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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



**INSPECTOR GENERAL
REPORT OF INVESTIGATION**

19 February 2014

IV-13-0084

Misuse of GOV

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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 12 August 2013, the NSA/CSS Office of Inspector General (OIG) received an anonymous allegation that [redacted] misused a Government owned vehicle (GOV) by driving it to a fast food restaurant, located on Arundel Mills Blvd, in Hanover, Maryland.

(U//~~FOUO~~) In addition to obtaining sworn testimony from [redacted] we conducted an interview of his immediate supervisor, [redacted]. We also obtained [redacted] training record and all pertinent vehicle records from [redacted] and other documentary evidence from various sources. [redacted] asserted that although his decision was "bad judgment," his understanding of the guidance regarding meal stops in GOV's was that they were allowed on one's direct route. A review of NSA regulations revealed a lack of a formal Agency policy regarding the use of GOV's and although there is significant guidance pertaining to this matter, some of it is conflicting as applied to the allegations against [redacted].

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that although [redacted] violated Agency guidance by using a GOV to obtain lunch at a local fast food restaurant between official stops, he did not do so willfully.

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

(U//~~FOUO~~) [redacted] entered on duty at NSA on [redacted] He has worked as a [redacted] [redacted] since September 2011.

(U//~~FOUO~~) On 12 August 2013, the OIG received an allegation that [redacted] misused a GOV by driving it to a fast food restaurant in Hanover, Maryland.

(U) Applicable Authorities

(U) Below is a listing of cites. A complete Table of Authorities is located in Appendix A to the report.

- (U) The Guide to the Use of NSA Vehicles, Meals and Personal Stops
- (U) 31 U.S.C., §1344, Passenger Carrier Use
- (U) 31 U.S.C., §1349, Adverse Personnel Action
- (U) DoD Directive 4500.36R, Management, Acquisition, and Use of Motor Vehicles
 - (U) Chapter 1, General, C1-3, Penalties for Misuse of DoD Motor Vehicles, §3.1.1, Civilian Personnel
 - (U) Chapter 2, Operation & Resource Management, C2.5, Official Use of Vehicles, §5.1.1-3
- (U) 5 CFR, § 2635.101 (b)(9), Basic Obligation of Public Service, Subpart A: General Provisions
 - b. 9. (U) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- (U) 5 CFR, § 2635.704, (a), Use of Government Property

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a. (U) Standard. An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

~~(U//FOUO)~~ NSA/CSS PMM Chapter 366, Section 1-3 (h) General Principles for On-The-Job Conduct.

1-3. (U//~~FOUO~~) Generally, every employee is expected to:

H. (U//~~FOUO~~) Conserve, protect, and properly use Federal funds, property, equipment, and materials.

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III. (U) FINDINGS

(U//~~FOUO~~) ALLEGATION: Did [redacted] misuse a GOV, in violation of applicable authorities, and was the misuse willful?

(U//~~FOUO~~) CONCLUSION: *Partially Substantiated.* The preponderance of the evidence supports the conclusion that [redacted] misused a GOV; however the misuse was not considered to be willful.

(U) Documentary Evidence

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(U) Lunch Stops While Using NSA Vehicles

(U//~~FOUO~~) This document states, "Stopping for a lunch break inside the 10-mile radius is permitted only when employee's schedule prohibits a return to their duty station, but these stops should still be avoided if at all possible." According to [redacted] this document is located in every Agency vehicle binder. A review of the vehicle binders maintained by [redacted] revealed that this document is located in all of the [redacted] vehicle binders. Refer to Appendix B for a copy of the document.

(U) Mapquest Directions from the [redacted] to NSA

(U//~~FOUO~~) Using mapquest.com, the route from the [redacted] to NSA was calculated. According to mapquest.com, there are two routes from which one can choose to get from the [redacted] to NSA. The shortest route is via Arundel Mills Blvd. and is [redacted]. The other route is via Rt. 100 and is [redacted]. Refer to Appendix C for specific route information and maps.

(U//~~FOUO~~) [redacted] NSA Training Record

(U//~~FOUO~~) [redacted] official NSA training record was obtained and reviewed. There is no documented training regarding the use of GOV's on [redacted] training record.

(U) CTC iDrive and Defense Driving Training (OHES1002): Defensive Driving (SAH0471); Defensive Driving Fundamentals [redacted]

(U//~~FOUO~~) These training modules, located in the Virtual University Portal (VUport), are the only training courses regarding use of GOV's offered by the Agency. These courses do not provide information regarding meal stops in GOV's.

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(U) Testimonial Evidence

(U//FOUO) [redacted]

(U//FOUO) On 26 August 2013, [redacted] was interviewed and provided the following sworn testimony.

(U//FOUO) [redacted] has been employed as a [redacted] in [redacted] for the last two years. He

[redacted] office is located in [redacted] on the NSA W campus. He usually drives a GOV to the leased sites, but occasionally drives his personally owned vehicle (POV).

