Doc ID: 6617180

~~SECRET//SI//NOFORN~~

NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE



INSPECTOR GENERAL

REPORT OF INVESTIGATION

26 June 2014

IV-13-0015

Unauthorized Possession and Misuse of Government Property

(U) This report might not be releasable under the Freedom of Information Act or other statutes and regulations. Consult the NSA/CSS Inspector General Chief of Staff before releasing or posting all or part of this report.

~~SECRET//SI//NOFORN~~

Approved for Release by NSA on 05-01-2018, FOIA Case # 79204 (litigation)
Release: 2018-05
NSA: 03197

~~SECRET//SI//NOFORN~~

(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.

~~SECRET//SI//NOFORN~~

~~SECRET//SI//NOFORN~~

I. (U) SUMMARY

(U//~~FOUO~~) This investigation was conducted in response to a referral that the NSA/CSS Office of the Inspector General (OIG) received from the Office of Personnel Security (Q2), Special Actions (Q234). The referral pertained to Government-owned equipment that was discovered at the residence of an NSA employee.

(U//~~FOUO~~) The Government-owned items were seized under a search and seizure warrant that was executed by local law enforcement of The equipment was transferred from local law enforcement to Q234 personnel on 13 September 2012 and to the OIG on 9 November 2012. (See Appendix B for equipment inventory)

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that did not protect and conserve Federal property and used it for other than authorized activities when he took Government-owned equipment and materials to his home and used some of the items for his own benefit in violation of 5 CFR § 2635.101, Basic obligation of public service, 5 CFR § 2635.704, Use of Government property, NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct. His actions also violated 18 USC § 641, Public money, property or records.

(U//~~FOUO~~) A copy of this NSA/CSS OIG report will be provided to the Office of Employee Relations and a summary of our findings will be referred to the Associate Directorate for Security and Counterintelligence for information and action deemed appropriate.

(b) (6)

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

[1] (U) The search and seizure was conducted after notified local authorities that

Classified By:
Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: ~~20590401~~

~~SECRET//SI//NOFORN~~

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

Release: 2018-05
NSA: 03199

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

II. (U) BACKGROUND

(b)(1)
(b)(3) - P.L. 86-36

(U) Introduction

(S//~~SI~~//NOFORN) assigned to the was selected with the

(U//~~FOUO~~) took two Pelican cases containing Government-owned items to his residence[2] The Pelican cases and contents were considered his "kits"[3]

(U//~~FOUO~~) During the execution of the search warrant the two Pelican cases were discovered, seized, and subsequently transferred to NSA Security as items possibly belonging to NSA. The Pelican cases and their contents were logged into an Evidence Documentation and Chain of Custody Report by personnel of the Office of Personnel Security (Q2), Special Actions (Q234).

(b)(6)

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

(U//~~FOUO~~) On 20 September 2012, the OIG received a referral from Q234 regarding the Government-owned property, which was subsequently transferred with a change of custody form to the OIG on 9 November 2012. The Pelican cases and contents were stored, and remain, in the OIG's evidence room. (See Appendix B for equipment inventory)

(U//~~FOUO~~) by the Office of Security.

---

[2] (U//~~FOUO~~) Pelican Products design and manufacture Pelican cases which are molded plastic containers that seal with an airtight and watertight gasket. They are used in many industries including military, law enforcement, and fire safety. The two cases that were in possession, which contained other Government-owned items, were Model 1650 (interior dimensions: 28.57" x 17.52" x 10.65") and Model 1660 (interior dimensions: 28.20" x 19.66" x 17.63").

3 (U) Department of the Army Pamphlet 700-60, Department of the Army Sets, Kits, Outfits, and Tools, defines a kit as: An assembly of tools/components in a small pouch or box, designed for use of and carried by an individual.

4 (U//~~FOUO~~)

Release: 2018-05
NSA: 03200

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

~~SECRET//SI//NOFORN~~

IV-13-0015

(U//~~FOUO~~) In addition to [redacted] the OIG obtained sworn testimony from the following individuals:

- [redacted]
- [redacted]
- [redacted] supervisor)
- [redacted]

(b)(6)

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

(U//~~FOUO~~) The OIG conducted telephone interviews with the following employees and memorialized relevant information in Memoranda for the Record:

- [redacted]

(U//~~FOUO~~) The OIG collaborated with Q234 personnel regarding [redacted] activities and memorialized relevant information in Memoranda for the Record:

- [redacted] Q234 Special Actions
- Q234 Special Actions
- Q234 Special Actions

(U//~~FOUO~~) As part of the investigation, the OIG obtained and reviewed mirror images of classified Microsoft Outlook emails of [redacted] Jointly with Q234 personnel, the OIG searched the contents of [redacted] desk. Nothing of interest to the OIG was discovered in his email or desk.

(U) Applicable Authorities

(See Appendix A for a full table of authorities)

- 18 USC § 641, Public money, property or records.
- 5 CFR § 2635.101, Basic obligation of public service.
- 5 CFR § 2635.704, Use of Government property.
- NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct.

Release: 2018-05
NSA: 03201

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

III. (U) FINDINGS

(U//~~FOUO~~) ISSUE: Did [redacted] misuse Government property in violation of 5 CFR § 2635.101, Basic obligation of public service, 5 CFR § 2635.704, Use of Government property; NSA/CSS Personnel Management Manual, and Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct.

(U//~~FOUO~~) CONCLUSION: The preponderance of the evidence supports the conclusion that [redacted] did not protect and conserve Federal property and used it for other than authorized activities when he took Government-owned equipment and materials to his home and used some of the items for his own benefit in violation of the authorities noted above. His actions also violated 18 USC § 641, Public money, property or records.

(U) Documentary Evidence

(U//~~FOUO~~) Equipment inventory

(U//~~FOUO~~) The contents of the kits were inventoried on a chain-of-custody form showing 163 types of items confiscated from [redacted] residence. (Appendix B)

(b)(6)

(U//~~FOUO~~) [redacted]

(U//~~FOUO~~) [redacted] provided to the OIG a [redacted] indicating the approximate location of where [redacted] installed a Government-owned camera. (Appendix C)

(U//~~FOUO~~) Emails from [redacted]

(U//~~FOUO~~) In an email dated 2 December 2013, [redacted] told the OIG that cameras were considered durable items, not consumable items. The standard [redacted] in-brief would have covered how to handle durable items.[5] (Appendix D)

~~(S)~~ In an email dated 9 January 2014 [redacted] provided the OIG with the following information: (Appendix D)

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

[5] (U//~~FOUO~~) Army Regulation 735-5 states that a durable item does not require property book accountability after issue but is instead monitored by the commander or head of the activity. Hand tools, which are also durable items, require a hand-receipt. Hand tools are defined as handheld devices that are either manually operated or power driven that are portable, lightweight and small enough to be used by a craftsman in accomplishing their trade. They include items such as screwdrivers and other small devices that are normally held in a toolbox. [redacted] kits contained cameras and hand tools and other durable items.

Release: 2018-05
NSA: 03202

- [redacted] wrote and maintained their own policies which were all based on Army regulations since the Army is their executive agent.
- Policies [redacted] could not be found.
- [redacted] The policy applies to DoD civilians.

(U) Testimonial Evidence

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

(U//~~FOUO~~) [redacted]

(U//~~FOUO~~) [redacted] was interviewed on 11 December 2012 and 17 January 2013 and provided the following sworn testimony.

(U) Government-Owned Equipment Issued

(U//~~FOUO~~) [redacted]

(U//~~FOUO~~) [redacted] was issued Government-owned equipment required for performing his job, as well as two Pelican cases for storing and transporting the items [redacted] The Pelican cases and contents were considered his kits.

(U//~~FOUO~~) To his knowledge, the kits did not belong to NSA, but most likely to the United States Army and were issued to him [redacted] whose name he could not remember.[6]

(b) (6)

(U//~~FOUO~~) The items in the kits did not have hand-receipts because they were considered consumable, which meant they were one-time use products that were dispensable such [redacted][7]

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

[6] (U//~~FOUO~~) Two [redacted] were interviewed. Both said they had no knowledge regarding any equipment [redacted] may have been issued.

[7] (U//~~FOUO~~) [redacted] also had durable items in his kits. Army Regulation 735-5, Property Accountability, state that there are three types of property: expendable, durable, and nonexpendable. Expendable property are items that are consumed with first time use or in a very short period of time. Durable items are consumed over a period of time or wear out over time. Tools are primarily durable items. Durable items require accountability at the user level. Nonexpendable property requires formal property book accounting at the user level throughout the life of the item.

Release: 2018-05
NSA: 03203

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

~~SECRET//SI//NOFORN~~

IV-13-0015

(U) Guidance on Disposition of Government-Owned Equipment

(U//~~FOUO~~) did not receive guidance as to what he should do with his kits. He decided to take the items home with him and would use the items at that time. However, never returned the Government-owned items.

(U//~~FOUO~~) never informed his NSA supervisors or colleagues that he had the kits at his residence. He did not know of anyone else who had taken his or her assigned kits home with them.

(U//~~FOUO~~) reviewed the OIG's inventory list of the Government-owned equipment and materials that were confiscated from his home and concluded the list was accurate. (Appendix B) Nothing from the kits was sold, given away, or borrowed.

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

(U)

(U//~~FOUO~~)

(U//~~FOUO~~) claimed although he could not recall the names of anyone who had done so.

(U//~~FOUO~~) After arriving at his Maryland residence, emailed who had and asked if he would pull his Pelican cases aside for him was The cases were identifiable because had written his initials, as well as on the cases. He did not tell what was in the cases and therefore thought that probably assumed they contained

(U//~~FOUO~~) Approximately two to three weeks after arriving home, by himself, and retrieved the kits, which were in the visitor control point (VCP) area. He then took the kits to his residence.

(U//~~FOUO~~) When was asked by the OIG investigator if he ever worried about getting caught with the equipment at home, he responded in the negative. When asked if getting caught ever crossed his mind, he said he rationalized that the items did not have hand-receipts, were consumable, and he was not using them.

(b)(6)

[8] (U//~~FOUO~~) The OIG was unable to locate the identified by who was interviewed by the OIG, denied or knowing

~~SECRET//SI//NOFORN~~

Release: 2018-05
NSA: 03204

(U) Why [redacted] did not return the Government-owned equipment

(U//~~FOUO~~) [redacted] and did not think about the kits.

(U//~~FOUO~~) [redacted] then soon after [redacted] he would have returned the kits to the Government. However, he did not know how he would have accomplished the return of the items or to what Agency or Department he would have returned them.

