OFFICE OF THE INSPECTOR GENERAL

(U) Chartered by the NSA Director and by statute, the Office of the Inspector General conducts audits, investigations, inspections, and special studies. Its mission is to ensure the integrity, efficiency, and effectiveness of NSA operations, provide intelligence oversight, protect against fraud, waste, and mismanagement of resources by the Agency and its affiliates, and ensure that NSA activities comply with the law. The OIG also serves as an ombudsman, assisting NSA/CSS employees, civilian and military.

(U) AUDITS

(U) The audit function provides independent assessments of programs and organizations. Performance audits evaluate the effectiveness and efficiency of entities and programs and their internal controls. Financial audits determine the accuracy of the Agency's financial statements. All audits are conducted in accordance with standards established by the Comptroller General of the United States.

(U) INVESTIGATIONS

(U) The OIG administers a system for receiving complaints (including anonymous tips) about fraud, waste, and mismanagement. Investigations may be undertaken in response to those complaints, at the request of management, as the result of irregularities that surface during inspections and audits, or at the initiative of the Inspector General.

(U) INTELLIGENCE OVERSIGHT

(U) Intelligence oversight is designed to insure that Agency intelligence functions comply with federal law, executive orders, and DoD and NSA policies. The IO mission is grounded in Executive Order 12333, which establishes broad principles under which IC components must accomplish their missions.

(U) FIELD INSPECTIONS

(U) Inspections are organizational reviews that assess the effectiveness and efficiency of Agency components. The Field Inspections Division also partners with Inspectors General of the Service Cryptologic Elements and other IC entities to jointly inspect consolidated cryptologic facilities.

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I. (U) SUMMARY

(U//~~FOUO~~) On 28 March 2013 the NSA/CSS Office of the Inspector General (OIG) received a complaint on the OIG hotline identifying potential computer misuse by an NSA civilian, [redacted]. The complaint alleged that [redacted] used the NSA/CSS Information System (IS) to endorse [redacted]. On 11 April 2013 the IG initiated an investigation of [redacted] use of NSA/CSS Information Systems (ISs).

(U//~~FOUO~~) The preponderance of the evidence collected during the investigation substantiates that [redacted] misused his unclassified NSA/CSS IS by sending multiple emails to endorse his [redacted]. These activities violate DoD Joint Ethics Regulation (JER) 5500-7-R and NSA/CSS Policy 6-6.

(U//~~FOUO~~) A copy of this report will be forwarded to Employee Relations for review and any action deemed appropriate. A summary memorandum will be forwarded to Special Actions, ADS&CI for review and any action deemed appropriate. An information copy will be provided to the Office of General Counsel (Administrative Law).

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II. (U) BACKGROUND

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(U) Introduction

(U//~~FOUO~~) [redacted] is a civilian employee (employee id number [redacted]) assigned to the [redacted]. Previously he was assigned to the [redacted].

(U//~~FOUO~~) Based on an OIG request, the NISIRT provided a report on [redacted] unclassified and classified account activity for the period from 23 March through 23 April 2013. The report was provided to the OIG on 23 April 2013.

(U) Applicable Authorities

(U//~~FOUO~~) DoD Joint Ethics Regulation (JER) 5500.7-R Subpart 2-301: Use of Federal Government Resources.

(U//~~FOUO~~) NSA/CSS Policy 6-6, "USE OF UNCLASSIFIED INFORMATION SYSTEMS SUCH AS THE INTERNET."

(U) See Appendix A for the full text of the applicable authorities.

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III. (U) FINDINGS

(U//~~FOUO~~) Did [redacted] misuse the NSA/CSS IS to endorse [redacted] in violation of JER 5500.7-R and NSA/CSS Policy 6-6?

(U//~~FOUO~~) CONCLUSION: **Substantiated.** The preponderance of the evidence supports the conclusion that [redacted] used the NSA/CSS IS to endorse [redacted] [redacted] misused his unclassified NSA/CSS IS in violation of JER 5500.7-R and NSA/CSS Policy 6-6.

(U) Documentary Evidence

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(U) NISIRT Report

(U//~~FOUO~~) At the request of the OIG, the NISIRT provided the OIG with an analysis of [redacted] activities on the unclassified and classified NSA/CSS IS.

