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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



INSPECTOR GENERAL

REPORT OF INVESTIGATION

8 November 2013

IV-13-0068

Misuse of Government Resources

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AND/OR LANGUAGE**

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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

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(U//~~FOUO~~) On 28 March 2013 the NSA/CSS Office of the Inspector General (OIG) received a referral from the NSA/CSS Information Systems Incident Response Team (NISIRT) identifying potential computer misuse by an NSA contractor, [redacted]. On 15 November 2012 the OIG initiated an investigation of [redacted] use of NSA/CSS Information Systems (IS).

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(U//~~FOUO~~) The preponderance of the evidence collected during the investigation substantiates that in March 2013, [redacted] misused his NSA/CSS ISs by engaging in [redacted] instant messaging in violation of NSA/CSS Policies 6-4 and 6-12. The Instant Messaging conversations were conducted with an NSA employee, [redacted]. The OIG addressed [redacted] misuse of her Top Secret NSA/CSS IS in a separate case [redacted].

(U//~~FOUO~~) A summary memorandum will be provided to the NSA/CSS Senior Acquisition Executive; Maryland Procurement Office; Contractor Clearances, ADS&CI; and Special Actions, ADS&CI for review and any action deemed appropriate.

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II. (U) BACKGROUND(b) (3) - P.L. 86-36
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(U) Introduction

(U//~~FOUO~~) [redacted] is a contractor affiliate with [redacted] assigned to the [redacted] working under the [redacted] contract.

(U//~~FOUO~~) The NISIRT reviewed [redacted] Top Secret U.S. Government account over the period 14 to 25 March 2013. The NISIRT detected possible misuse on the Top Secret account on 15 and 19 March 2013. The NISIRT provided their activity report to the Office of the Inspector General on 28 March 2013.

(U) Applicable Authorities

(U//~~FOUO~~) NSA/CSS Policy 6-4, "CONTRACTOR USE OF NSA/CSS INFORMATION SYSTEMS," revised 7 June 2007:

1. (U) Contractors shall use NSA/CSS ISs only to perform tasks that are authorized by contract, approved by the Contracting Officer, or permitted by this policy.

4. (U) Contractors shall not make personal use of NSA/CSS ISs except for brief, infrequent communications to take care of unavoidable personal matters (e.g., contacting a spouse, dependent, or individual responsible for a dependent's care; scheduling a physician's appointment or car maintenance; etc.). This limited exception to the personal use prohibition applies only when:
 - a. (U) The communication could not have reasonably been made at another time (e.g., the physician is only available during working hours);
 - b. (U) The communication does not adversely affect the Agency mission or reflect poorly on the Agency;
 - c. (U) The communication does not result in other than minimal expense to the Government (e.g., the call is local, toll-free, or charged to a personal telephone calling card);
 - d. (U) Time spent using the NSA/CSS IS for personal use is not billed to the contract; and
 - e. (U) The personal communication is of a non-commercial nature. This exception does not permit the use of NSA/CSS ISs in conjunction with a contractor employee's personal business activity.

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10. (U) Contractor management may request that an exception be made to a provision of this policy unless:

- a. (U) The exception requested requires NSA/CSS to establish new contractor connectivity with, or access to, NSA/CSS ISs, the installation or modification of hardware or software, or support from the NSA/CSS Information Technology Support Center (ITSC).
- b. (U) The exception requested would allow contractors to use NSA/CSS ISs for general business purposes (e.g., to send and receive corporate newsletters, to announce company events such as picnics and retirement ceremonies, to announce job opportunities, etc.).

11. (U) Requests for exception from this policy not ruled out by paragraph 10 above shall be submitted in writing to the NSA/CSS Contracting Officer or Contracting Officer's Representative, by contractor management. Requests made by individual contractor employees directly will not be considered.

13. (U) Before determining that an exception is in the best interest of NSA/CSS, NSA/CSS personnel responsible for exception decisions will consider whether the proposed exception would:

- a. (U) Be legal.
- b. (U) Affect the Agency's mission negatively.
- c. (U) Have a significant impact on Agency IT resources, including network bandwidth or data storage.
- d. (U) Reflect poorly on the Agency.
- e. (U) Involve more than minimal cost to the Agency.
- f. (U) Violate operational security (OPSEC) principles.

....

