

UNCLASSIFIED//FOR OFFICIAL USE ONLY



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
OFFICE OF THE INSPECTOR GENERAL
9800 Savage Road, Suite 6247
Fort George G. Meade, MD 20755-6247



7 November 2016

To: Chief, D14 [redacted]

From: Investigator [redacted]

Subject: Computer Misuse

File No: IV-15-0052 [redacted] (b) (3) - P.L. 86-36

Precedence: Routine

Purpose: To provide a summary report of investigation and to refer this matter to the Chief, Maryland Procurement Office (B3P2); and the Associate Directorate for Security and Counterintelligence (ADS&CI) - Contractor Clearances (A5232) and Special Actions (A5242); for review and any action deemed appropriate.

Details:

I. (U) Background:

(U//FOUO) On 23 June 2015, the NSA/CSS Office of the Inspector General (OIG) received a referral from ADS&CI indicating possible misuse of the unclassified NSA/CSS Information System (IS) by contractor affiliate [redacted] is employed by [redacted] as a [redacted] and works on the [redacted] contract [redacted] Technical Task Order [redacted]. On 17 September 2015, the OIG initiated an investigation into [redacted] suspected misuse of the unclassified NSA/CSS IS.

II. (U) Allegation:

(U//FOUO) Did [redacted] an NSA/CSS contractor affiliate, misuse the unclassified NSA/CSS IS during the period 1 May 2015 - 30 June 2015; by engaging in non-contract-related activity, including running a personal business, and billing the time spent engaged in such activity to the [redacted] contract, in violation of NSA/CSS Policy 6-4?

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

UNCLASSIFIED//FOR OFFICIAL USE ONLY

UNCLASSIFIED//FOR OFFICIAL USE ONLY

III. (U) Applicable Standard(s):

(U//~~FOUO~~) NSA/CSS Policy 6-4, *Contractor Use of NSA/CSS Information Systems and Resources*, dated 22 October 2013 (revised 18 May 2015)

IV. (U) Investigative Activity:

A. (U//~~FOUO~~) Network Activity Report Detailing [REDACTED] Unclassified NSA/CSS IS Activity:

(U//~~FOUO~~) On 23 June 2015, the OIG received a referral from ADS&CI indicating that during routine monitoring of the unclassified NSA/CSS IS, the user account bearing [REDACTED] NSA/CSS Standard Identification (SID), [REDACTED] was detected conducting activities related to a personal business, [REDACTED]. Specifically, [REDACTED] was detected developing a business plan, creating content for the [REDACTED] web page, searching for business locations, drafting advertisements/announcements for employment, responding to prospective employees, researching media contacts and discussing interviews he conducted with media organizations. [REDACTED] was also detected completing coursework related to an online course called *Recruitment and Retention Strategies*, and engaging in sexual conversations with an unknown person or persons related to the "swinging"¹ lifestyle.

(U//~~FOUO~~) Further review of the network activity report (Appendix A) revealed that between 2 June 2015 and 18 June 2015, [REDACTED] engaged in a variety of activities related to his personal business, [REDACTED]. [REDACTED] is described as a "cuddle shop" that offers a relaxing and stress releasing environment where customers can experience the soothing, platonic touch of another human being by paying to cuddle with another person (i.e. an employee of [REDACTED] referred to as a "Cuddler" or "Snuggler"). In an effort to promote his new business, [REDACTED] researched a number of local media contacts and copied an extensive listing of those contacts from his personal email account to the clipboard on his unclassified workstation. He was subsequently interviewed by at least one local news station on or about [REDACTED] and was observed discussing details of that interview, as well as other potential interviews, with an unidentified person via his personal email account. [REDACTED] was also detected drafting a business plan and advertisements for employment. Content from both the business plan and the advertisement for employment later appeared on the [REDACTED] website on the "Contact"³ page under the heading "Safety" (See Appendix B). Additionally, [REDACTED] was observed communicating with an applicant for employment about the contents of her application, and requesting additional documentation from her.