(U) [redacted] was observed [redacted] in multiple emails on the unclassified NSA/CSS IS. Specifically, in the 25 March 2013 email referenced in the complaint, [redacted] sent an unclassified email suggesting [redacted]

[redacted] In addition, [redacted] wrote an unclassified email on 2 April 2013 stating "[redacted]" [redacted] wrote another unclassified email on 11 April 2013 stating "[redacted]"

[redacted] also wrote an unclassified email on 15 April 2013 stating "Can you do me a small favor. [redacted]"

[redacted] was observed on the classified NSA/CSS IS discussing his unclassified email to [redacted] and the requirement for him to find a new position.

(U) The full NISIRT report can be found at Appendix B.

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(U) Testimonial Evidence

(U) On 8 August 2013, [redacted] was interviewed and provided the following sworn testimony:

(U//FOUO) At the time of the incident, [redacted] was a supervisor and [redacted] in the [redacted]. [redacted] admitted that he sent the 25 March 2013 email with an attached flyer [redacted]. He claimed the email was sent "out of excitement" and not sent with the intent to violate any policies. According to the flyer (Appendix C): [redacted]

[redacted]

[redacted] believed [redacted] would benefit his colleagues in the [redacted].

(U//FOUO) The 25 March 2013 email was sent on the unclassified network to individuals in the [redacted] that [redacted] believed would benefit from [redacted]. He believed [redacted] is a valuable resource. [redacted] said that he did not have a copy of the original email he sent, he stated "No, but the bosses have it." [redacted] one of [redacted] supervisors, provided a copy of the 25 March 2013 email he received from [redacted] (Appendix C). [redacted] shared his excitement about [redacted] and was unaware that his actions were against policy. [redacted] told him on 26 March 2013 that he should not have sent the 25 March email because "it was on the Agency system." After that notification, [redacted] decided to send an apology email to five people on the classified network who were in management positions in his organization. [redacted] provided a copy of the apology email during the interview (Appendix D).

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(U//FOUO) In April 2013 Ms. Plunkett (IAD Director) was informed of the incident. She had [redacted] removed from his [redacted] position. [redacted] contacted [redacted] who then met with [redacted] to tell him of his removal. [redacted] also told [redacted] to "find another job." At that point, [redacted] then realized that this incident was "a big deal." [redacted] felt he was punished for the incident when he was told to find another job and leave his organization. As a result, [redacted] found a position in [redacted]. He is now an [redacted] and no longer [redacted] because of this incident.

(U) [redacted] claims he did not [redacted] using Government resources but did [redacted]

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(U) Analysis and Conclusions

(U//FOUO) The JER 5500.7-R: Subpart 2-301 states "Federal Government communication systems and equipment shall be for official use and authorized purposes only." The 25 March and 2, 11, 15 April emails were neither an official use of NSA/CSS IS nor part of an authorized NSA/CSS purpose; therefore, [redacted] violated the JER 5500.7-R by sending these emails. Further, the JER 5500.7-R subpart 2-301 states "do not put Federal Government communications systems to uses that would reflect adversely on DoD (such uses involving unofficial advertising, soliciting or selling)." [redacted] admitted to using the NSA/CSS ISs to [redacted] but claims he was unaware that his actions were not allowed until [redacted] told him. Once [redacted] told [redacted] that the 25 March 2013 email to [redacted] was not allowed, [redacted] sent an apology email to his management on the NSA/CSS classified IS. [redacted] used the NSA/CSS IS in a manner that would reflect negatively on DoD by the unofficial [redacted]

(U//FOUO) Even after [redacted] sent the apology email on the classified NSA/CSS IS on 27 March 2013, [redacted] continued to use his unclassified NSA/CSS IS to send emails to endorse [redacted] [redacted] wrote an unclassified email on 2 April 2013 and again on 11 and 15 April 2013 to endorse [redacted] [redacted] continued to violate policy after he was notified by [redacted] that he should not have sent the 25 March email on the unclassified network endorsing [redacted]

(U//FOUO) [redacted] use of the unclassified NSA/CSS IS failed to comply with NSA/CSS Policy 6-6. NSA policy requires good judgment and common sense when using the unclassified Government resources. [redacted] originally demonstrated poor judgment when he sent the 25 March 2013 email to endorse [redacted] [redacted] continued to show poor judgment when he sent the 2, 11, and 15 April 2013 emails to endorse [redacted] after being told by his supervisor such emails were not permitted on an NSA/CSS IS.