(U//~~FOUO~~) NSA/CSS Policy 6-12, "COLLABORATIVE COMMUNICATION ON CLASSIFIED NSA/CSS INFORMATION SYSTEMS," revised date 27 June 2013:

1. (U) Users shall use collaboration tools and collaboration services on classified NSA/CSS ISs for work-related purposes. ... Contractors also shall follow NSA/CSS Policy 6-4, "Contractor Use of NSA/CSS Information Systems". Accordingly, posted material is subject to review, and violations of policy may result in user administrative and/or disciplinary action.

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III. (U) FINDINGS

(U//~~FOUO~~) Did [redacted] a [redacted] contractor, misuse NSA/CSS IS in violation of NSA/CSS Policies 6-4 and 6-12?

(U//~~FOUO~~) **CONCLUSION:** Substantiated. The preponderance of the evidence supports the conclusion that [redacted] misused his Top Secret NSA/CSS IS. [redacted] used the Government resources to conduct non-contract related, [redacted] instant messaging in violation of NSA/CSS Policies 6-4 and 6-12.

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(U) Documentary Evidence

(U) NISIRT Report

(U//~~FOUO~~) The NISIRT provided the OIG with an analysis of [redacted] activities on the Top Secret NSA/CSS IS. [redacted] was observed engaging in [redacted] instant messaging conversations with [redacted] an NSA employee. The NISIRT report can be found at Appendix A.

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(U) Testimonial Evidence

(U) [redacted]

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(U//~~FOUO~~) On 13 June 2013, [redacted] was interviewed and provided the following sworn testimony:

(U//~~FOUO~~) Since February 2013, [redacted] uses chat for an average of 15 minutes per workday for non-work related purposes. He used [redacted] in chat. If someone looked at the chat logs they would not have a good impression of the content but claims that it was "100% fun and games." [redacted] meant "no harm and they know him." He was just playing and joking around. He denies [redacted]

[redacted] explained that some of these conversations were continuations of conversations that took place outside of work, sometimes days prior.

(U//~~FOUO~~) On 29 August 2013, [redacted] was interviewed again to resolve a conflict between his previous testimony and [redacted] testimony ([redacted] claimed the two did not have a relationship outside of work). This claim was inconsistent with [redacted] testimony that "some of these conversations were continuations of conversations that took place outside of work, sometimes days prior." [redacted] 29 August sworn testimony follows:

(U//FOUO) [redacted] confirmed his prior testimony. When confronted with discrepancies in detailing the relationship between [redacted] and [redacted] he explained that he and [redacted] saw each other maybe twice outside work and went to the Cheesecake factory once. He categorized their relationship as a basic friendship. [redacted] stated that [redacted] gave him her phone number.

(U) [redacted] NSA civilian

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(U//FOUO) On 25 June 2013, [redacted] was interviewed and provided the following sworn testimony:

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(U//FOUO) [redacted] explained that she met [redacted] as they both work in the same physical office location although they work in different divisions. She began working in [redacted] in May 2012 and [redacted] began talking to her through instant messaging around the fall 2012. In the beginning, the conversations [redacted] but at some point [redacted] told [redacted] repeatedly that [redacted]. She is older than he is and "chalked it up" to [redacted] being young and childish. [redacted] was very persistent but she said [redacted] claimed she is not friends with him outside of work and knows very little about his personal life. She never [redacted] was unsure she would not. [redacted] felt that he was trying to see [redacted] she told her that he was interviewed by the OIG and the OIG may be contacting her. [redacted] is glad the [redacted] have stopped. [redacted] was confident that if the conversation [redacted] seemed to like [redacted]

(U//FOUO) On 29 August 2013, [redacted] was re-interviewed and provided the following sworn testimony:

(U//FOUO) [redacted] confirmed her prior testimony that she does communicate outside work with [redacted]. When confronted with discrepancies between her testimony and [redacted] testimony, [redacted] acknowledged that she met him and one of his friends at the Cheesecake Factory for dinner but claimed the intent of the dinner was to meet the other friend. She also acknowledged that [redacted] has her cell phone number and her email address. However, [redacted] stated that they do not talk outside work on a regular basis. [redacted] stated she did not have a relationship with him and would not call [redacted] a friend but would speak to him if she saw him outside work. [redacted] stated that [redacted] got her phone number off JSignout and asked if he could call her but she did not give her phone number to him.

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(U) Analysis

(U//FOUO) The OIG reviewed the conversation between [redacted] and [redacted] on 15 March 2013. See Appendix B for the conversation.

