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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



INSPECTOR GENERAL

REPORT OF INVESTIGATION

16 August 2013

IV-13-0066

Misuse of Government Blackberry

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(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(b) (3) - P.L. 86-36
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(U//~~FOUO~~) On 12 March 2013, the Office of the Inspector General (OIG) received a complaint alleging that [redacted] misused her Government Blackberry device. It was alleged that [redacted] made hundreds of personal phone calls and sent thousands of personal text messages from her Blackberry.

(U//~~FOUO~~) The OIG investigation included an interview with [redacted] and her supervisors and analysis of her Blackberry records from 15 July 2011 through 16 September 2012. Analysis of the data disclosed excessive personal use that supported the conclusion that [redacted] knowingly misused her Government Blackberry by using it for personal phone calls and data usage, including text messaging. We found 1142 phone calls, 28,227 text messages, and 518 data events during the period in question. With the exception of one work-related phone call, all of the other Blackberry use was personal in nature.

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that, during the period 15 July 2011 through 16 September 2012, [redacted] knowingly misused her Government Blackberry in violation of DoD JER 5500.7-R, subpart 2-301(a); DoDI 5000.64, §4(a)(3)(a-c,e); and PMM, Chapter 366, §1-3(H).

(U//~~FOUO~~) Copies of the OIG report will be forwarded to MR, Employee Relations, for action deemed appropriate and D23, the Office of General Counsel (Administrative Law and Ethics) for information. A summary of the investigative findings will be forwarded to the Associate Directorate for Security and Counterintelligence (ADS&CI), Q234 (Special Actions), for information.

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I. (U) BACKGROUND

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(U) Introduction

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(U//~~FOUO~~) [redacted] entered on duty on [redacted]. She has worked as a [redacted] in [redacted] since [redacted].

(U//~~FOUO~~) On 12 March 2013, the OIG received a complaint alleging that [redacted] misused her Government Blackberry device. Specifically, it was alleged that [redacted] made hundreds of personal phone calls and sent thousands of personal text messages. An initial review of [redacted] Blackberry records from July 2011 to September 2012 supported the allegation that she used the device for personal purposes; therefore an investigation was initiated.

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(U) Applicable Authorities

(U) The investigation looked at possible violations of the following authorities. See Appendix A for full citations.

- (U) DoD Joint Ethics Regulation (JER) 5500.7-R, Subpart 2-301(a)
Use of Federal Government Resources
- (U) DoD Instruction (DoDI) 5000.64, Section 4(a)(3)(a-c,e)
Accountability and Management of DoD Equipment and Other Accountable Property
- (U) NSA/CSS PMM 30-2, Chapter 366, Section 1-3(H)
General principles for on-the-job conduct

II. (U) FINDINGS

(U//~~FOUO~~) Did [redacted] misuse her Government issued Blackberry device?

(U//~~FOUO~~) **CONCLUSION: Substantiated.** The preponderance of the evidence supports the conclusion that, during the period 15 July 2011 through 16 September 2012, [redacted] knowingly misused her Government Blackberry device by using it for personal purposes in violation of DoD JER 5500.7-R, subpart 2-301(a); DoDI 5000.64, §4(a)(3)(a-c,e); PMM, Chapter 366, §1-3(H).

(U) Evidence

(U) Documentary Evidence

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(U) Blackberry Records

(U//~~FOUO~~) The OIG's analysis of [redacted] Blackberry records for the period of 15 July 2011 to 16 September 2012 revealed 1142 phone calls, 28,227 text messages, and 518 data events. Although [redacted] had the Blackberry in her possession until 21 November 2012, no usage was recorded between 17 September 2012 and 21 November 2012. [redacted] Blackberry usage records consist of over 1300 pages; therefore, the records are not attached in this report.