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

(b) (6)

¹ "Swinging", also known as wife/partner swapping, is a non-monogamous behavior in which both singles and partners in a committed relationship engage in sexual activities with others as a recreational or social activity. (Bergstrand, Curtis; Blevins Williams, Jennifer (2000-10-10). "Today's Alternative Marriage Styles: The Case of Swingers". *Electronic Journal of Human Sexuality* (www.ejhs.org/volume3/swing/body.htm);

² [REDACTED]
³ See [REDACTED]

UNCLASSIFIED//FOR OFFICIAL USE ONLY

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(U//~~FOUO~~) The network activity report further revealed that [redacted] used the unclassified IS to complete coursework related to an online course called, *Recruitment and Retention Strategies*. [redacted] was observed incorporating both the business plan and employment advertisements into assignments associated with the course, as well as participating in online class discussion forums.

(U//~~FOUO~~) Finally, the network activity report also revealed that [redacted] engaged in sexual conversations via his personal email account with an unknown person or persons. Specifically, [redacted] was observed discussing the topic of "swinging" in general, his personal experiences with "swinging," his willingness to participate in bondage and "bare play," and his preference for "safe play."⁴

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

B. (U) Interview(s):

(U//~~FOUO~~) On 24 June 2016, contractor affiliate [redacted] was interviewed and provided the following sworn testimony:

(U//~~FOUO~~) [redacted] is a contractor [redacted] who currently supports [redacted] and is employed by [redacted]. [redacted] job duties involve the discovery and collection of signals. [redacted] has been continuously affiliated with the Agency since 2003 as both a military and contractor affiliate. [redacted] currently supports the [redacted] contract [redacted]. However, he was previously employed by [redacted] and supported [redacted] on the [redacted] contact [redacted] Technical Task Order [redacted] from [redacted]. His SID is [redacted].

(U//~~FOUO~~) [redacted] has received annual training and is aware of standard practices related to the use of government information systems. He is also aware of the Consent to Monitoring banner that displays when logging on to an Agency IS. "Standard practices" includes things such as checking personal email, completing his time card, and generally browsing the internet as long as prohibited pages are not accessed. He does not specifically recall receiving any official training regarding proper use of the unclassified IS. He was more likely instructed to be careful using the unclassified IS because there are policies governing such use. He was told not to be on the unclassified IS for long periods of time and if he had to look at something, to get on and get off as soon as possible. He understands that "consent to monitoring" means that his activity can be intermittently monitored and that his past activity can be "pulled". He does not believe that the Agency would necessarily monitor an affiliate's visits to news or sports websites. He believes that an affiliate's activity on Agency ISs is "flagged" if a violation occurs, as opposed to being actively monitored.

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

(b) (6)

(U//~~FOUO~~) [redacted] stated that he recalls conducting research on the unclassified IS related to starting a business, but cannot recall doing anything directly related to the business itself. [redacted] stated that he does use the unclassified IS for personal use, but not for very

⁴ "Playing" refers to sexual activities. "Safe" or "bare" play refers to sexual intercourse with or without the use of prophylactics;

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

long throughout the day. He estimates his use to be no more than one hour per week. He checks his personal email account but does not engage in chatting.

(U//~~FOUO~~) The name of his business is [REDACTED]. He started it about one year ago. He does not specifically recall the last time he did any work related to his business on the unclassified IS, however, he may have done some work as recently as this year, i.e. an email from one of the advertising companies in April 2016. The business has not taken off and he is contemplating closing it. He realized in September 2015 that the business was not going to be successful. His efforts at starting the business included registering the LLC with the State of Maryland, speaking with realtors about rental properties, creating a business plan, creating a website, attempting to hire employees, and advertising on Facebook. He may have put a hiring ad on Craigslist. He does not recall conducting these activities while at work. He believes that he may have accessed the [REDACTED] business email and conducted business-related research while at work as well. He stated that he may have coordinated media interviews from work and may have conversed with media via email. He paid for a service that provided a list of journalists within the local area, which is where he got the names for the journalists he was contacting. He was interviewed by the *Capital Gazette* in [REDACTED] Fox 5 in Washington D.C., and Fox 45 in Baltimore. The *Columbia Patch* just used information from another story, but he never spoke to anyone from that publication. He does not recall talking to anyone from the *Baltimore Sun*.

(b) (6)

(U//~~FOUO~~) [REDACTED] stated that he may have done some part of his business plan while at work. He might have drafted the business plan within a personal email as opposed to doing so on an unclassified workstation itself. He used *SBA.gov* (Small Business Administration) as a resource to conduct research related to starting a business. He stated that he probably accessed that website while at work to conduct that type of research. He may have used the unclassified IS to research business locations. He does not specifically recall the websites he accessed due to the time that has passed. He does not recall whether he has recently conducted any activity related to [REDACTED]. The only thing he may have done in the last two to three months related to [REDACTED] is to log into the business website to send email.