(U) Government-owned equipment converted for personal use

(U//~~FOUO~~) [redacted] installed a Government-owned camera [redacted]

(U//~~FOUO~~) He drew a diagram [redacted] for the OIG investigator and identified the approximate location of the Government-owned camera. (Appendix C) He had connected the camera to his home computer network through a video over Internet Protocol (IP) box which took the analog video and converted it into a video streaming format so he could view it at a later time.

(U//~~FOUO~~) The camera was continually operational from the time he installed it until it was confiscated, which was about one week later. It was located approximately ten feet away from one of the Pelican cases so, at the time, it seemed rational that he install and use it.

(b) (6)

(U//~~FOUO~~) [redacted] used a Government-owned [redacted][9]

(U) Government-owned equipment seized

(U//~~FOUO~~) In early [redacted] the [redacted] to report that [redacted] Local law enforcement executed a search warrant and the [redacted] residence was searched on [redacted]

(U//~~FOUO~~) During the search, the Pelican cases were discovered, confiscated, and subsequently transferred to NSA Security. They had been in [redacted] home for approximately one year.[10]

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

[9] (U) [redacted]

[10] (U//~~FOUO~~) Evidence shows the Pelican cases were at the [redacted] residence for approximately 14 months.

Release: 2018-05
NSA: 03205

(U//~~FOUO~~) could not think of a logical reason why he brought the Government-owned items home. Although he never saw an actual policy stating he could or could not bring the items home, in retrospect, he knew he should not have. He acknowledged that he misused Government-owned equipment when he installed the camera in his home and

(U//~~FOUO~~) He thought the combination of resulted in a lapse in judgment, which he believes is contradictory to having a security clearance. did not think the OIG or Security investigation regarding the matter were inappropriate.

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

(U//~~FOUO~~) ***selection official***

(U//~~FOUO~~) provided the following information to the OIG on 18 January 2013.

(U//~~FOUO~~) In 2011 He did not remember interviewing and believed his predecessor, may have.

(U//~~FOUO~~) conducted an exit interview with and they did not discuss nor did express any interest in one.

(U//~~FOUO~~) would have received equipment and other materials for whatever was standard issue for the job. At the conclusion any Government issued items should have remained Government-owned materials should not have been taken to his residence. had administrative responsibility for the equipment.

(U//~~FOUO~~) Employees occasionally took specially configured equipment or items that were However, had never heard of anyone and taking them to their residence.

(U//~~FOUO~~)

(U//~~FOUO~~) was interviewed on 6 February 2013 and provided the following sworn testimony.

(U//~~FOUO~~) She did not know

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

Release: 2018-05
NSA: 03206

(U//~~FOUO~~)

(U//~~FOUO~~) had limited could not explain. Therefore, if did something he should not have done, it may have gone unnoticed.

(U//~~FOUO~~) reorganized the which included various types of Standard Operating Procedures and policies that are now available[11]. She did not recall seeing any type of policy in the shared drive that addressed what a person should do with Government issued materials at the

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

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

(U//~~FOUO~~)

(U//~~FOUO~~) On 31 January 2013 provided the following information to the OIG.

(U//~~FOUO~~)

(U//~~FOUO~~) was not familiar with any particular policies pertaining to disposition of equipment at the

(U//~~FOUO~~)

(U//~~FOUO~~) was interviewed on 23 January 2013 and provided the following sworn testimony.

(U//~~FOUO~~) She facilitates the support She did not know

(U//~~FOUO~~) All military logistics departments (J4's) write and maintain their own policies, all of which are based on the same Army regulations since the Army is their executive agent.

---

[11] (U//~~FOUO~~) The OIG investigator reviewed the documents available on the and did not find specific guidance pertaining to equipment that is issued to

[12] (U//~~FOUO~~) followed-up in an email to the OIG dated 10 February 2013 and stated he had searched through current and historical policies and there was no relevant policies regarding consumable items.

(b)(6)

Release: 2018-05
NSA: 03207

(U//~~FOUO~~) It is standard procedure for an employee to have their government issued equipment, Pelican cases, and other materials for eventual delivery to their work unit.

(U//~~FOUO~~) If an employee does not accompany their Pelican cases on a flight they will tag them for identification and note that the cases are unaccompanied. The employee would also identify a point-of-contact to retrieve the cases.

(U//~~FOUO~~) It is routine for an employee to drive their privately owned vehicle to retrieve Pelican cases that are assigned to them for delivery to their work unit. If the cases include sensitive gear, courier procedures would apply, such as two-person control. It is not normal for someone to pick up Pelican cases containing Government-owned equipment and take them to their residence.

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

(U//~~FOUO~~)

(U//~~FOUO~~) was interviewed on 15 October 2013 and provided the following sworn testimony.

(U//~~FOUO~~)

(U//~~FOUO~~) did not have any insight as to what was doing.

(U//~~FOUO~~) He had minimal interactions with who would come to his building every other week to sign his timesheet or During their limited interactions never mentioned

(b)(6)

(U//~~FOUO~~) had no-information pertaining to any equipment or other materials he may have issued to He was not familiar with any guidance or policy with regard Government equipment or materials that may have been issued.

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

(U//~~FOUO~~)

(U//~~FOUO~~) was interviewed on 8 January 2013 and provided the following sworn testimony.

(U//~~FOUO~~)

Release: 2018-05
NSA: 03208

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

~~SECRET//SI//NOFORN~~

IV-13-0015

(U//~~FOUO~~) had administrative oversight of although her interaction with him was limited. Occasionally, he came to her office to use the computer. All of work responsibilities were operationally controlled by She and had little operational knowledge of what they were doing.

(U//~~FOUO~~) had no information pertaining to any equipment or other materials that may have issued to She was not familiar with any guidance or policy with regard Government equipment or materials that may have been issued.

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

(U//~~FOUO~~)

(U//~~FOUO~~) On 30 November 2012, the OIG spoke with and Chief and Deputy Chief of They were not familiar with any policies governing disposition of Government-owned equipment provided to

(U//~~FOUO~~)

(U//~~FOUO~~) was interviewed on 15 January 2013 and provided the following sworn testimony.

(U//~~FOUO~~) and served as his first-line supervisor.

(U//~~FOUO~~) police searched the home and discovered the Pelican cases that . The police in relation to the concerns that had initially reported and for approximately two weeks.

(U//~~FOUO~~) After returned to the workplace he told that he had shipped the Pelican cases to a friend who later passed them to him and he took them home. He told her he had customized the kits to his preference he never mentioned a to

(b)(6)

~~SECRET//SI//NOFORN~~

Release: 2018-05
NSA: 03209

~~SECRET//SI//NOFORN~~ (b)(3) - P.L. 86-36

IV-13-0015

(U//~~FOUO~~)

(U//~~FOUO~~) was interviewed on 7 January 2013 and provided the following sworn testimony.

(U//~~FOUO~~) His replacement was

(U//~~FOUO~~) instructed him to make a kit of equipment and materials necessary for performing duties. The items were commonly referred to as being consumable because they were The items were not accounted for on hand-receipts and included things such did not know to whom the items belonged, other than the U.S. Government, in general.

(U//~~FOUO~~) did not receive any guidance regarding what he should do with his kit with the intent of claiming it at a later time, although he never did because it had been lost. His kit contained about $300-$400 worth of consumable items.

(U//~~FOUO~~) It was common practice for people to and claim them at a later time. Had his kit not been lost, would have either to retrieve it or asked someone else to bring it to Maryland for him because people from were going back and forth quite often.

(U//~~FOUO~~) Had claimed his kit, he probably would have brought it into work. If he had been training or working on a project at home, taking it home would have been acceptable because everything in the kit was unclassified and consumable. If he had his kit today and had to return it to the government, he would probably just throw it in the trash because everything was consumable and he did not know what else to do with it. He did not know that could use the items in the kit.

(U//~~FOUO~~) had a kit to pick it up, though did not know what he did with it.

(U//~~FOUO~~) (b)(3) - P.L. 86-36 (b)(6)

(U//~~FOUO~~) On 9 January 2013 consented to a voluntary interview and provided the following sworn testimony.

(b)(6)

Release: 2018-05
NSA: 03210

Doc ID: 6617180

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

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

(U//~~FOUO~~)

(U//~~FOUO~~) At that time, he did not have the Pelican cases with him and she did not recall how or when he got them

(U//~~FOUO~~) At some point asked him if he was allowed to have the Pelican cases at home and his response was, "I have them, don't I?" kept the Pelican cases and at some later time he moved them to the basement.

(U//~~FOUO~~) and a work colleague, worked together on and used some of the equipment from the Pelican cases. She did not believe the project was work-related and did not know much about it. She did not know if ever sold, loaned, or gave anything away from inside of the cases.

(U//~~FOUO~~) When he told he wanted he had installed cameras, which were web-based and action-sensed. Videos from the cameras were time stamped and stored on the computer for several months.

(U//~~FOUO~~) To her knowledge, installed three cameras She did not know whether or not the cameras had come from the Pelican cases.[13] She did not know if any cameras were installed although during certain conversations he would say, "that conversation was recorded."

(b)(6)

(U//~~FOUO~~) recalled seeing some type of electronic device It was round, about one inch or less, and had what looked like a glass bubble on the center of it with protruding wires. She was not sure if it was a camera or a communication device of some kind. to show the approximate location of the electronic device. (Appendix C)

(U//~~FOUO~~) discovered that local authorities and also reported to them that the Pelican cases That same day, and The authorities confiscated

[13] (U//~~FOUO~~) The OIG investigation determined that only one Government-owned camera was installed by

Release: 2018-05
NSA: 03211

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

(U) Analysis and Conclusions

(U//~~FOUO~~) The Code of Federal Regulations and the NSA/CSS Personnel Management Manual require Federal employees to protect and conserve Federal property and not use it for other than authorized activities.

(U//~~FOUO~~) At the conclusion of [redacted] he shipped two Government-owned Pelican cases filled with various Government-owned equipment and materials, also known as kits. [redacted] He arranged to have the cases pulled aside by a colleague [redacted] and then he drove from Maryland to [redacted] to retrieve the cases, which he took to his residence. The cases stayed in his home for approximately 14 months before they were discovered and seized by [redacted] and subsequently transferred to NSA Security.

(b)(6)

(U//~~FOUO~~) [redacted] nor did he return the equipment. He said that even though he was not provided guidance as to what he should have done with his kits [redacted] in retrospect, he knew that he should not have taken the kits to his residence.