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IV. (U) RESPONSE TO TENTATIVE CONCLUSION

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(U//FOUO) [redacted] was provided the tentative conclusions on 21 October 2013. On 23 October 2013, [redacted] responded to the tentative conclusion stating:

First permit me to respond to the use of the Classified system in your conclusion. I went back and looked at all my mail from that period. I could not find one e-mail where I was [redacted] Therefore I cannot agree that I used the Classified system. [redacted]

[redacted]

[redacted]

[redacted] and thought the information would be beneficial to [redacted]

[redacted] In retrospect, what I should have done was provide the [redacted]

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[redacted] with a [redacted] I realize that I went about this the wrong way as I admitted during our interview. I would also like to state that in addition to [redacted] folks my bosses were also notified on the e-mail. As soon as [redacted] received it he came to me and told me that I should not have done that. I immediately wrote a letter of apology accepted culpability with a statement of contrition. The time period for what transpired was confined to late March 2013. There was no ongoing activity. I included my bosses to make them aware of [redacted]

[redacted] I sent the e-mail because I thought those in the community could benefit. I should not have sent the e-mail and am regretful that I did not catch myself from this lapse of judgment. The matter was forwarded to Chief IAD. I received a punitive judgment when I was removed from my position. Since I felt bad concerning what transpired I asked management if I could address the entire [redacted] workforce with my supervisor [redacted] present. I took full responsibility. As for my conduct after the incident kindly contact my bosses [redacted]

[redacted]

[redacted] Not only did I take responsibility, I maintained a good working relationship with all of them up to the point I took a new position. I have no doubt you'd receive a favorable report from all of them.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Conclusion: I regret sending out the low side e-mail in late March 2013. Immediately I was notified by my boss. From that point I was regretful and fully cooperated with all concerned. I addressed my co-workers and took full responsibility. Chief IAD punished me by removing me from that position. Since that point I've helped the new [redacted]

[redacted] and person who took my position. I'm still in contact with them and ready to be helpful. In my new position I'm already making positive contributions. There will be never be a repeat of this incident. This has been burned into my psyché since late March. I'm looking forward to continue to make positive contributions and becoming a better employee and person as a result of this incident. Thank You.

[redacted]

[redacted]

[redacted]

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(U//~~FOUO~~) Based on [redacted] response to the tentative conclusions, the OIG conducted an additional review of his computer activity. The review did not confirm misuse on the classified network. The tentative conclusion of this investigation was revised to remove the violation of misusing the classified IS.

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V. (U) CONCLUSION

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(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] misused his unclassified NSA/CSS IS. [redacted] used the NSA/CSS IS to endorse [redacted] [redacted] in violation of the; JER 5500.7-R and NSA/CSS Policy 6-6.

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VI. (U) DISTRIBUTION OF RESULTS

(U//~~FOUO~~) A copy of this report will be forwarded to Employee Relations for review and any action deemed appropriate. A summary memorandum will be forwarded to Special Actions, ADS&CI for review and any action deemed appropriate. An information copy will be provided to the Office of General Counsel (Administrative Law).

Concurred by:

[Redacted Signature]

Senior Investigator

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[Redacted Signature]

Deputy Assistant Inspector General
For Investigations

Appendix A

(U) Applicable Authorities

(U//~~FOUO~~) DoD Joint Ethics Regulation (JER) 5500.7-R: Subpart 2-301: Use of Federal Government Resources.

a. Communication Systems. Federal Government communication systems and equipment (including Government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the Federal Government) shall be for official use and authorized purposes only.

(1) Official use includes emergency communications and communications that the DoD Component determines are necessary in the interest of the Federal Government. Official use may include, when approved by theater commanders in the interest of morale and welfare, communications by military members and other DoD employees who are deployed for extended periods away from home on official DoD business.