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

(U//~~FOUO~~) He recalls receiving responses to his advertisement for employment, and he may have coordinated interviews with those prospective employees using the unclassified IS. The [REDACTED] website was created from his home. The website allows customers to schedule appointments, but he does not know if that service is functional. No appointments have ever been made.

(U//~~FOUO~~) [REDACTED] took two online courses in the last twelve months through "Universal Class" (he could not recall the exact name). One course was a business course and may have been called "Recruitment and Retention Strategies." The courses consisted of required readings and quizzes. He may have taken a multiple choice quiz and written a paragraph for an assignment while at work. [REDACTED] stated that he "touched" the class using the unclassified IS, meaning he completed coursework using the unclassified IS. He does not recall the exact dates that he took these courses. He reviewed the online course material while at work.

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//FOR OFFICIAL USE ONLY

(U//FOUO) [redacted] stated that he has not engaged in sexually-explicit chat or viewed any pornographic or sexually-explicit material. He has not visited websites, forums, or chat rooms related to “swinging” or alternative lifestyles while at work. He does not think he would have spoken about these topics through email or chat tools while at work.⁵ [redacted] thought that he wrote the emails, but did not believe he wrote them at work. While he cannot be certain that he wrote the emails, he did participate in the activities discussed in them.

(U//FOUO) He does not think that he spent any significant amount of time on the unclassified IS conducting activity related to his business in the months preceding or following the start of his business. If he did, it was no more than one hour per week. He usually takes a working lunch. He accounts for any time outside of the building on his timesheet. [redacted] does not think that he billed the government for the time in which he was engaged in activities related to his personal business. In general, he works about 15 minutes longer to account for any periods of time in which he was not working. Every other day he works an extra five or ten minutes to accumulate a total of 15 minutes.

(U//FOUO) He understands that conducting activity related to his personal business on the unclassified IS violates NSA/CSS policy. He understands that these activities were not unavoidable personal matters requiring his immediate attention, and that they could have waited until after work.

V. (U) Analysis:

(U//FOUO) [redacted] is an NSA/CSS contractor affiliate employed by [redacted] as a [redacted] [redacted] duties as a [redacted] involve the discovery and collection of signals. In this capacity, [redacted] requires access to NSA/CSS ISs to perform his duties and is considered an authorized user of the NSA/CSS unclassified IS pursuant to NSA/CSS Policy 6-6.⁶ As such, NSA/CSS Policy 6-4, *Contractor Use of NSA/CSS Information Systems and Resources* (dated 22 October 2013, revised 18 May 2015) applied to his use of the unclassified NSA/CSS IS during the period of suspected misuse from 2 June 2015 – 18 June 2015.

(U//FOUO) NSA/CSS Policy 6-4 specifically limits contractor use of NSA/CSS ISs to the performance of tasks authorized by contract, approved by the Contracting Officer, and permitted by the policy itself.⁷ Further, NSA/CSS Policy 6-4 expressly prohibits contractors from engaging in personal use of the unclassified IS “except for brief, infrequent communications to deal with urgent matters. This limited exception to the personal use prohibition applies only when:

- a. (U) Unavoidable personal matters arise such as, but not limited to, contacting a spouse, dependent family member, or other individuals responsible for a dependent’s care; scheduling a physician’s appointment; or vehicle maintenance;

⁵ [redacted] was provided a document containing his email conversations with an unknown person about the swinging lifestyle.

⁶ See NSA/CSS Policy 6-6, Purpose and Scope;

⁷ See NSA/CSS Policy 6-4, Paragraph 1, dated 22 October 2013 (revised 18 May 2015);

UNCLASSIFIED//FOR OFFICIAL USE ONLY

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

- b. (U) The communication does not adversely affect the NSA/CSS mission or reflect poorly on NSA/CSS;
- c. (U) The communication does not result in other than minimal expense to the Government (e.g., the call is local, toll-free);
- d. (U) Time spent using the NSA/CSS IS or resource is not billed to the contract; and
- e. (U) The use is not associated with personal business activities outside the scope and purpose of the contract.”⁸