(U//~~FOUO~~) [redacted] told the OIG that he did not seek or receive permission to take the kits to his home and did not inform anyone that he had done so. When [redacted] was asked if he ever worried about getting caught with the equipment at home, he responded in the negative. When asked if getting caught ever crossed his mind, he said he rationalized that the items did not have hand-receipts, were consumable, and he was not using them.

(U//~~FOUO~~) [redacted] admitted to the OIG that he used some of the Government-owned equipment and materials for his personal use, including [redacted] from one of the kits.

(U//~~FOUO~~) The OIG found that [redacted] claim that he intended to return the equipment to the Government was not sound as the equipment had already been in his home for approximately 14 months before it was seized, during which time, he converted some of it for his personal use. [redacted] had taken the Government-owned equipment to his home and kept it there, under his control and away from the sight and control of any other Federal officials. He did not make any attempt to learn how to return the equipment, or to whom.

(U//~~FOUO~~) The evidence in this case shows that [redacted] had unauthorized possession of, and misused, Government-owned equipment.

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

Release: 2018-05
NSA: 03212

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] did not protect and conserve Federal property and used it for other than authorized activities when he took Government-owned equipment and materials to his home and used some of the items for his own benefit in violation of 5 CFR § 2635.101, Basic obligation of public service, 5 CFR § 2635.704, Use of Government property, NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct. His actions also violated 18 USC § 641, Public money, property or records.

(U//~~FOUO~~) By keeping the kits and their contents, which by his own admission were government property, in his personal residence, and using them for personal rather than government use, [redacted] violated 18 USC § 641 which prohibits individuals from stealing or knowingly converting to his use things of value of the United States or any department or agency thereof.

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

Release: 2018-05
NSA: 03213

IV. (U) RESPONSE TO TENTATIVE CONCLUSION

(U//~~FOUO~~) Tentative conclusions were forwarded to [redacted] on 19 May 2013. He responded on 19 May 2014 with questions regarding the tentative conclusion and investigation and then on 13 June 2014 he provided his response to the tentative conclusion. His emails and the OIG's responses are attached at Appendix E.

(U//~~FOUO~~) [redacted] response provided no new information relative to the conclusion or requiring additional investigation; therefore, the conclusion remains unchanged.

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

Release: 2018-05
NSA: 03214

V. (U) CONCLUSION

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] did not protect and conserve Federal property and used it for other than authorized activities when he took Government-owned equipment and materials to his home and used some of the items for his own benefit in violation of 5 CFR § 2635.101, Basic obligation of public service, 5 CFR § 2635.704, Use of Government property, NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct. His actions also violated 18 USC § 641, Public money, property or records.

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

Release: 2018-05
NSA: 03215

VI. (U) DISTRIBUTION OF REPORT

(U//~~FOUO~~) A copy of this NSA/CSS OIG report will be provided to the Office of Employee Relations and a summary of our findings will be referred to the Associate Directorate for Security and Counterintelligence for information and action deemed appropriate.

[redacted]
Investigator

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

[redacted]
Assistance Inspector General
for
Investigations

Release: 2018-05
NSA: 03216

Doc ID: 6617180

APPENDIX A

(U) Applicable Authorities

Release: 2018-05
NSA: 03217

Doc ID: 6617180

APPLICABLE AUTHORITIES

- **(U) 18 USC § 641, Public money, property or records.**

  Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

  Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

  Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining from all the counts for which the defendant is convicted in a single case, does not exceed the sum of $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

- **(U) 5 CFR § 2635.101, Basic obligation of public service.**

  (a) Public service is a public trust. Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set for in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

  (b) (9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

- **(U) 5 CFR § 2635.704, Use of Government property.**

  (a) 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.

  (b) Definitions. For purposes of this section:

  (1) Government property includes any form of real or personal property in which the Government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with Government funds . . . The term includes office supplies . . .

- **(U//~~FOUO~~) NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct.**

  Generally, every employee is expected to:

  A. Uphold the public trust by placing the Constitution, the laws and ethical principles above private gain;

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

Release: 2018-05
NSA: 03218

Doc ID: 6617180

APPENDIX B

Inventory of Government Property

Release: 2018-05
NSA: 03219

Doc ID: 6617180

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

INVENTORY OF GOVERNMENT PROPERTY RETURNED BY

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

Release: 2018-05
NSA: 03220

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

INVENTORY OF GOVERNMENT PROPERTY RETURNED BY

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

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

INVENTORY OF GOVERNMENT PROPERTY RETURNED BY

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

Release: 2018-05
NSA: 03222

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

INVENTORY OF GOVERNMENT PROPERTY RETURNED BY

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

Items

Released by

Received by

To OIG

CLASSIFICATION

CHAIN OF CUSTODY (CONTINUED)

ITEM #	DATE / TIME	RELEASED BY	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
				B1 ☐ EVIDENCE ROOM STORAGE
				RETURN TO Q21 ☐ EVIDENCE ROOM STORAGE
				RETURN TO Q21 ☐ EVIDENCE ROOM STORAGE
				To OIG ☐ EVIDENCE ROOM STORAGE
				store in evidence room ☒ EVIDENCE ROOM STORAGE
		PRINT NAME / TITLE	PRINT NAME / TITLE	☐ EVIDENCE ROOM STORAGE
		SIGNATURE (b)(3) - P.L. 86-36	SIGNATURE	
		PRINT NAME / TITLE	PRINT NAME / TITLE	☐ EVIDENCE ROOM STORAGE
		SIGNATURE	SIGNATURE	
		PRINT NAME / TITLE	PRINT NAME / TITLE	☐ EVIDENCE ROOM STORAGE

FINAL DISPOSAL ACTION

☒ RELEASE TO OWNER (NAME) | ☐ RELEASE TO ORGANIZATIONS (NAME OF RECIPIENT) Q21 | ☐ DESTROYED (NAME OF PERSON DESTROYING PROPERTY)

☐ RELEASED TO OTHER AGENCY (NAME / TITLE / AGENCY) | ☐ EXCESSED (EA[illegible]) | ☐ OTHER

FINAL DISPOSAL AUTHORITY

ITEM NUMBER(S) _____ ON THIS DOCUMENT, PERTAINING TO THE INQUIRY/INVESTIGATION INVOLVING CASE NUMBER N/A (IS)(ARE) NO LONGER REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF [illegible]

(PR[illegible]) _____ (DATE)

THE ARTICLE(S) LISTED AS ITEM NUMBER(S) _____ (WAS) (WERE) DISPOSED OF BY THE EVIDENCE CUSTODIAN, IN MY PRESENCE, ON THE DATE INDICATED ABOVE

(PRINTED NAME / GRADE / TITLE) _____ (SIGNATURE) _____ (DATE)

CLASSIFICATION

Doc ID: 6617180

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

Evidence Documentation and Chain of Custody Report

National Security Agency
Associate Directorate for Security and Counterintelligence
Office of Counterintelligence
Compromise and Computer Forensics

SEIZING AGENT (Name / Title)

TIME / DATE OBTAINED

CASE NUMBER

M/A CASE NUMBER

CASE AGENT (Name / Title)

SEIZING AGENT CONTACT INFO (SID / Phone)

MATERIAL SEIZED FROM (Name / Title) ☑ OWNER ☑ OTHER possibly NSA property

CONTACT INFO OF PERSON MATERIAL SEIZED FROM (SID / Phone)

SUBJECT (Name / Title)

(b) (6)

REASON SEIZED

Retrieval of Government Property

LOCATION SEIZED FROM (Address / Bldg / Room / Desk / Column)

Subject's Residence

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

ITEM #	QUANTITY	DESCRIPTION OF ITEMS (Include manufacturer, model, serial number, NSA or EA barcodes, condition, and unusual marks and scratches)
		Nothing Found

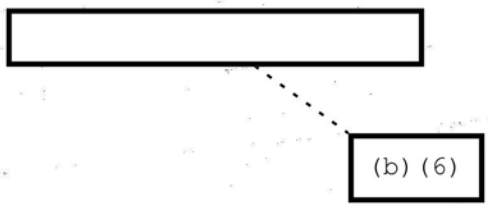
CHAIN OF CUSTODY

DATE / TIME	RELEASED BY	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
			TRANSFER TO 315 ☐ EVIDENCE ROOM STORAGE
			FOREN ANALYSIS ☐ EVIDENCE ROOM STORAGE