(U//FOUO) By NSA/CSS policy contractor's use of Agency ISs for personal use is extremely limited. Not only does [redacted] use documented in the NISIRT review and confirmed in [redacted] testimony fail to comply with that permitted by NSA/CSS Policy 6-4, but the content of his chat demonstrates an egregious misuse of his Agency provided IS. [redacted] actions showed poor judgment in conducting [redacted] on the NSA/CSS IS. Although [redacted] made references to [redacted] on 15 March 13 [redacted] based on the testimony, the IG determined this was meant as a joke and not [redacted]
[redacted]

(U//FOUO) In addition, NSA/CSS Policy 6-12 states the collaboration tools (chat) are to be used for work-related purposes. [redacted] communications with [redacted] were not only non work-related but they were also extremely inappropriate.

(U//FOUO) Forensic evidence combined with testimonial evidence supports the conclusion that he misused his Top Secret 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 9 July 2013. On 10 July 2013, [redacted] responded to the tentative conclusion stating:

I respectfully disagree with any notion that [redacted] I believe the OIG's records to support this notion has been taking out of context for which it was intended and in turn has misguided their conclusion. Although infrequent, inappropriate conversations took place between me and a close friend on the Top Secret NSA/CSS, in which [redacted] was used for [redacted] [redacted] These conversations were continuations of conversations that took place outside of work sometimes days prior which can be easily taken out of context if the individual reading does not know how the conversation started. On several occasions conversations about [redacted] took place for fun, humorous purposes only. These chats sometimes continued at work and incorporated [redacted] These questions were strictly for fun and amusement and was not taken seriously by my friend nor was the intent serious by myself.

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(U//~~FOUO~~) Based on the testimony and a review of the facts of the case, the conclusions of this investigation were revised and the [redacted] wording was removed from the OIG conclusions.

(U//~~FOUO~~) [redacted] was provided the revised tentative conclusions on 24 October 2013 that the [redacted] wording was removed. Later that day, [redacted] responded to the revised tentative conclusion stating:

Please allow me to apologize for the lack of professionalism I displayed while using Top Secret NSA/CSS IS as I take full responsibility for my actions. Although modest in occurrence, non work related chats should never be held on NSA/CSS Information Systems. While I cannot alter what has transpired, my management and I have taken steps to ensure that the mistakes I made seven months ago will not happen in the future. After the reinforcement of rules and regulations by management, I now have an in dept understanding of NSA's policies, and recognize that maintaining professional bearing is essential to continuing my productive career at the agency. Again, I apologize for my actions and hope we can put this matter behind us as I value my mission, my colleagues and the opportunity to continue to support the National Security Agency.

V. (U) CONCLUSIONS

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(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] misused his Top Secret NSA/CSS IS. [redacted] used the Government resources to conduct non-contract related [redacted] instant messaging in violation of NSA/CSS Policies 6-4 and 6-12. The OIG has addressed [redacted] misuse of her Top Secret NSA/CSS IS in a separate case.

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VI. (U) DISTRIBUTION OF RESULTS

(U//~~FOUO~~) A copy of this report of investigation will be maintained in the case file. A summary memorandum will be provided to the NSA/CSS Senior Acquisition Executive, Maryland Procurement Office, Contractor Clearances, ADS&CI and Special Actions, ADS&CI for review and any action deemed appropriate.

Concurred by:

[Redacted Signature]

Senior Investigator

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[Redacted Signature]

Deputy Assistant Inspector General
for Investigations

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APPENDIX A

(U) NISIRT Report

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The NISIRT report

Edits were made for readability purposes.

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[Redacted]

03/15/2013 13:29:53

[Redacted]

03/15/2013 13:40:50

[Redacted]

03/15/2013 13:41:14

[Redacted]

03/15/2013 13:42:03

[Redacted]

03/15/2013 13:56:53

[Redacted]

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[Redacted]

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[Redacted]

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[Redacted]

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[Redacted]

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[Redacted]

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[Redacted]

03/15/2013 14:17:53

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03/15/2013 14:19:31

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03/15/2013 14:21:25

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(b) (6)

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[Redacted]

03/19/2013 11:54:16

[Redacted]

03/19/2013 11:55:56

[Redacted]

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[Redacted]

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APPENDIX B

(U) [redacted] and [redacted] conversation on 15 March 2013

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[redacted] comments are in red and [redacted] comments are in black.

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[redacted]

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[redacted]

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03/15/2013 13:40:50

[redacted]

03/15/2013 13:41:14

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[redacted]

(b) (6)

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[redacted]

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[redacted]

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