(U) Memorandum

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(U//~~FOUO~~) A memorandum regarding the recall of [redacted] Blackberry device was obtained and reviewed. On 16 November 2012, [redacted] former Chief, [redacted] issued a memorandum to [redacted] which instructed her to return her Blackberry to her supervisor no later than 21 November 2012. It also documented a June 2012 verbal reminder from [redacted] supervisor regarding using the Blackberry for official use only. Additionally the memo documented an unusually high level of minutes and events recorded on [redacted] Blackberry record through September 2012. A copy of this document is attached in Appendix B.

(U) User Agreement

(U//~~FOUO~~) The Unclassified Mobile Computing Service User Agreement form, signed on 30 June 2011 by [redacted] and her supervisor, [redacted] was obtained and reviewed. By signing the document, [redacted] acknowledged her responsibility to

conform to several requirements and conditions including only using the device for official Government business. A copy of this document is attached in Appendix C.

(U) Testimonial Evidence

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(U//FOUO) On 15 May 2013, [redacted] GG-13, Chief [redacted] and [redacted] GG-14, Chief [redacted] were interviewed and provided the following sworn testimony:

(U//FOUO) [redacted] is [redacted] direct supervisor and [redacted] is [redacted] supervisor. Between 2011 and 2012, [redacted] and [redacted] were part of a three person [redacted] team who [redacted] They were issued Blackberries in 2011 to assist [redacted] after normal business hours.

(U//FOUO) In June 2012, [redacted] presented [redacted] with data regarding her team's quarterly use of their Blackberry devices. Between April and June 2012, [redacted] used 55 minutes and had 107 events (data usage or text messages) and the third team member did not use any minutes and had 14 events. During the same time, [redacted] used 689 minutes and 13,885 events. As the team chief, [redacted] was responsible for most of the after-hours assistance; therefore, her usage should have been higher than the other two team members. Additionally, beginning on 1 May 2012, [redacted] [redacted] therefore, she should not have had any work-related reason to use the Blackberry beginning in May 2012.

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(U//FOUO) On 6 June 2012, after reviewing the quarterly data usage, [redacted] spoke to [redacted] on the telephone and advised her that her Blackberry was for official use only. [redacted] did not mention the quarterly data or [redacted] unusually high usage.

(U//FOUO) On 16 November 2012, [redacted] was presented with a memorandum that referenced the June 2012 verbal reminder that her Blackberry was for official use only, documented the unusually high level of minutes and events regarding her Blackberry, and directed her to return the device by 21 November 2012. On 19 November, [redacted] called [redacted] and left a voicemail reminding her to return her Blackberry by 21 November 2012. [redacted] returned the Blackberry by the deadline; however, it was missing the charger and battery that were originally issued with the device.

(U//FOUO) On 16 May 2013, [redacted] was interviewed and provided the following sworn testimony:

(U//FOUO) In June 2011 [redacted] was assigned a Government Blackberry device for work related use. During the time she was assigned the Blackberry, from June 2011 to November 2012, [redacted] used the device for an official phone call on one occasion. All other calls, text messages, and data usage were personal in nature.

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(U//FOUO) [redacted] used the device regularly for personal phone calls and occasionally text messages for the first year that she possessed the phone. In approximately June 2012, her use of the phone ceased [redacted]. However, usage records show the phone was continually used until 16 September 2012. At some point during the time that she had the Blackberry, she began to suspect that [redacted] was using the device; however, she was unable to recall when this suspicion initially occurred. [redacted] thinks all of the usage between June 2012 and September 2012 was due to [redacted] use of the device. She surmised there was no usage between 17 September 2012 and 21 November 2012 because [redacted] was going to get caught using her Blackberry without permission; therefore [redacted] ceased using the device.

(U//FOUO) Although she assumed [redacted] was using her Blackberry, she never witnessed [redacted] using the device. [redacted] never asked [redacted] used the device, nor did she attempt to hide the Blackberry from [redacted]. She kept the Blackberry on a dresser in her bedroom and never noticed it missing.

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(U//FOUO) [redacted] was questioned about a June 2012 verbal counseling from her supervisor, [redacted] regarding her use of the Blackberry. She was unable to recall the specific counseling; however, she admitted that she was [redacted] and may have forgotten the conversation.