Release: 2018-05
NSA: 03225

Doc ID: 6617180

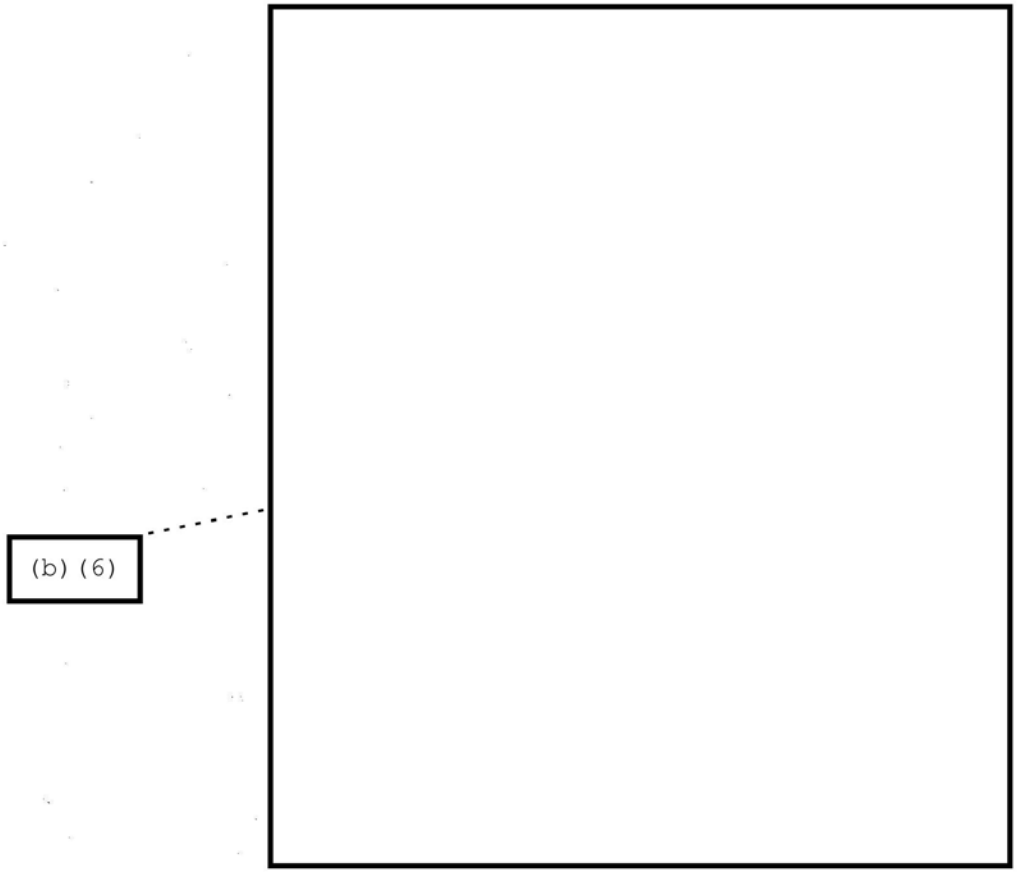
APPENDIX C



Release: 2018-05
NSA: 03226

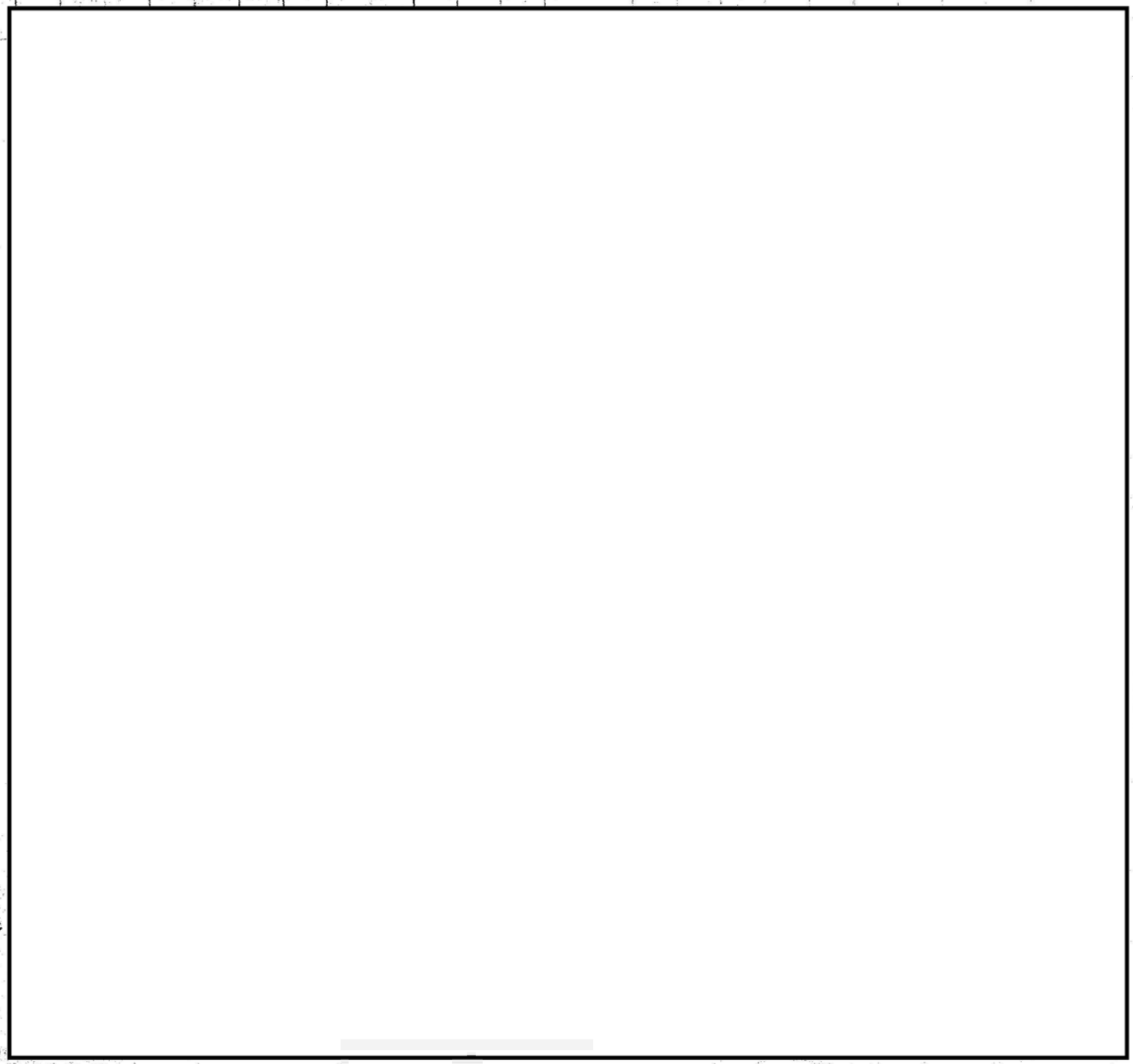
Doc ID: 6617180

Document 001
1-17-2013



Release: 2018-05
NSA: 03227

Doc ID: 6617180



(b) (6)

Document 001

Release: 2018-05
NSA: 03228

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

APPENDIX D

Emails from [redacted]

Attachments:

Memorandum for [redacted] **Personnel**

(b)(1)

Release: 2018-05
NSA: 03229

(b)(1)
(b)(3) - P.L. 86-36
(b)(6)

Release: 2018-05
NSA: 03230

Doc ID: 6617180

(b)(1)
(b)(3) - P.L. 86-36
(b)(6)

Release: 2018-05
NSA: 03231

Doc ID: 6617180

(b)(1)
(b)(3) - P.L. 86-36
(b)(6)

Release: 2018-05
NSA: 03232

Doc ID: 6617180

(b)(1)
(b)(3) - P.L. 86-36
(b)(6)

Release: 2018-05
NSA: 03233

Doc ID: 6617180

(b)(1)
(b)(3) - P.L. 86-36
(b)(6)

Release: 2018-05
NSA: 03234

(b)(1)
(b)(3) - P.L. 86-36
(b)(6)

Doc ID: 6617180

(1)

~~SECRET~~

HEADQUARTERS [redacted]

(b) (1)
OGA

[redacted] CSO

31 January 2011

MEMORANDUM FOR [redacted] **PERSONNEL**

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability (U)

1. (U) **PURPOSE**. To establish policy and procedures regarding accountability of TF property/JSBE during reliefs-in-place (RIPs) and major unit shifts.

2. (U) **SCOPE**. This policy applies to all [redacted] Primary Hand Receipt Holders (PHRHs) and their corresponding chains of command, to include Department of Defense (DoD) civilians. Violations of this policy may result in administrative and/or punitive action including, but not limited to, prosecution under Article 92, Uniform Code of Military Justice (UCMJ) for violation of a lawful order; loss of security clearance; removal from [redacted] and informing the respective supervisory chain of command for non-DoD personnel.

3. (U) **REFERENCES**

a. (U) Department of the Army Pamphlet 710-2-1

b. (U) Army Regulation 710-2

c. (U) Army Regulation 735-5

4. (U) **SPECIFIC GUIDANCE**

a. (U) Types of Responsibility

(1) (U) Responsibility is the obligation of an individual to ensure government property and funds entrusted to his or her possession, command, or supervision are properly cared for, and that proper custody, safekeeping, and disposition are provided. This applies to all government property issued for, acquired for, or converted to a person's exclusive use, with or without receipt. Accountability is a DoD program and is everyone's responsibility. That said, an additional burden of accountability is placed on unit leadership and PHRHs.

(2) (U) Command Responsibility and Supervisory Responsibility depend on the location of the property within the chain of command. This responsibility is a part of a job or position and is incurred by assuming that command or supervisory position. It cannot be delegated. Examples of these positions are outstation commanders and team leaders.

Classified by: Multiple sources
Declassify on: ~~20360128~~

~~SECRET~~

Release: 2018-05
NSA: 03236

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

(3) (U) Direct Responsibility is a formal assignment of property to a person within the supply chain. PHRHs have direct responsibility to manage equipment. They are directly signed for the equipment and should keep positive control of the property at all times. PHRHs are encouraged to sub-HR items to the user level via a DA 2062 and in accordance with references (a) and (b).

(4) (U) A person who has custody or possession of an item has custodial responsibility. This person is liable for equipment in their custody regardless if they are signed for it or not. This is not always the PHRHs.

b. (U) Nonexpendable Property

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

(1) (U) There are three types of property: expendable, durable, and non-expendable. Expendable property are items that are consumed with first time use or in a very short period of time. Durable items are consumed over a period of time or wear out over time. Tools are primarily durable items. Durable items require accountability at the user level. The supporting TF Property Book Officers (PBOs) determine classification of items.

(U) Note: Until the TF has its own PBO, the TF has to rely on PBOs [redacted] The J4 will determine which of these two PBOs will support J4 operations in a particular case.

(2) (U) Nonexpendable property requires formal property book accounting at the user level throughout the life of the item. Nonexpendable property is personal property that is not consumed in use and that retains its original identity during the period of use. All PHRHs must account for nonexpendable property through the supporting TF PBO. Accountability issues have become more acute as units [redacted] It is therefore increasingly important that those individuals identified by their command as PHRHs are aware of TF JSBE accountability standards. PHRHs are required to be designated in advance of [redacted] so they can make contact with the individuals they are relieving and learn the PHRH's responsibilities.

c. (U) Property Accountability Procedures

(1) (U) The J4 Supply NCO will ensure all hand receipts (HRs) are clear regarding what equipment is permanently assigned to a particular location. The J4 Supply NCO will also ensure there is at least one PHRH designated for each location, including all warm bases.

(2) (U) PHRHs are directly responsible for all equipment on their HR.

(3) ~~(S)~~ The [redacted] will manage the [redacted] primary HR.

(b) (1)
OGA

(4) (U) The J4 Supply NCO will assist all PHRHs with accountability procedures, transferring equipment, damage statements, and property loss procedures in accordance with the references identified in paragraph 3.

Release: 2018-05
NSA: 03237

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

(5) (U) All PHRHs are encouraged to sub-HR property down to the user level. This will document the chain of custody should the property be lost, damaged, or destroyed. References (a) and (b) provide procedures, but personnel can always receive training and guidance from J4 shop.

(6) (U) Damaged or destroyed government property: In the event that property is damaged or destroyed, the PHRH will immediately notify the J4 Supply NCO for assistance. The PHRH will provide all the circumstances surrounding the damaged or destroyed property in writing to the J4 Supply NCO and the supporting TF PBO. If the destroyed piece of equipment is a vehicle, an SF 91 accident report must be completed. Destroyed property will require a Destruction Statement submitted through to the [redacted] for processing. The supporting TF PBO will provide additional guidance based on the circumstances surrounding the destruction of property. All procedures will be in accordance with the references in paragraph 3.