(U//FOUO) On 12 August 2013, [redacted] drove a GOV from his office in [redacted] to the [redacted] for a meeting. The meeting ended later than planned, at approximately 1100 hours. [redacted] had another meeting scheduled at the [redacted] however, he had to return to [redacted] prior to the second meeting, to retrieve pertinent paperwork. Due to the late conclusion of the first meeting and drive time to and from the NSA W campus, [redacted] did not have time to purchase lunch at NSA W. [redacted] drove the GOV through the Wendy's drive-thru, located on Arundel Mills Blvd, to purchase lunch. Although [redacted] believed that lunch stops in GOV's on one's direct route were permitted, he acknowledged that the decision was "bad judgment" because he knew there was a "fine line" in the guidance on this matter. He clarified that he chose to go through the drive-thru instead of entering the restaurant because he thought purchasing food through the drive-thru was allowed.

(U//FOUO) Prior to this inquiry, [redacted] was unaware of the Agency guidance stating that lunch stops within 10 miles of any NSA facilities were prohibited. [redacted] has never taken any formal training regarding the policies for using GOV's. His only guidance was via word of mouth from former supervisors. [redacted] understanding of NSA's policy regarding lunch stops in GOV's was that they were permitted, as long as they were on one's direct route. The Wendy's restaurant where he purchased lunch on 12 August 2013 is located on Arundel Mills Blvd., which is on the direct route between the [redacted] and the NSA W campus. [redacted] has never stopped for lunch in a GOV on any other occasion. On trips to the [redacted] [redacted] ate lunch in the [redacted] cafeteria. On other occasions, when he planned to eat lunch at a restaurant, he drove his POV to and from the leased site.

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(U//FOUO) [redacted]

(U//FOUO) On 22 August 2013, [redacted] Deputy Chief, [redacted] was interviewed and provided the following sworn testimony.

(U//FOUO) Sometime after 12 August 2013, [redacted] upper-level supervisor, received a phone call from a representative of the Commuter & Motor Fleet Services [redacted] The [redacted] representative asked [redacted] which one of his employees was driving the Silver

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Dodge Caravan with the license plate number [redacted] on 12 August 2013 at 1100 hours.

[redacted] reviewed the vehicle logs and reported that the driver of the vehicle was

[redacted] in [redacted]

(U//FOUO) [redacted] immediately asked [redacted] if he knew why [redacted] was inquiring about who was driving that vehicle on that date. [redacted] explained that he had been at a meeting at the [redacted] and was in between appointments [redacted]. He was very hungry and felt it would take too much time to eat lunch at NSA or drive his POV to a fast food restaurant before his next appointment. Instead, he stopped at a fast food drive-thru window, located on Arundel Mills Blvd, on this way from the [redacted] to [redacted]. [redacted] told [redacted] that he knew he should not have done it, but he did it anyway. [redacted] explained to [redacted] that his actions were against Government policy and advised him not to stop for lunch in a GOV within 10 miles of any NSA facility again. [redacted] has been in his current position for six months and is unaware of any reminders regarding the use of GOV's sent to his organization.

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(U) Analysis and Conclusions

(U//FOUO) Currently, NSA does not have a formal policy, issued in accordance with NSA/CSS Policy 1-1, regarding the use of GOV's for meal stops. However, there is Agency guidance, including *The Guide to the Use of NSA Vehicles* (Appendix A). According to the guide, "meal stops should be avoided if possible. Stops, should they be necessary, shall occur only along the most direct route. In addition, for appearance reasons, stops shall always be avoided within 10 miles of any NSA facility." However, the *Lunch Stops While Using NSA Vehicles* document (Appendix B), which is located in every NSA vehicle binder, states "stopping for a lunch break inside the 10-mile radius is permitted only when employee's schedule prohibits a return to their duty station, but these stops should be avoided if at all possible."

(U//FOUO) Although [redacted] return to his duty station after stopping at the fast food restaurant was brief and the purpose was only to retrieve paperwork, his actions were in violation of Agency guidance. As the *Lunch Stops While Using NSA Vehicles* document (Appendix B) states, meal stops within 10 miles of Agency facilities are permitted only when an employee's schedule prohibits a return to their duty station.

(U//FOUO) [redacted] asserted that his understanding of the NSA guidance regarding meal stops in GOV's was that they were allowed on one's direct route. A Mapquest driving direction query (Appendix C) shows that Arundel Mills Blvd, where the fast food restaurant is located, is the most direct route between [redacted] and NSA.

(U//FOUO) Prior to the initiation of this investigation, [redacted] understanding of the guidance regarding meal stops in GOV's was that they were allowed along one's direct route. He denied knowledge of guidance that prohibits lunch stops within 10 miles of NSA facilities. [redacted] testimony and training record reveal that he has never taken any formal training regarding the use of GOV's. Further, the formal training that is offered by the Agency regarding use of GOV's

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(OHES1002, SAH0471, and [redacted] does not address the use of GOV's for meal stops. Due to [redacted] lack of training and knowledge regarding the guidance that prohibits meal stops within 10 miles of NSA facilities, the OIG determined that [redacted] actions were not willful.