(U//~~FOUO~~) The network activity report revealed, and [redacted] admitted, that during the period 2 June 2015 through 18 June 2015 he used the NSA/CSS unclassified IS to perform activities related to his personal business, conduct coursework related to an online class, and engage in personal conversations involving sexual content. During this period, [redacted] supported the [redacted] contract [redacted] Technical Task Order [redacted]. In accordance with NSA/CSS Policy 6-4, contractor use of NSA/CSS ISs is subject to three conditions, i.e. the use must be: 1) limited to the performance of tasks authorized by the contract, 2) approved by the Contracting Officer, and 3) permitted by NSA/CSS Policy 6-4. [redacted] [redacted] acknowledged that his personal, non-contract-related use of the unclassified IS was unrelated to the performance of tasks authorized by the [redacted] contract, and that it was unlikely that such use was approved by his Contracting Officer. Furthermore, although NSA/CSS Policy 6-4 authorizes personal use of NSA/CSS ISs by contractors, such personal use is limited to brief, infrequent communications to deal with urgent matters such as those defined in Paragraph 9a – 9e. Notably, Paragraph 9e specifically prohibits any use of the unclassified IS associated with personal business activities outside the scope and purpose of the contract. The activities conducted by [redacted] on the unclassified IS were directly associated with the furtherance of his personal business, [redacted] and, as [redacted] acknowledged, outside the scope and purpose of the contract he supported. This activity, including the use of the unclassified IS to conduct coursework related to an online course and to engage in personal conversations involving sexual content, is personal in nature and inconsistent with NSA/CSS Policy 6-4's limited exception to the personal use prohibition. Specifically, these activities cannot reasonably be characterized as unavoidable personal matters requiring his immediate attention; rather, they were activities conducted in furtherance of his personal business and for his personal gratification that should have been conducted on his personal time, outside of NSA/CSS spaces. Thus, by engaging in such non-contract-related, personal use of the NSA/CSS unclassified IS [redacted] misused the unclassified IS in violation of NSA/CSS Policy 6-4, Paragraph 9.

(U//~~FOUO~~) Finally, [redacted] maintains that although he did use the unclassified IS to conduct personal, non-contract-related activity, he did not bill the time spent engaged in that activity to the [redacted] contract. In fact, [redacted] claims that he worked an extra five or ten minutes every other day to account for any periods of time in which he was not

⁸ See Ibid at Paragraph 9;

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

working on contract-related tasks. However, he also stated that he spent no more than one hour per week conducting personal, non-contract-related activity. Any billing of a contract for a contractor's unauthorized use of the unclassified IS, however slight, is a violation of NSA/CSS Policy 6-4. However, the figures provided by [REDACTED] are estimates based upon his recollection and, thus, of questionable reliability. Moreover, the network activity report itself did not provide an analysis of the time [REDACTED] spent engaged in this activity. Therefore, while it is likely that [REDACTED] billed some amount of time engaged in non-contract-related activity to the [REDACTED] contract, the lack of conclusive evidence prevents a definitive finding that he did in fact do so. As a result, no conclusions are made with respect to the allegation that [REDACTED] billed time spent conducting non-contract-related activity to the [REDACTED] contract, in violation of NSA/CSS Policy 6-4, Paragraph 9.

(U//~~FOUO~~) The OIG finds that a preponderance of the evidence exists to support the conclusion that, during the period 2 June 2015 through 18 June 2015, [REDACTED] misused the unclassified NSA/CSS IS to conduct personal business activities outside the scope and purpose of the contract he supported [REDACTED]. Additionally, the evidence shows that he conducted other non-contract-related, personal activities such as completing coursework related to an online course and conducting personal conversations involving sexual content. These activities are in violation of NSA/CSS Policy 6-4, Paragraph 9.

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

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

VI. (U) Response to Tentative Conclusion:

(U//~~FOUO~~) The tentative conclusion was provided to [REDACTED] on 27 October 2016. On 31 October 2016, [REDACTED] responded to the tentative conclusion by stating the following:

"As was stated during my interview surrounding details of the investigation, I was not aware as to the verbiage of the policy but was always told that use, not in excess, was acceptable. I have since read the document and see the error the way that I have always been told and have passed the information along to colleagues that were also misinformed."

(U//~~FOUO~~) [REDACTED] response provided no new information or mitigation that would impact our analysis, therefore, our preliminary conclusion became final.