(b) (1) OGA

(7) (U) Turn-in property actions, including turn-in, repair, and retrograde, will be coordinated through the J4 Supply NCO and supporting TF PBO prior to movement of any equipment. At no time will the J4 Supply NCO sign for the PHRH's equipment on his own primary HR. For standard equipment turn-ins, a PHRH can sub-HR equipment to the J4 Supply NCO for turn-in with a DD Form 1348-1. When the J4 Supply NCO turns the equipment in to the local supply chain, the J4 Supply NCO will notify the PHRH and drop the equipment from their books. For non-standard or Special Operations-specific equipment, the PHRH will enter the retrograde or turn-in equipment into the Joint Logistics Data Warehouse (JLDW) for shipping purposes only and complete a DA 3161. Once the items are received back stateside, it will drop of the PHRH books.

(8) (U) Lost or missing equipment: Equipment that is determined to be lost or missing must be corrected with a statement of charges or a DD Form 200, Financial Liability Investigation of Property Loss (FLIPL). A statement of charges is the document used for an individual to pay for equipment. A FLIPL is used when a person does not want to pay for the equipment and an investigation must be performed. FLIPLs are either short or long. A long FLIPL consist of assigning an investigation officer because negligence is suspected. A short FLIPL occurs when property is lost or missing because of extenuating circumstances. All FLIPLs must be signed by the [redacted] Commander or his Chief Staff Officer. If sensitive items are lost or missing, a 15-6 investigation must be performed and process through the [redacted] Commander. All procedures for missing property will be conducted in accordance with the regulations referenced in paragraph 3.

(9) ~~(S)~~ All equipment ordered by the outstations and PHRHs will be documented as non-expendable property on their primary HRs within 24 hours of receiving the equipment. This is completed via a DA 3161 to the supporting TF PBO. The J4 Supply NCO in [redacted] will account for all throughput items destined to outstations via the [redacted] The only exception is sensitive items that will remain in [redacted] for over 30 days.

d. (U) RIP Timeline

(1) (U) Four weeks prior to the incoming PHRH's [redacted]

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

Release: 2018-05
NSA: 03238

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

(a) (U) The outgoing PHRHs will obtain current HRs four weeks prior to the scheduled departure date and conduct a 100% inventory. A current copy of an HR can be obtained through the supporting TF PBO if one is not on hand.

(b) (U) If property on a PHRH's HR is determined to be missing and cannot be produced within the chain of custody (sub-HR holders):

1. (U) The PHRH will immediately report the loss to their immediate supervisor or commander.

2. (U) The PHRH will make an exhaustive attempt to locate the missing item(s), and unit leadership will provide adequate resources and assistance to accomplish this task. If the item(s) are not located in 24 hours, ***notify the supporting TF PBO and the J4 Supply NCO***. This will give the supporting TF PBO time to react and communicate via unit logistics representatives attached to the J4 as well as notify other PHRHs to ensure the property is not at another location. If not found, the unit's senior leader and PHRH will conduct causative research.

3. (U) Immediately upon concluding that the equipment is lost, the PHRH or the person with the most knowledge of the incident will initiate action per reference (c) and prepare a DD Form 200 (FLIPL). Once the supporting TF PBO receives the FLIPL, the equipment will be dropped from the books, and the HR will be cleared for the incoming PHRH to sign.

(c) (U) The outgoing PHRHs will forward the resulting certified HRs for J4 review.

(2) (U) No later than two weeks prior to the incoming PHRHs' [redacted]

(a) (U) The outgoing PHRH will send the HR to the incoming PHRH via secure email/fax.

[redacted] (b)(3) - P.L. 86-36

(b) (U) The incoming PHRH will certify that he/she understands what equipment is to stay at each location. The incoming PHRH will also make his/her recommendations regarding shifting the location of certain equipment, phase replacing old equipment, and requesting the addition of new equipment.

(c) (U) The PHRH will verify via secure email to the J4 Supply NCOIC that he/she is ready to conduct a joint inventory with the incoming PHRH.

(3) (U) No later than five days prior to the incoming PHRH's [redacted] the incoming and outgoing PHRHs will coordinate with the supporting TF PBO for the incoming PHRH's briefing. In the event the incoming PHRH does not receive the briefing prior to [redacted] the support TF PBO will provide the brief via secure phone prior to the incoming PHRH signing for any equipment.

(4) (U) Upon the PHRH [redacted]

Release: 2018-05
NSA: 03239

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

(a) (U) The incoming and outgoing PHRHs will conduct a 100% physical inventory.

(b) (U) The outgoing PHRH must remain on site until his/her HRs are cleared and signed by the incoming PHRH.

(c) (U) The incoming PHRH will sign a copy of this policy prior to the PHRH assuming duties.

(d) (U) The inventory is not complete until the J4 Supply NCO and the supporting TF PBO receive a new HR with the incoming PHRH's signature.

(5) (U) Authorized Deviations. Given that only under extenuating circumstances will the outgoing PHRHs not complete their inventory prior to the scheduled departure (e.g., [redacted] the following procedures apply:

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

(a) (U) Every attempt will be made to avoid deviations.

(b) (U) If unavoidable, the TF Chief Staff Officer must approve the deviation and revised timeline.

(c) (U) Any discrepancies will follow the property loss or missing procedures outlined in reference (c), Chapter 13.

e. (U) Location Shift Timeline

(1) (U) If a unit is moving to a new location from a location that will be warm-based, the PHRHs will follow the same timeline as a RIP to the maximum extent possible.

(a) (U) As noted in a standard RIP, once the PHRHs have verified that their HRs are accurate, the PHRHs will forward their final signed HRs to the J4 Supply NCO and supporting TF PBO. A person should stay at the warm-based location to manage property. If no person is staying at the warm base location, every attempt to remove all equipment must be made. If there are extenuating circumstances for leaving quickly and equipment left at the location is later determined to be missing, the procedures outlined in reference (c), Chapter 13.

(b) (U) The J4 Supply NCO will review the HRs for completeness.

(c) (U) The J4 Supply NCO and support TF PBO will determine if a new primary HR needs to be made.

(d) (U) If a unit is moving to a warm base from a location that will be closed down, all equipment must be removed.

Release: 2018-05
NSA: 03240

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

(e) (U) If a unit is moving to a new location, the outstation commander will designate a PHRH. The new PHRH will contact the J4 Supply NCO and supporting TF PBO for a copy of this JSBE and a copy of the PBO responsibility memorandum.

f. (U) Other Guidance:

(1) (U) All questions regarding these procedures should be directed to the J4 Supply NCO and supporting TF PBO.

(2) (U) It is the outgoing PHRH's responsibility to ensure the HR is properly turned over to the new PHRH (signature, date, and rank) and the original is on file with the supporting TF PBO.

(3) (U) If for any reason a proper turnover has not taken place at the time of departure of the outgoing PHRH, this individual will be subject to UCMJ action for dereliction of duty, unless authorized by the TF Chief Staff Officer.

(4) (U) Prior to a RIP between two units, the PHRHs will make every attempt to arrive at the new location five days before the RIP. This will allow time for proper HR turnover. An outgoing PHRH will not be authorized to depart the area until all the equipment is signed over to the incoming PHRH or a change document is completed in accordance with reference (c), Chapter 13.

(5) (U) For additional information, see the higher headquarters' PBO policy memo.

(b) (6)
OGA

5. (U) The POC for this policy is the [redacted] (email: [redacted]
The policy will be reviewed upon every RIP of the [redacted] PBO staff.

(b) (1)
OGA

[redacted]

Enclosure
1. Property Accountability and Responsibilities

(b) (3)-10 USC 130
(b) (6)
OGA

Release: 2018-05
NSA: 03241

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

Enclosure 1: Property Accountability and Responsibilities

JSBE PBO December 15, 2010

MEMORANDUM OF UNDERSTANDING FOR HAND RECEIPT HOLDERS

SUBJECT: Property Accountability and Responsibilities

1. Primary Hand Receipt Holders (PHRH) assume a great deal of responsibility and will be held in compliance with Department of the Army (DA) regulations and policies.

2. Accounting for property: As a PHRH you must account for and control all property entrusted to you in accordance with DA and Joint regulations. All property acquired by this organization, whether paid for or not, must be accounted for as prescribed in AR 710-2, DA Pam 710-2-1, AR 735-5, and other applicable regulatory guidelines. You should be familiar with the following definitions extracted from AR 735-5 paragraph 2-7 and 2-8:

a. **Accountability:** The obligation of a person to keep records of property, documentation, or funds, such as identification data, gains, losses, due-ins, due-outs, and balances on hand or in use.

b. **Responsibility:** Responsibility is the obligation on an individual to ensure Government property and funds entrusted to his or her possession, command, or supervision are properly used and cared for and that proper custody, safekeeping, and disposition are provided. The five different types of responsibility are:

1) **Command Responsibility**: The obligation of a Commander to ensure all Government property within his or her command is properly used and cared for, and that proper custody, safekeeping, and disposition are provided. Command responsibility is inherent in command and cannot be delegated.

2) **Supervisory Responsibility**: The obligation of a supervisor is to ensure all Government property issued to, or used by his or her subordinates is properly used and cared for, and that proper custody and safekeeping are provided. It is inherent in all supervisory positions. It is not contingent upon signed receipts or responsibility statements and cannot be delegated. Responsibility arises because of assignment to a specific position and includes: providing proper guidance and direction; enforcing all security, safety, and accounting requirements; maintaining a supervisory climate that will facilitate and ensure the proper care and use of government property.

3) **Direct:** The obligation of a person to ensure that all government property for which he or she has receipted for, is properly used and cared for, and that proper custody and safekeeping are provided. Direct responsibility is a result of assignment as an accountable officer, receipt of formal written delegation, or acceptance of the property on the hand receipt from an accountable officer. Sub-hand receipting to the lowest user level is highly recommended. **This applied to hand receipt and sub hand receipt holders.**

4) **Custodial Responsibility**: The obligation on an individual for property in storage awaiting issue or turn-in to exercise reasonable and prudent actions to properly care for, and ensure proper custody, safekeeping, and disposition of the property are provided.

5) **Personal**: The obligation of a person to exercise reasonable and prudent actions to properly use and care or, and safeguard all government property issued for, acquired for, or converted to a person's exclusive use, with or without receipt.

Release: 2018-05
NSA: 03242

Doc ID: 6617180

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

JSBE PBO December 15, 2010

SUBJECT: Property Accountability and Responsibilities

3. Inventories.

a. Weapons, Ammunition and Sensitive Items inventories will be conducted monthly IAW Unit SOP, appropriate regulations and policy. Inventories will be documented on the Sensitive Item Inventory Listing provided by the PBO Office o/a the 1st of each month and will be completed and submitted to the PBO Office NLT the 25th of each month.

b. A 100% inventory of all property will be done and hand receipts will be updated with the PBO Office every 120 days or during relief in place operations whichever comes first.