(U//FOUO) [redacted] does not own a personal cell phone and used her Government Blackberry for personal communication. She acknowledged signing the user agreement, which stated the device was for official use only. [redacted] also admitted to being aware that the Blackberry was for official Government use only. When asked why she used the device for personal purposes when she knew it was a violation of policy, she responded "I can't say anything in my defense other than stupidity." [redacted] was under the impression that her Blackberry usage would not be reviewed; therefore, she believed she could use the phone for personal purposes and the usage would not be detected. [redacted] accepted responsibility for her own personal use of the Blackberry and [redacted] use of the Blackberry. "It was in my possession. I was responsible."

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(U) Analysis and Conclusions

(U//FOUO) Analysis of [redacted] Blackberry use from 15 July 2012 through 16 September 2012 shows 1142 phone calls, 28,227 text messages, and 518 data events. [redacted] admitted to using the Blackberry for only one official phone call during this time; therefore the remaining usage was personal.

(U//FOUO) According to DoD JER 5500.7-R, DoDI 5000.64, and the signed Unclassified Mobile Computing Service User Agreement form, Federal Government property, including communication systems and equipment, shall be for official use and authorized purposes only.

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[redacted] admitted understanding that her government issued Blackberry was for official use only; however, she used the device for personal purposes believing that such use would go undetected. [redacted] not only violated DoD regulations, but also violated the NSA PMM, Chapter 366, §1-3(H), which states that employees must properly use federal property, equipment and materials. By her own admission, [redacted] was aware that the Blackberry was for official purposes only, yet chose to use it for personal communication.

(U//~~FOUO~~) Not only did [redacted] knowingly misuse her Blackberry by using it for her own personal communication, she failed to act when she suspected [redacted] of using the device. According to the DoDI 5000.64, individuals entrusted with Government property are responsible for contacting the appropriate authority if property is subjected to undue risk of loss, damage, destruction, theft, fraud, waste, abuse, or mismanagement. [redacted] assumed [redacted] was using her Blackberry, yet testified that she neither questioned [redacted] about the matter nor attempted to move the Blackberry to a more secure location. Further, she did not contact her management or property officer when she suspected [redacted] of using the Blackberry; therefore, [redacted] failed to properly protect it from misuse.

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that, during the period 15 July 2011 through 16 September 2012, [redacted] knowingly misused her Government Blackberry device by using it for personal purposes in violation of DoD JER 5500.7-R, subpart 2-301(a); DoDI 5000.64, §4(a)(3)(a-c,e); PMM, Chapter 366, §1-3(H).

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III. (U) RESPONSE TO TENTATIVE CONCLUSION

(U//FOUO) [redacted] provided the following response to the tentative conclusions:

(U//FOUO) Please take the following response into consideration when determining appropriate action.

(U//FOUO) I am very sorry about this situation and have been forthcoming when questioned about the unfortunate misuse of the Blackberry. I would like to provide some extra detail as to the circumstances that led to this occurrence. I was [redacted] during this time and was [redacted]

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Although this is not an excuse, it did lead to the unrealized misuse. At that time [redacted]

[redacted] which can be seen by the extremely high usage of the device. [redacted] did not realize the severity of [redacted] actions and just thought a phone was a phone. Once the extent of the misuse was realized the battery was removed to prevent further use of the device. This can be seen because the phone usage stopped from September to the time the phone was returned to my supervisor. I now realize I should have contacted management. I have only recently [redacted] and would like to know if I can pay for the phone usage to resolve this issue.

(U//FOUO) In summary, the portion of the write-up below which states "You assumed [redacted] was using your Blackberry, yet you neither questioned [redacted] about the matter nor attempted to move the Blackberry to a more secure location", is incorrect. I only became aware of [redacted] use of the phone after the misuse was brought to my attention. Once I became aware of it, I removed the battery so [redacted] could no longer use it. I do take this situation very seriously and hope my [redacted] years of service to the Agency can be taken into consideration in the OIG final conclusion.