VII. (U) Conclusion(s):

(U//~~FOUO~~) **Substantiated.** (U//~~FOUO~~) The OIG finds that a preponderance of the evidence exists to support the conclusion that, during the period 2 June 2015 through 18 June 2015, [REDACTED] misused the unclassified NSA/CSS IS by conducting activities associated with a personal business outside the scope and purpose of the contract he supported [REDACTED] and conducting other non-contract related, personal activities such as completing coursework related to an online course and conducting personal conversations involving sexual content, in violation of NSA/CSS Policy 6-4, Paragraph 9.

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

*** (U//~~FOUO~~) This report is property of NSA and may not be disseminated further without specific approval of the NSA OIG and the Office of the General Counsel (OGC) - Litigation. Furthermore, the information in this report cannot be used in affidavits, court proceedings, subpoenas, or for other legal or judicial purposes without prior OIG and OGC (Litigation) approval.**

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(U) APPENDIX A

(U) Network Activity Report

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Edits were made by the OIG for purposes of readability:

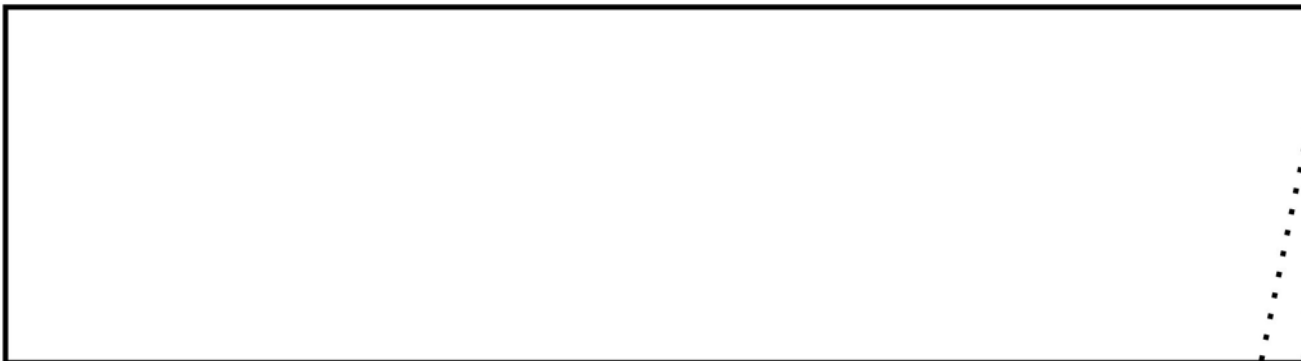
6/18/2015 (1016 - 1124 hours):



6/17/2015 (1650 hours):



6/16/2015 (1614 - 1739 hours):



(b) (6)

6/11/2015 (1619 hours):