(2) Authorized purposes include brief communications made by DoD employees while they are traveling on Government business to notify family members of official transportation or schedule changes. They also include personal communications from the DoD employee's usual work place that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor and auto or home repair appointments; brief internet searches; e-mailing directions to visiting relatives) when the Agency Designee permits categories of communications, determining that such communications:

(a) Do not adversely affect the performance of official duties by the DoD employee or the DoD employee's organization;

(b) Are of reasonable duration and frequency, and whenever possible, made during the DoD employee's personal time such as after duty hours or lunch periods;

(c) Serve a legitimate public interest (such as keeping DoD employees at their desks rather than requiring the use of commercial systems; educating the DoD employee on the use of the communications system; improving the morale of DoD employees stationed for extended periods away from home; enhancing the professional skills of the DoD employee; job-searching in response to Federal Government downsizing);

(d) Do not put Federal Government communications systems to uses that would reflect adversely on DoD or the DoD Component (such as uses involving pornography; chain letters; unofficial advertising, soliciting or selling except on authorized bulletin boards established for such use; violations of statute or regulation; inappropriately handled classified information; and other uses that are incompatible with public service); ...

b. Other Federal Government Resources. Other than the use of Federal Government communications systems authorized in accordance with subsection 2-301.a. of this Regulation, above; the use of Federal Government resources as logistical support to non-Federal entity events in accordance with subsection 3-211 of this Regulation, below; and the use of Federal Government time authorized in accordance with subsection 3-300 of this Regulation, below; Federal Government resources, including personnel, equipment, and property, shall be used by DoD employees for official purposes only, except as follows:

(1) Agency Designees may permit their DoD employees to make limited personal use of Federal Government resources other than personnel, such as typewriters, calculators, libraries, and other similar resources and facilities, if the Agency Designee determines the following:

- (a) The use does not adversely affect the performance of official duties by the DoD employee or the DoD employee's organization;
- (b) The use is of reasonable duration and frequency, and made only during the DoD employee's personal time such after duty hours or lunch periods;
- (c) The use serves a legitimate public interest (such as supporting local charities or volunteer services to the community; enhancing the professional skills of the DoD employee; job-searching in response to Federal Government downsizing);
- (d) The use does not put Federal Government resources to uses that would reflect adversely on DoD or the DoD Component (such as involving commercial activities; unofficial advertising, soliciting or selling; violation of statute or regulation; and other uses that are incompatible with public service); and
- (e) The use creates no significant additional cost to DoD or the DoD Component.

....

(U//~~FOUO~~) NSA/CSS Policy 6-6, "USE OF UNCLASSIFIED INFORMATION SYSTEMS SUCH AS THE INTERNET," revised 20 June 2012:

25. (U) All Users shall:

...

n. (U) Use good judgment and common sense when accessing and/or communicating on unclassified ISs;

....

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Appendix B

(U) NISIRT Report

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The NISIRT Report

Edits were made for readability purposes.

TOP SECRET Traffic

03/27/2013 08:34:21

My apology

(b) (3) - P.L. 86-36
(b) (6)

03/27/2013 08:35:38

[Redacted]

03/27/2013 08:41:25

[Redacted]

03/29/2013 14:35:55

[Redacted]

03/29/2013 14:41:15

[Redacted]

04/01/2013 09:07:53

[Redacted]

(b) (6)

04/01/2013 09:10:27

[Redacted]

04/01/2013 15:49:00

[Redacted]

04/01/2013 15:51:09

[Redacted]

04/01/2013 16:19:40

E-mail on the lowside

(b) (6)

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(b) (6)

04/04/2013 10:07:32

[Redacted]

04/04/2013 10:19:53

[Redacted]

04/04/2013 10:31:36

[Redacted]

04/04/2013 10:32:02

[Redacted]

04/04/2013 10:37:31

[Redacted]

04/04/2013 10:41:54

[Redacted]

04/11/2013 10:30:28

[Redacted]

04/11/2013 12:41:56

[Redacted]

UNCLASSIFIED TRAFFIC:

(b) (3) - P.L. 86-36
(b) (6)

03/25/2013 07:43:53

[Redacted]

03/25/2013 09:36:52

[Redacted]

03/25/2013 12:48:47

[Redacted]

03/25/2013 13:20:53

[Redacted]

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03/25/2013 13:24:55

[Redacted]

03/25/2013 13:24:07

[Redacted]

03/25/2013 13:39:43

[Redacted]

03/26/2013 14:36:11

[Redacted]

03/28/2013 15:38:00

[Redacted]

04/01/2013 12:06:59

[Redacted]

04/02/2013 15:25:28

[Redacted]

(b) (6)

04/02/2013 15:31:05

[Redacted]

04/03/2013 09:27:55

[Redacted]

04/11/2013 09:14:31

[Redacted]

[Redacted]

04/11/2013 12:38:29

[Redacted]

04/11/2013 12:48:57

[Redacted]

(b) (6)

04/15/2013 16:02:32

[Redacted]