(U//FOUO) Upon receipt of the above response on 8 August 2013, [redacted] was interviewed and provided the following sworn testimony:

(U//FOUO) [redacted] verified that in June 2012, when [redacted] contacted her regarding the use of her assigned Blackberry, she assumed that [redacted] had used the device without her knowledge. Due to [redacted] at that time, [redacted] made no attempt to stop [redacted] from using the device.

(U//FOUO) [redacted] did not remove the battery from the Blackberry. After her first OIG interview on 16 May 2013, she spoke with [redacted] about the situation and [redacted] informed her

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that [redacted] removed the battery from the phone and hid the battery and charger so [redacted] could no longer use the device.

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

(U//~~FOUO~~) In approximately September 2012, [redacted] became aware of [redacted] use of [redacted] Government issued Blackberry. [redacted] removed the battery from the device and hid the battery and charger to prevent [redacted] from further use of the device. [redacted] was unable to recall how [redacted] became aware that [redacted] was using [redacted] Blackberry device.

(U//~~FOUO~~) When [redacted] returned her Blackberry in November 2012, it was returned without the battery and charger. [redacted] explained that [redacted] was unable to locate the battery and charger after hiding them from [redacted]

(U//~~FOUO~~) [redacted] response to the tentative conclusions did not affect the OIG's conclusion. [redacted] admitted to being aware of the policy that Government issued devices are for official use only, yet she used the Blackberry for personal use. She also acknowledged taking no action when she assumed that [redacted] was using her Blackberry without her permission.

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VI. (U) CONCLUSION

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that, during the period 15 July 2011 through 16 September 2012, [redacted] knowingly misused her Government Blackberry device by using it for personal purposes in violation of DoD JER 5500.7-R, subpart 2-301(a); DoDI 5000.64, §4(a)(3)(a-c,e); PMM; Chapter 366, §1-3(H).

[redacted]
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VII. (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), for information

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

Concurred by:

Investigator

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Assistant Inspector General
for
Investigations

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APPENDIX A

(U) Applicable Authorities

Personnel Privileged Information
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~~(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.

~~(U//FOUO)~~ **DoD Instruction (DoDI) 5000.64:**

SUBJECT: Accountability and Management of DoD Equipment and Other Accountable Property

...4. POLICY. It is DoD policy that:

- a. All persons entrusted with the management of Government property shall:

...3. Be responsible for the proper use, care, physical protection, and disposal or disposition of all Government property. This responsibility includes:

- (a) Using Government property for official business Only
- (b) Complying with all applicable regulations
- (c) Contacting the appropriate authority if property is subjected to undue risk of loss, damage, destruction, theft, fraud, waste, abuse, or mismanagement.
- (e) Reporting any misuse of Government property to appropriate investigative organizations through proper channels.

~~(U//FOUO)~~ **NSA/CSS PMM 30-2, Chapter 366, Section 1-3 (General principles for on-the-job conduct):**

...H. Conserve, protect, and properly use Federal funds, property, equipment, and materials;

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APPENDIX B

(U) Memorandum

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[Redacted]

From: [Redacted]
Sent: Wednesday, August 22, 2012 5:52 PM
To: [Redacted]
Cc: [Redacted]
Subject: (U) Use of Government PCD
Signed By: [Redacted]

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[Redacted]

(U//FOUO) I spoke with [Redacted] this evening re: the subject. If [Redacted] turns in her blackberry tomorrow – that's great. Complete the transfer docs and provide her with a signed copy.

(U//FOUO) If [Redacted] doesn't turn in her blackberry tomorrow, don't ask for it again. Instead let her know that [Redacted] exceeding expected usage rates for the period Apr – Jun 2012. Please ask her to confirm that she has only been using the device to conduct official government business and if not, remind her that the use of government PCD is for official government business only. Please also send her a high-side email reiterating the requirement to limit PCD use to official government business only. You should attach the appropriate Policy and User Agreement to that email.