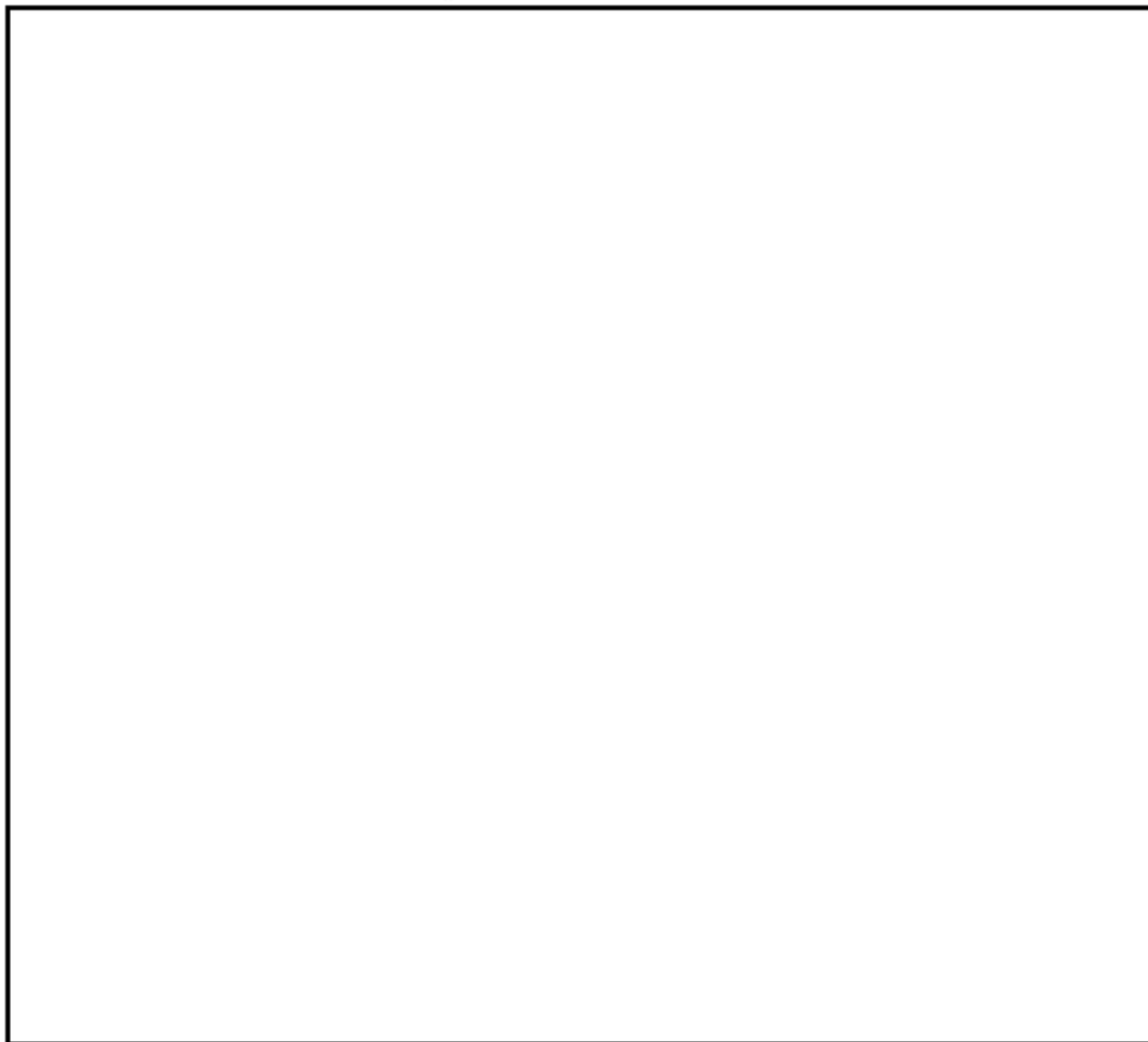


6/11/2015 (1010 hours):



UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~



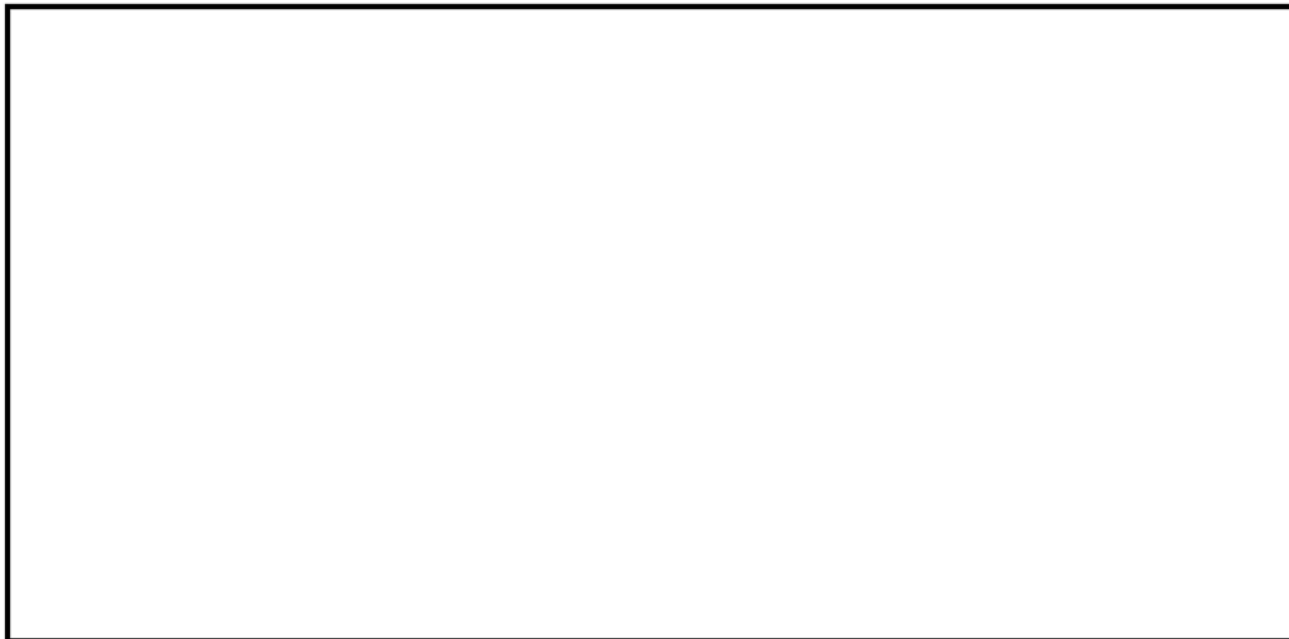
(b) (6)