4. Sub-Hand Receipts: All hand receipt holders are encouraged to sub-hand receipt property down to user level. Use one of the system available. Hand Receipt Manager, SPBUSE, or DA form 2062 if the current systems are not available. This will document the chain of custody should the property be lost, damaged or destroyed. Instructions for preparation are in DA Pam 710-2-1 (Para. 5-3 b. (2)). All sub hand receipts will be updated every 120 days or upon relief in place operations whichever comes first.

5. Lost, damaged or destroyed government property: Attempt to locate the missing item(s), conduct causative research pertaining to circumstances involving the loss, damage, or destruction. Notify your Primary Hand Receipt Manager or PBO within 5 days of actual loss and initiate immediate action IAW AR 735-5 within 15 days.

6. Relief In Place (RIP) Operations: The outgoing PHRH will obtain a current HR 2 weeks prior to scheduled departure date and begin an initial 100% inventory. A joint inventory will be conducted between the incoming and outgoing PHRH and will be completed 5 days prior to scheduled departure date. The incoming and outgoing PHRH's will coordinate with the Property Book Office for the PHRH's briefing 5 days prior to scheduled departure date. It is the outgoing PHRH's responsibility to ensure the hand receipt is properly turned over to the new PHRH (signature, date, and rank) and the original is on file with the Property Book Section. If the relief in place inventory procedures are not followed and there is a loss of property the outgoing hand receipt holder may be deferred from leaving until the investigation of the FLIPL is complete. All questions should be directed to the Property Book Section.

7. There are three categories of property: Non-Expendable, Durable, and Expendable.

a. Non-Expendable: not consumed in use and retains its original identity during the period of use. Commercial and fabricated items similar to items coded (N) in the FEDLOG are considered non-expendable property. This property requires formal accountability throughout the life of the item IAW AR 710-2, paragraph 2-5 and is further defined in AR 735-5.

b. Durable: property that is not consumed in use, does not require property book accountability, but because of its unique characteristics requires control when issued to the user. This is further defined in AR 735-5, 7-6 and 7. All hand tools with an individual cost of $50.00-299.99 are durable. Durable property requires Hand Receipt Control at user level.

c. Expendable: property that is consumed in use or loses its identity in use. It includes items not consumed in use, such as certain types of office furniture.

d. It is the PHRH's responsibility to ensure equipment they are signed for is maintained and properly sub-hand receipted. Ensure the Property Book Officer is aware of your status. When equipment is moved to outstations it is the PHRH's responsibility to ensure the property is properly hand receipted down.

Release: 2018-05
NSA: 03243

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

JSBE PBO

December 15, 2010

SUBJECT: Property Accountability and Responsibilities

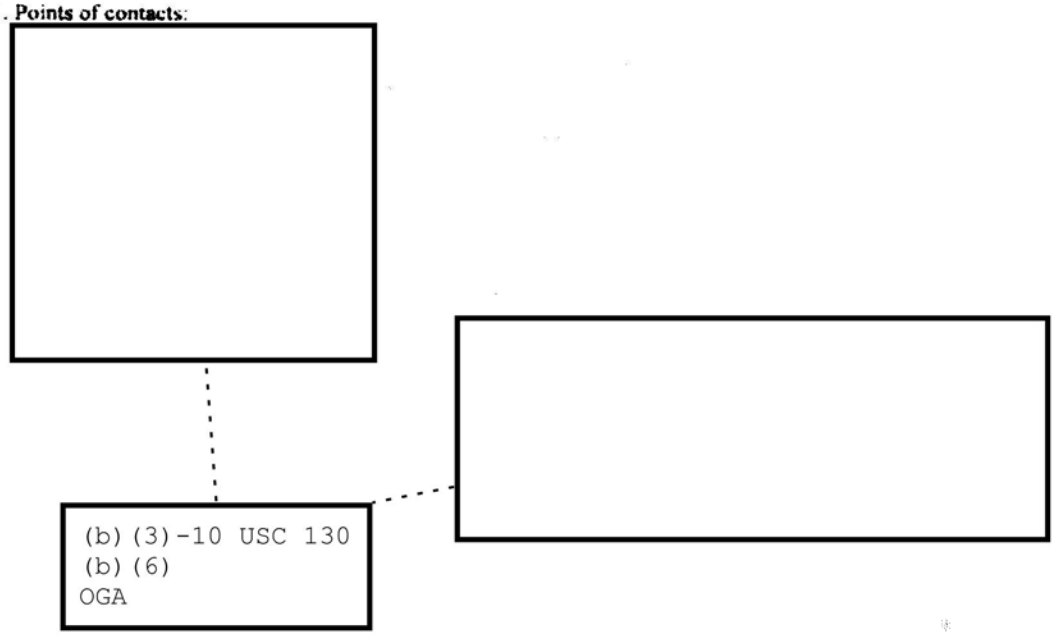
8. Loaning / Transferring property outside the organization: Property will not be loaned outside the organization without the Property Book Officer's approval as per AR 710-2 para 2-10(c)(3). Notify the Property Book Office prior to initiating any action.

9. DRMO Turn in: Before turning in items to DRMO you're required to submit a DD Form 1348-1 to the Property Book Office. the Property Book Office will verify the document is correct and issue a document number. once assigned a document number the item can be turned in.

10. Sending Retro items to the rear:

- Fill out the 3161or Hand Receipt Manager Transfer. (and 2404 if repair and return)
- Customer requests a Reachback number. Reachback number will be given for Repair and Return and Turn-in items.
- Customer takes paperwork to PBO to ensure it is filled out correctly and receive a document number
- Customer brings 3161/Hand Receipt Manager Transfer. 2404. and equipment to J4 Reachback. Equipment should be boxed up and prepared for shipment. Reachback number will be marked on two sides of the box. Box will not be sealed.
- J4 Reachback prints and signs block 14 of the 3161 and locks up the equipment the Reachback cage.
- Once equipment is received in the rear the customer will be given credit for the item.

11. Points of contacts:



Release: 2018-05
NSA: 03244

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

JSBE PBO December 15, 2010

I have read the Property Accountability and responsibilities memorandum dated 15 December 2010. I understand that as a hand receipt holder I am required to account for all property and responsible to familiarize myself with the DA property accountability system. I will contact my supporting Property Book Office for guidance if I have any questions.

Incoming Hand Receipt Holder:

Print Name Sign & Date

Red Phone No.: Departure Date:

Email: (JIANT or SIPR)

User ID:(HQ/DARBY/SOTF/etc)

I have read the Memorandum of Understanding (Initials):

I have read the Procedures for Hand Receipt Holders (Initials):

Release: 2018-05
NSA: 03245

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

MEMORANDUM FOR JSBE Property Book Office

SUBJECT: Delegation of Authority

1. I decline to delegate authority for any transactions affecting Hand Receipt# _____. I understand that no one will be able to pick up ordered property or conduct any transactions on my hand receipt except myself.

2. I understand this could affect the work flow in the section that my hand receipt affects. I reserve the right to submit a DA Form 1687, Delegation of Authority Card at a later time.

Signature _____

Date _____

Printed name of Hand Receipt Holder _____

(b) (1)
OGA

SUBJECT: Automated Hand Receipt Management

1. Hand Receipt Management has been provided to me for the purpose of managing my hand receipt IAW [redacted] Property Accountability Standard Operating Procedures. Hand Receipt Manager is an automated program that allows me to create Visibility/Change Reports, Sub-Hand Receipts, and Lateral Transfers. The PBO will provide updated downloads per my request. Also, PBO will provide any instruction or assistance with Hand Receipt Manager as needed.
2. If I do not already have the program, I can submit a request thru the Task Force Help Desk.

I do / do not intend to use Hand Receipt Manager to aid in the management of my Hand Receipt. Initial: _____

Print: _____

Sign: _____
Date: _____

Release: 2018-05
NSA: 03246

SUBJECT: Policy Memo, Joint Stay Behind Equipment (JSBE) Accountability

PROCEDURES FOR HAND RECEIPT HOLDERS

1. Once you sign the hand receipt you are responsible for the property and are held accountable.

2. Verify quantities and serial numbers before you sign

3. If distance or time prevents you from personally counting all your property, you may have someone assist in the inventory; however you will still be responsible for the property.

4. When distance prevents you from physically viewing your property or randomly checking on it between inventories, you should issue it on a sub hand receipt to someone at that location.

5. Keep your hand receipts current; make sure sub hand receipt holders do not leave your unit without clearing their sub hand receipts.

6. Make sure damaged or missing items are reported in a timely manner.

7. All movement of equipment on and off the hand receipt must be done thru the PBO office. When you no longer need and item, request disposition from the PBO.

8. Sensitive items are inventoried and reported monthly to the PBO. Report discrepancies immediately to your appropriate J4.

9. Store all your equipment in a secure area. When going on leave or TDY make sure the property is secure if absent more than 30 days, have a temporary hand receipt holder assume your hand receipt during this time. Do a joint inventory before and after your departure.

10. Clear your hand receipt or transfer your property responsibility to your successor before you leave your unit.

Release: 2018-05
NSA: 03247

Doc ID: 6617180

From Attachment 2

[redacted]

Formatted: Font color: Red

SUBJECT: [redacted] Property Accountability Standard Operating Procedures 01October 2012

APPENDIX A

REFERENCES

AR 15-6	Procedures for Investigating Officers and Boards of Officers
AR 25-400-2	The Army Records Information Management System (ARIMS)
AR 40-61	Medical Logistics Policies and Procedures
AR 190-11	Physical Security of Arms, Ammunition and Explosives
AR 380-40	Policy for Safeguarding and Controlling Communications Security (COMSEC)
AR 700-84	Issue and Sale of Personal Clothing
AR 710-2	Supply Policy Below the Wholesale Level
AR 725-50	Requisitioning, Receipt, and Issue System
✓AR 735-5	Policies and Procedure for Property Accountability
AR 840-10	Flags, Guidons, Streamers, Tabards, and Automobile and Aircraft Plates
✓DA Pam 710-2-1	Using Unit Supply System (Manual Procedures)
SB 700-20	Army Adopted/Other Items Selected for Authorization/List of Reportable Items
CTA 8-100	Expendable/Durable Medical Supplies and Equipment
CTA 50-900	Clothing and Individual Equipment
CTA 50-909	Field and Garrison Furnishings and Equipment
✓CTA 50-970	Expendable/Durable Items (Except: Medical, Class V, Repair Parts and Heraldic Items)

(b) (1)
OGA

Formatted: Right
Formatted: Font color: Red
Formatted: Centered

[redacted]

Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: ~~20390301~~

[redacted]

(b) (3)-10 USC 130
(b) (6)
OGA

Release: 2018-05
NSA: 03248

Doc ID: 6617180

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

APPENDIX E

[redacted] **Response to the OIG's Tentative Conclusion**

Release: 2018-05
NSA: 03249

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

[redacted]

From: [redacted]
Sent: Monday, May 19, 2014 12:17 PM
To: [redacted]
Subject: OIG Investigation - Tentative Conclusion

Follow Up Flag: Follow up
Flag Status: Flagged

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

[redacted]

This is to notify you of the tentative conclusion the Office of the Inspector General (OIG) reached in our investigation regarding the Federal property you had in your possession at your residence. Our tentative conclusion reads as follows:

The preponderance of the evidence supports the conclusion that [redacted] did not protect and conserve Federal property and used it for other than authorized activities when he took Government-owned equipment and materials to his home and used some of the items for his own benefit in violation of 5 CFR § 2635.101, Basic obligation of public service, 5 CFR § 2635.704, Use of Government property, NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct. His actions also violated 18 USC § 641, public money, property or records.