(U//FOUO) Additionally please conduct an analysis of each team member's roles and responsibilities to determine whether or not there remains a valid mission requirement for each to retain use of a PCD. If you feel you can't justify a PCD for an individual(s), based on their job requirement, please recall the device(s).

Best,

[Redacted]

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(U//FOUO)

[Redacted]

From: [Redacted]
Sent: Wednesday, August 22, 2012 3:58 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) Request for Clarification on Retention of Blackberry

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[Redacted]

[Redacted] was provided the blackberry as part of the [Redacted]. If she returned tomorrow on a full-time basis, she would continue to be part of the team.

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APPENDIX C

(U) Unclassified Mobile Computing Service User Agreement

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UNCLASSIFIED FOR [REDACTED]

Unclassified Mobile Computing Service USER AGREEMENT

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As a user of the Mobile Computing Service (MCS) you will follow the same rules and regulations associated with any Agency Unclassified Internet system.

I acknowledge my responsibility to conform to the following requirements and conditions:

1. I understand failure to sign this acknowledgment will result in denial of access to the Unclassified MCS system.
2. I understand the Unclassified MCS system is only available within the [REDACTED] environment, and as such, I may or may not have to maintain two separate accounts.
3. If I have to maintain two separate accounts, I understand it is my responsibility to transfer data between those two accounts.
4. I understand this Unclassified MCS system can only be used for open source research and cannot be used for intelligence gathering activities.
5. I understand I am not allowed to download or install applications onto the MCS device.
6. I understand I am not allowed to remove applications from the MCS device.
7. I understand any personally owned MCS devices are not permitted on government MCS networks.
8. I understand that the MCS device should not be used to process classified information or be attached to any classified processing system.
9. The introduction of a personally owned Mobile Computing Device (MCD or Blackberry) into any NSA/CSS spaces, either within CONUS or OCONUS, is strictly prohibited. Government owned MCDs may be brought into these spaces for the following purposes only: (1) for new issue by the appropriately tasked group (e.g. [REDACTED]); (2) for repair/troubleshooting of user-reported problems, including loading of software upgrades; and, (3) to turn-in a unit no longer needed. In all cases, while the device is in NSA/CSS spaces, the battery shall be removed.
10. I acknowledge my responsibility to use the Unclassified MCS system ONLY for official government business as an obligation under the Standards of Ethical Conduct for Employees of the Executive Branch 5 CFR Part 2635 dated 2 August 1992 and DOD Directive 5500.7 "Joint Ethics Regulation" and any subsequent revisions.
11. I have read and understood NSA/CSS POLICY 6-6, (U) USE OF UNCLASSIFIED INFORMATION SYSTEMS SUCH AS THE INTERNET dated 30 September 2004.
12. I understand all NSA/CSS Telecommunications and Automated Information Systems and related equipment are for the communication, transmission, processing and storage of U.S. Government information only. These systems and equipment are subject to monitoring to ensure proper functioning, to protect against improper or unauthorized use

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Unclassified Mobile Computing Service USER AGREEMENT

or access, and to verify the presence or performance of applicable security features or procedures, and for like purposes. Such monitoring may result in the acquisition, recording, and analysis of all data being communicated, transmitted, processed or stored in this system by a user. If monitoring reveals possible evidence of criminal activity, such evidence may be provided to law enforcement personnel. I expressly consent to such monitoring.

13. I understand I must report to my ISSO if the MCD assigned to me has been either lost or stolen. I also understand I must call the [redacted] [redacted] to report a lost or stolen MCD, so [redacted] may take the appropriate actions to deactivate service.

14. I understand the MCS device assigned to me and all related accessories provided must be returned to [redacted] when this agreement is ended or terminated, or at the request of my supervisor.

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Signature Block

Customer Name: [redacted]

Date: 30 June 11

Organization: [redacted]

Customer SID: [redacted]

Signature: [redacted]

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Supervisor's Certification

I certify this employee's access to the [redacted] Unclassified MCS system is operationally necessary.

Supervisor's Signature: [redacted]

Date: 30 June 2011

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