04/22/2013 12:51:56

[Redacted]

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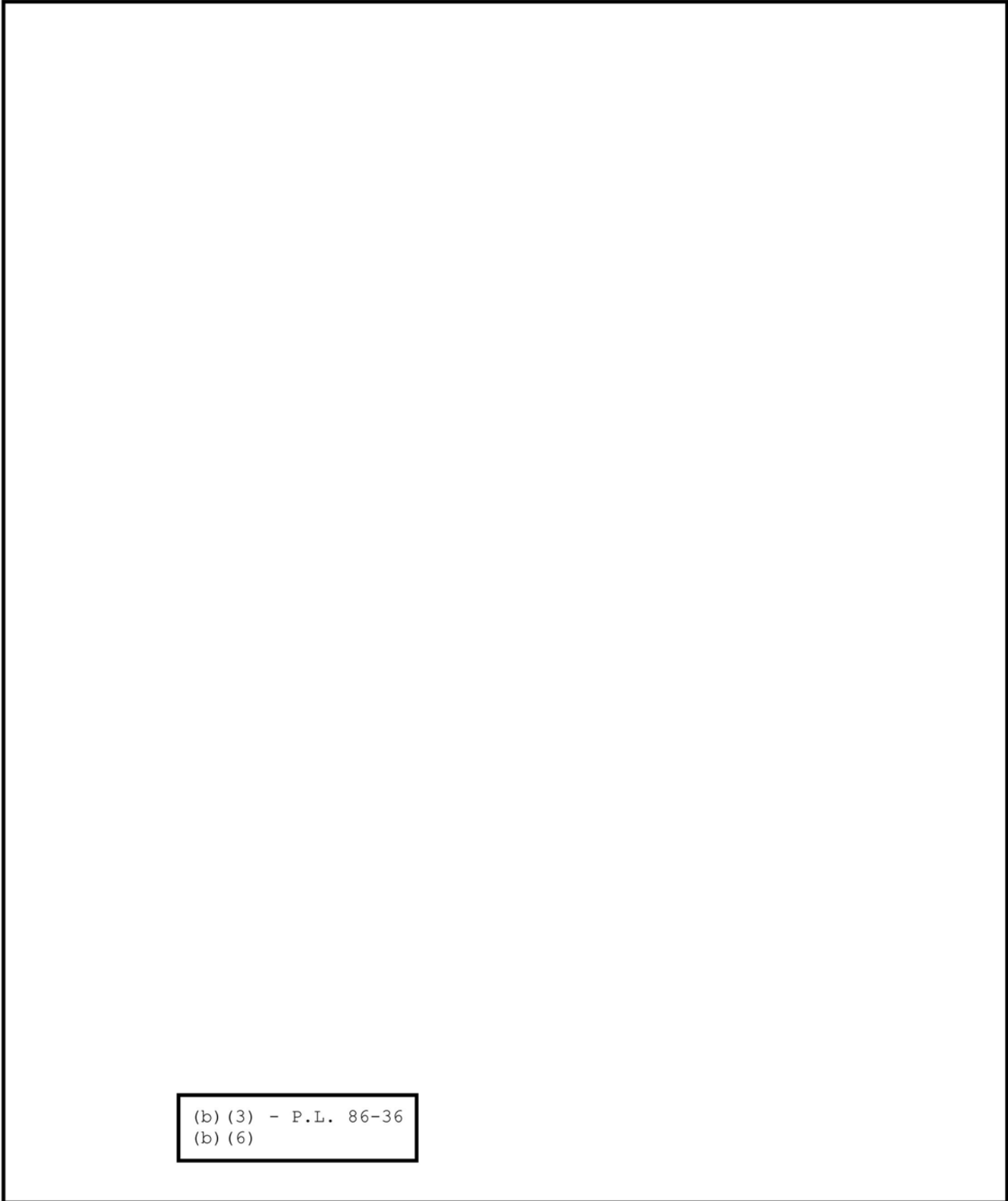
(b) (3) - P.L. 86-36
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From: [Redacted]
Sent: Monday, March 25, 2013 9:50 AM
Subject: FYI



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[Redacted]

From:

Sent:

To:

Wednesday, March 27, 2013 8:46 AM

Subject:

Signed By:

(U) My apology

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Dear All,

[Redacted]

[Redacted]

(b) (3) - P.L. 86-36
(b) (6)

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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