In accordance with the investigative process, you now have the opportunity to comment on the tentative conclusion and/or offer additional information before we close our investigation. You are not required to respond with regard to our tentative conclusion, and if you choose not to, please simply acknowledge receipt of this notification. However, if you choose to respond, please do so in writing by 1700 hours, 27 May 2014. Any comments and/or additional information you provide will be given full consideration in reaching our final conclusion. If you require additional time, please let me know.

Respectfully,

[redacted]
Senior Investigator
Office of the Inspector General
National Security Agency/Central Security Service
[redacted]

From: [redacted]
Sent: Friday, May 09, 2014 9:11 AM
To: [redacted]
Subject: Re: IG Investigation

Yes it is. Thanks.

On May 9, 2014 9:08 AM, [redacted] wrote:

[redacted]

Release: 2018-05
NSA: 03250

We have completed our investigation regarding the equipment and materials and I will be sending the tentative conclusion to you very soon. I just wanted to make sure that this was still a current email address for you. Thank you.

[redacted]
Senior Investigator
Office of the Inspector General
National Security Agency/Central Security Service
[redacted]

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

Release: 2018-05
NSA: 03251

NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
OFFICE OF THE INSPECTOR GENERAL

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

(U) MEMORANDUM FOR THE RECORD

(U//~~FOUO~~) On 19 May 2014 at approximately 1230 hours, the undersigned received a telephone call from [redacted] He stated that he received the OIG's tentative conclusion regarding the investigation about the Federal property he had in his possession at his home. The OIG sent the tentative conclusion to [redacted] on 19 May 2014 at 1217 hours.

(U//~~FOUO~~) [redacted] asked for an interpretation of the tentative conclusion in "layman's terms." He said he would have a difficult time submitting an informed response to the tentative conclusion when he has not read the report of investigation (ROI) and how could he obtain a copy. He wanted to know who provided information/testimony to the OIG. He wanted to know what happens next.

(U//~~FOUO~~) The undersigned informed [redacted] of the following:

- He may obtain a copy of the OIG's report through a FOIA request, after the report is finalized. The report would be redacted of names of witnesses and classified information.
- The OIG protects the names of witnesses to the greatest extent possible, and therefore, the OIG would not provide him with the names of individuals who provided information/testimony to the OIG.
- After he submits a response to the OIG, if any, the OIG would conduct any further investigation that might be prompted by his response, then inform him of the final conclusion and document the final conclusion in the ROI. The ROI becomes final when signed by the Chief, OIG Investigations.
- A copy of the ROI will be provided to Employee Relations (ER) and Security for any action they might deem appropriate, and the case is closed in the OIG, other than for routine case follow-up on any possible actions of ER and Security.
- Any other specific questions, he may also submit in writing/email for my response.
- He should contact me if he requires additional time beyond 27 May 2014 to prepare and submit his response to the OIG.

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

[redacted]
Senior Investigator

Release: 2018-05
NSA: 03252

[redacted]

Subject: FW: OIG Investigation - Tentative Conclusion

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

From [redacted]
Sent: Monday, May 19, 2014 1:15 PM
To: [redacted]
Subject: Re: OIG Investigation - Tentative Conclusion

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

[redacted]

I acknowledge receipt of this notification.

I have several questions and comments:

First, I will need more time than that which you have indicated to follow up on my end and determine if I have provided all of the information I think is relevant to this case. Please let me know how long we can extend this deadline for a formal response to this notification.

In order to respond fully to this notification, I will need to know, to the fullest degree that is possible, what witnesses and/or testimony this investigation is relying on and how to formally request that information.

Could you please explain to which action or incident each of the alleged violations refer?

Could you please explain what will happen once the report is finalized, what recommendations your office will provide to Employee Relations and Security, and what are the possible consequences of this report being finalized in its present form?

Once this report is finalized, will I have the opportunity to appeal the conclusion or request further investigation?

This email does not contain the entirety of my response and I request the courtesy of your office to allow me to follow up with additional comments and questions before finalizing the report in question.

Regards,

[redacted]

Release: 2018-05
NSA: 03253

[redacted]

Subject: FW: OIG Investigation - Tentative Conclusion
Attachments: 20140519 OIG Email response [redacted] pdf

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

From [redacted]
Sent: Wednesday, May 21, 2014 9:20 AM
To: [redacted]
Subject: RE: OIG Investigation - Tentative Conclusion

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

[redacted]

In the attached document I responded to all of the questions and concerns that were included in your email below.

V/R,

[redacted]
Senior Investigator
Office of the Inspector General
National Security Agency/Central Security Service
[redacted]

Release: 2018-05
NSA: 03254

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

20 May 2014

Below are responses to questions you posed to the OIG in your email to the OIG dated May 19, 2014:

1. **You requested an extension for your response to the OIG.**
   Response: The OIG has extended your deadline for submitting your response to the OIG's tentative conclusion to 6 June 2014. If you require additional time, please let me know.

2. **You requested the names of witnesses and/or testimony the investigation relied on and how to formally request the information.**
   Response:
   - To the greatest extent possible, the OIG protects the identity of witnesses and therefore will not be providing the names to you. The OIG conducted a thorough investigation, including obtaining witness testimony and pertinent documentary evidence and relied on all available evidence in reaching our tentative conclusion.
   - The standard of proof for this investigation was preponderance. Preponderance of the evidence is that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.[1]
   - You may obtain a copy of the OIG's report of investigation under the following provisions:
     - FOIA – Once the report is finalized* you may request a copy of investigative records under FOIA or the Privacy Act. You should follow the FOIA process to do so, which is to submit your request in writing to the NSA FOIA/PA Office.
       **The OIG report will not be finalized until we receive your response (if any) to the tentative conclusions and take any other investigative actions that might be prompted by your response.*
     - If disciplinary or an adverse action is proposed regarding the OIG's findings of violations of policy, as part of ER's process you would be provided with a copy of the documentation that led to the disciplinary action. The OIG's report of investigation would be redacted to protect (to the extent possible) the identities of sources interviewed during the course of an OIG investigation, and you would be afforded the opportunity to review the redacted copy.

3. **You asked the OIG to explain to which action or incident each of the alleged violations refer.**
   Response: I thought it might be helpful for you to see the expanded verbiage from the applicable authorities that the OIG believes have been violated:

   ✓ **5 CFR § 2635.101, Basic obligation of public service.**
   Public service is a public trust. Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the

[1] 5 C.F.R. § 1201.56(c)(2).

Release: 2018-05
NSA: 03255

principles of ethical conduct set for in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.
(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

✓ **5 CFR § 2635.704, Use of Government property.**
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.

Definitions. For purposes of this section:

- Government property includes any form of real or personal property in which the Government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with Government funds . . . The term includes office supplies . . .

✓ **NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct.**
Generally, every employee is expected to:

Uphold the public trust by placing the Constitution, the laws and ethical principles above private gain;

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

Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining from all the counts for which the defendant is convicted in a single case, does not exceed the sum of $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

✓ **18 USC § 641, Public money, property or records.**

- Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

- Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

In summary, the Code of Federal Regulations and the NSA/CSS Personnel Management Manual require Federal employees to protect and conserve Federal property and not use it for other than authorized activities; 18 USC § 641 prohibits individuals from stealing or knowingly converting to personal use things of value of the United States or any department or agency thereof.

Release: 2018-05
NSA: 03256

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

20 May 2014

Below are some of the findings from the OIG investigation, which the OIG believes, when applied to the applicable authorities above, constitute violations:

- [redacted] you took two Government-owned Pelican cases filled with various Government-owned equipment and materials, to your home for approximately 14 months before they were discovered and seized [redacted] and subsequently transferred to Agency Security.

- You told the OIG that you took the kits home because [redacted] However, upon your own admission, [redacted] You said that even though you were not provided guidance as to what you should have done with your kits [redacted] you knew that you should not have taken the kits to your residence.

(b) (6)

- You told the OIG that you did not seek or receive permission to take the kits to your home and did not inform anyone that you had done so. You said you did not think you would get caught with the kits at home because the items in the kits were consumable and did not have hand-receipts.

- You admitted to the OIG that you converted some of the Government-owned equipment and materials for your own use, including installing a Government-owned camera in your home and [redacted] from one of the kits.

- The OIG found that your claim that you intended to return the equipment to the Government was not sound as the equipment had already been in your home for approximately 14 months before it was seized, during which time, you converted some of it for your personal use. You had taken the Government-owned equipment to your home and kept it there, under your control and away from the sight and control of any other Federal officials. You did not make any attempt to learn how to return the equipment, or to whom.

- The evidence in this case shows that you had unauthorized possession of, and misused, Government-owned equipment.

- By keeping the kits and their contents, which by your own admission were government property, in your personal residence, and using them for personal rather than government use, your actions violated 18 USC § 641 which prohibits individuals from stealing or knowingly converting to your use things of value of the United States or any department or agency thereof.