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IV. (U) RESPONSE TO TENTATIVE CONCLUSION(S)

(U//~~FOUO~~) [redacted] responded to the tentative conclusions and stated that he had no further comment on the matter. Therefore, the tentative conclusions became final.

[redacted]
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V. (U) CONCLUSION

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that although [redacted] violated Agency guidance by using of a GOV to obtain lunch at a fast food restaurant, between official stops, he did not do so willfully.

[redacted]
.....
[redacted]
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VI. (U) DISTRIBUTION OF RESULTS

(U//~~FOUO~~) A copy of this report of investigation will be provided to:

A: MR, Employee Relations, for action deemed appropriate and

B: D23, Office of General Counsel (Administrative Law & Ethics), for information

(U//~~FOUO~~) A summary of the investigative findings will be provided to ADS&CI, Q234 (Special Actions), for information.

Concurred by:

[Redacted]

[Redacted]

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Assistant Inspector General
for
Investigations

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APPENDIX A

(U) Applicable Authorities

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(U//~~FOUO~~) The Guide to the Use of NSA Vehicles**(U//~~FOUO~~) Meals and Personal Stops**

(U//~~FOUO~~) Meal stops should be avoided if possible. Stops, should they be necessary, shall occur only along the most direct route. In addition, for appearance reasons, stops shall always be avoided within 10 miles of any NSA facility.

(U) 31 U.S.C., § 1344, Passenger Carrier Use

(U) Funds available to a Federal agency, by appropriation or otherwise, may be expended by the Federal agency for the maintenance, operation, repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes.

(U) 31 U.S.C., § 1349, Adverse Personnel Action

(U) Any officer or employee of the Government who willfully misuses or authorizes the misuse of any U.S. Government owned or leased passenger motor vehicle shall be suspended from duty by the Head of the DoD component concerned, without compensation, for not less than one month, and shall be suspended for a longer period or summarily removed from office if circumstances warrant.

(U) DoD Directive 4500.36R, Management, Acquisition, and Use of Motor Vehicles, March 16, 2007**(U) Chapter 1, General, C1.3., Penalties for Misuse of DOD Motor Vehicles**

C1.3.1.1. (U) Civilian Personnel. Any officer or employee of the Government who willfully uses or authorizes the use of any U.S. Government - owned or -leased passenger motor vehicle except for official purposes according to 31 U.S.C. 1344 (b), or otherwise violates section 1344, shall be suspended from duty without compensation for not less than 1 month by the Head of the DoD Component concerned. The officer or employee shall be suspended for a longer period or summarily removed from office if circumstances warrant according to 31 U.S.C. 1349b.

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(U) Chapter 2, Operation & Resource Management, C2.5. Official Use of Vehicles

(U) The use of all DoD motor vehicles, including those leased using DoD funds, or from other Government Agencies or commercial sources shall be restricted to official purposes only. FMR, Section 102-34.220-260 provides that each Federal Agency shall ensure that Government carriers are used for official purposes only; e.g., to perform the mission of the DoD Components as authorized by the DoD Components. When questions arise about the official use of a motor vehicle, they shall be resolved in favor of strict compliance with statutory provisions and this Regulation.

C2.5.1. (U) The determination as to whether a particular use is for official purposes is a matter of administrative discretion to be exercised within applicable law and regulations. In making such a determination, consideration shall be given to all pertinent factors including whether the transportation is the following:

2.5.1.1. (U) Essential to the successful completion of a DoD function, activity, or operation, and

2.5.1.2. (U) Consistent with the purpose for which the motor vehicle was acquired.

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APPENDIX B

(U) Lunch Stops While Using NSA Vehicles

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**LUNCH STOPS WHILE
USING NSA VEHICLES**

This office frequently receives complaints about NSA vehicles being seen at local eateries. Government vehicles should **NOT** be used to stop for meals. In those cases where the situation necessitates the use of a vehicle for a stop, the following guidance was developed to set a standard by which vehicles may be used.

Employees should **NOT** stop for lunch while using government vehicles **UNLESS** they exceed a 10-mile radius from AGENCY sites. If you are outside of the 10-mile radius and need to stop for lunch, the eating facility must be located along the direct route. Stopping for a lunch break inside the 10-mile radius is permitted only when employee's schedule prohibits a return to their duty station, but these stops should still be avoided if at all possible. **Employees must never use a government vehicle to accomplish personal business, even in conjunction with an official trip.** Food and/or beverages may **NOT** be consumed or transported in a government vehicle.

The bottom line is to protect yourself by adhering to the above guidance.

Any report to Motor Fleet Services of suspected misuse of a government vehicle will be referred to the Office of the Inspector General for further investigation.

**SMOKING IS PROHIBITED
IN GOVERNMENT VEHICLES**



APPENDIX C

(U) Mapquest Driving Directions

From the to NSA

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