6/8/2015 (1430 hours):



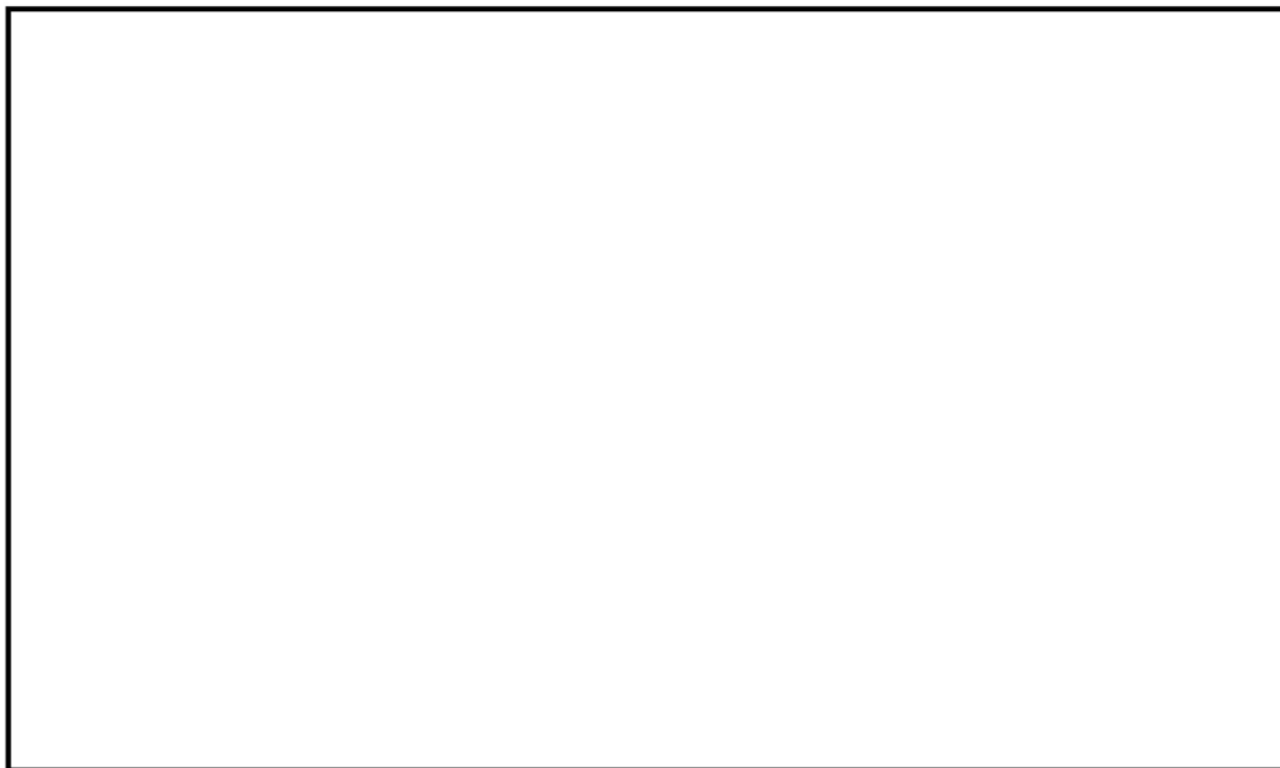
UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~



(b) (6)

6/3/2015 (1257 – 1355 hours):



UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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

6/2/2015 (1425 hours):



6/2/2015 (1116 - 1117 hours):



(b) (6)

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~



(b) (6)

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(b) (6)

(U) APPENDIX B

(U) Webpage



UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(b) (6)

(b) (6)

(b) (6)

(b) (6)

(b) (6)

.....

(b) (6)