4. **You asked the OIG to explain what will happen once the report is finalized, what recommendations the OIG will provide to Employee Relations (ER) and Security, and what are the possible consequences of this report being finalized in its present form.**
Response:

Release: 2018-05
NSA: 03257

- The report will be made final after you provide your response, if any, to the OIG's tentative conclusion. The OIG will take any other actions that might be prompted by your response, and then after the report is signed by the Chief of IG Investigations, a copy will be provided to ER, with a summary to the Office of Security. The case will be closed in the IG except for routine follow-up with ER and Security to obtain information on any actions taken.
- The OIG does not make recommendations to ER or Security concerning actions to take. ER and Security will take any actions they deem appropriate. For example, if ER determines that an administrative penalty should be levied, it may range from a written reprimand, to a suspension, or removal.

5. **You asked if you would have the opportunity to appeal the conclusion or request further investigation.**
Response: Any response you provide to the OIG regarding the tentative conclusion may prompt additional investigation. The OIG does not offer an appeal process on OIG's final conclusion. If ER proposes a disciplinary or an adverse action based on the OIG's investigation, you have due process rights under ER's process.[2]

[2] NSA/CSS PMM Chapter 370, Counseling, Disciplinary, and Adverse Actions

Release: 2018-05
NSA: 03258

[redacted]

Subject: FW: OIG Investigation - Tentative Conclusion

From: [redacted]
Sent: Thursday, June 05, 2014 1:03 PM
To: [redacted]
Subject: Re: OIG Investigation - Tentative Conclusion

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

[redacted]

Thank you for clarifying that. I appreciate the feedback.

[redacted]

On Thu, Jun 5, 2014 at 12:57 PM, [redacted] wrote:

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

[redacted]

It occurred to me that I should clarify something for you regarding our tentative conclusion. Though the OIG's tentative conclusion states that the OIG believes 18 USC 641 was violated, please be aware that we will only be pursing administrative action within the Agency (we'll send the report to Employee Relations for whatever administrative action they deem appropriate). The OIG does not intend to pursue any type of criminal prosecution.

Please let me know if you have any questions.

[redacted]

Senior Investigator
Office of the Inspector General
National Security Agency/Central Security Service

[redacted]

Release: 2018-05
NSA: 03259

[redacted]

Subject: FW: OIG Investigation - Tentative Conclusion

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

From: [redacted]
Sent: Friday, June 13, 2014 11:56 AM
To: [redacted] (b)(3) - P.L. 86-36
Subject: Re: OIG Investigation - Tentative Conclusion

[redacted]

Below is my response to the preliminary conclusion and the supporting evidence that you subsequently provided:

- You told the OIG that you took the kits home because [redacted] However, upon your own admission, you [redacted] You said that even though you were not provided guidance as to what you should have done with your kits [redacted] you knew that you should not have taken the kits to your residence.

I responded to the question of (paraphrasing) "what would be the correct or ideal course of action to have taken, in retrospect". The context of my response should have been clear to indicate that I was speaking hypothetically. The statement, "[I] knew that [I] should not have taken the kits to [my] residence" suggests that I stated to you that I believed that I was doing something wrong or illegal by taking this kit to my residence. I made no such statement, to my recollection. Furthermore, at the very least, [redacted] told you in a sworn statement that we were issued these kits and that he also believed that storing the kit at home was not unreasonable. As you will recall, [redacted] was the person [redacted]

I recall saying that I was never given specific guidance as a literal order but that the context of the situation made it clear that my action was the expected thing to do.

- You told the OIG that you did not seek or receive permission to take the kits to your home and did not inform anyone that you had done so. You said you did not think you would get caught with the kits at home because the items in the kits were consumable and did not have hand-receipts.

The language "did not think you would get caught with" is not, to my recollection, the way I phrased that response and seems to be worded in an inflammatory way to assign guilt. Please clarify how this response was actually worded.

- You admitted to the OIG that you converted some of the Government-owned equipment and materials for your own use, including installing a Government-owned camera in your home and [redacted] from one of the kits. (b)(6)

I admitted to using a disposable camera, in a temporary and reversible fashion (the context of why this was temporary was provided during my interview), approximately five feet from the the pelican case in which it was housed, in the same room in which it was housed, specifically for the protection of the contents of that room. I admitted to technically having [redacted] in an attempt to be as explicit and honest about any usage as possible. No reasonable person would consider that usage as misappropriating government property unless we're going to start cataloging the use of pens, pencils, and paper

Release: 2018-05
NSA: 03260

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

from government offices, as well. This is not an attempt to be facetious, but rather a literal comparison to the equivalent usage in comparable products.

- The OIG found that your claim that you intended to return the equipment to the Government was not sound as the equipment had already been in your home for approximately 14 months before it was seized, during which time, you converted some of it for your personal use. You had taken the Government-owned equipment to your home and kept it there, under your control and away from the sight and control of any other Federal officials. You did not make any attempt to learn how to return the equipment, or to whom.

As I had testified during our interview, Nothing from that kit was "converted" in any way. I categorically reject this statement as factually false. No part of my statement indicates that I admitted to knowingly To my knowledge, I might have, at most, stated that in retrospect, it was unlikely by the time that the equipment was seized. It should be clear to any reasonable person at the time that this equipment was seized. Your conclusion suggests that I should have been well on my way in determining by that time. Such an expectation is plainly unrealistic and fails to consider the basic facts of these circumstances.

- The evidence in this case shows that you had unauthorized possession of, and misused, Government-owned equipment.

There is no evidence that shows that my possession of this equipment was, in fact, unauthorized. This is pure conjecture and hearsay, at most. Your claim that this was a "misuse" is a circumstantially based opinion that lacks evidence to back it up, based on what has been presented to me.

- By keeping the kits and their contents, which by your own admission were government property, in your personal residence, and using them for personal rather than government use, your actions violated 18 USC § 641 which prohibits individuals from stealing or knowingly converting to your use things of value of the United States or any department or agency thereof.

My admissions corroborate a conversion to personal use as much as does one admitting to taking a government-owned pen home from work and was, in fact, less consumable and more reversible that such an action. The conclusion that I violated 18 USC § 641 illustrates a dangerous lack of understanding by the Inspector General's office of the roles and responsibilities of NSA/CSS personnel These conclusions appear to completely ignore sworn testimony (such as that given by

I, and many other NSA personnel that have knowledge of this case, are at a loss for understanding how the Office of the Inspector General could arrive at this conclusion, particularly without the testimony of At the very most, this case should be concluded to be indeterminate based on a lack of evidence.

Could you please explain the evidentiary requirements for the OIG in drawing a conclusion such as those related to this case?

This statement does not necessarily constitute the entirety of my response. My statements are based on the evidence provided to me and the information I was able to obtain by this due date. I would like to reserve the privilege of supplying supplementary statements until COB today, June 13, 2014 or any possible later date.

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

Release: 2018-05
NSA: 03261

Thank you for allowing me to respond to this preliminary conclusion.

Regards,

[redacted]

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

Release: 2018-05
NSA: 03262

[redacted]

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

From: [redacted]
Sent: Thursday, June 26, 2014 11:36 AM
To: [redacted]
Subject: OIG Final Conclusion
Attachments: 20140625 OIG Final Conclusion.pdf

[redacted]

The OIG's final conclusion on the investigation is attached.

[redacted]

Senior Investigator
Office of the Inspector General
National Security Agency/Central Security Service

[redacted]

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

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

UNCLASSIFIED

25 June 2014

[redacted]

1. Prior to reaching a final conclusion the OIG reviewed and considered your response to the OIG's tentative conclusion, which was included in your email to the OIG dated June 13, 2013. Your response did not provide any additional information that caused the OIG to conduct further investigation or change the tentative conclusion. As a result, the tentative conclusion is now considered final, as follows:

   The preponderance of the evidence supports the conclusion that [redacted] did not protect and conserve Federal property and used it for other than authorized activities when he took Government-owned equipment and materials to his home and used some of the items for his own benefit in violation of 5 CFR § 2635.101, Basic obligation of public service, 5 CFR § 2635.704, Use of Government property, NSA/CSS Personnel Management Manual, Chapter 366 § 1-3.H, General Principles for On-The-Job Conduct. His actions also violated 18 USC § 641, Public money, property or records.

   By keeping the kits and their contents, which by his own admission were government property, in his personal residence, and using them for personal rather than government use, [redacted] violated 18 USC § 641 which prohibits someone from stealing or knowingly converting to his use things of value of the United States or any department or agency thereof.

2. The OIG is providing the following information in response to some of the questions or statements included in your email.

3. Regarding the third paragraph of your email, the OIG has ensured the verbiage contained in the report of investigation pertaining to whether you knew that you should not have taken the kits to your residence, is preceded with the words, "in retrospect."

4. Regarding the sixth paragraph of your email, on the "getting caught" matter. During the interview, when you were asked if you ever worried about getting caught with the equipment at home, you responded in the negative. When asked if getting caught ever crossed your mind, you said that since the items were considered consumable, you rationalized that they were no-hand-receipt-items and you were not using them. The OIG has ensured the verbiage contained in the report of investigation pertaining to this matter is reflected as written here.

5. Regarding the 8th and 10th paragraphs of your email on the matter of "conversion," a charge of conversion of government property may be consummated without any intent to keep and without any wrongful taking and includes misuse or abuse of property, or use in an unauthorized manner or to an unauthorized extent.

Release: 2018-05
NSA: 03264

Doc ID: 6617180

6. Also with regard to the 10th paragraph of your email on the matter of your personal situation at the time these events occurred, the OIG ensured the information regarding your personal situation is included in the report of investigation.

7. Regarding the 12th paragraph of your email on the matter of "unauthorized possession," there is no evidence that keeping the equipment at your residence was authorized. That, combined with the lengthy period of time it remained at your residence, makes your possession of the government equipment at your residence unauthorized.

8. Regarding the 14th paragraph of your email on the matter of "18 USC § 641," though the OIG believes this statute was violated, our follow-on action will be to provide a copy of the report of investigation to Employee Relations for whatever administrative action they deem appropriate.

9. You asked that we explain the evidentiary requirements for the OIG in drawing a conclusion such as those related to this case. The OIG based the tentative conclusion on preponderance of the evidence. Preponderance of the evidence is the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue. The requirement is that more than 50% of the evidence points to something. It is not based on the amount of evidence. Preponderance of the evidence is contrasted with "beyond a reasonable doubt," which is the more severe test of evidence required to convict in a criminal trial. As you have been advised, the OIG is not pursing criminal prosecution.

10. You indicated in your email that you would like to provide supplementary statements regarding this matter. You should do so as part of the appeal process which will be afforded to you if Employee Relations renders that some type of administrative action should be taken. You will receive further guidance from Employee Relations. A copy of the report of investigation was provided to Employee Relations today.

[redacted]

Senior Investigator
NSA/CSS OIG, Office of Investigations

[redacted]

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

Release: 2018-05
NSA: 03265