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NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE

INSPECTOR GENERAL

REPORT OF INVESTIGATION

22 July 2014

IV-14-0019

Misuse of Government Resources

(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.

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Approved for Release by NSA on 07-02-2018, FOIA Case # 79204 (litigation)
(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.
I. (U) SUMMARY

(U//FOUO) On 28 August 2013 the Inspector General (IG) received a referral from the NSA/CSS Information Systems Incident Response Team (NISIRT) identifying potential computer misuse by an NSA/CSS civilian. On 7 November 2013 the IG initiated an investigation of use of NSA/CSS Information Systems (ISs):

(U//FOUO) In August 2013, the OIG substantiated a computer misuse case against for his use of collaboration tools to engage in non-work related chat on the classified NSA/CSS IS. On 14 August 2014, acknowledged the OIG notification and replied that he had read the relevant policies. Despite the notification, continued to engage in continuous and excessive non-work related chat on the classified NSA/CSS IS.

(U//FOUO) We obtained sworn testimony from We also obtained NISIRT records relating to his use of Government resources.

(U//FOUO) The preponderance of the evidence collected during the investigation substantiated that used Government resources to engage in continuous and excessive non-work related chat, in violation of JER 5500.7-R and NSA/CSS Policy 6-12. Based on own admission, he engaged in non-work related chat every work day.

(U//FOUO) A copy of this report of investigation will be provided to Employee Relations. A summary memorandum will be provided to the Special Actions, ADS&CI for review and appropriate action.
II. (U) BACKGROUND

(U) Introduction

(U/FOUO) A civilian employee assigned to


(U) First OIG notification of computer misuse

(U/FOUO) On 14 August 2013, the ADS&CJ referred a potential computer misuse case regarding to the OIG. The OIG determined that misused Government resources when he engaged in continuous and excessive non-work related chat. The OIG notified via email, on 14 August 2013 of the detected misuse. He was instructed to reply to the OIG with an email acknowledging that he had reviewed the policies and guidance, understood them, and would adhere to them in the future. Later that day, responded simply stating, “I have read the attached policies.” his supervisor, and Employee Relations were also notified of the misuse. See attachment A for the emails relating to the first detection of misuse by

(U) Applicable Authorities


(U/FOUO) NSA/CSS Policy 6-12, “COLLABORATIVE COMMUNICATION ON CLASSIFIED NSA/CSS INFORMATION SYSTEMS” revised date 14 February 2014.

(U) See Appendix B for the full text of the applicable authorities.
III. (U) FINDINGS

(U//FOUO) Did an NSA/CSS civilian, misuse his classified NSA/CSS IS in violation of JER 5500.7-R and NSA/CSS Policy 6-12 despite the previous OIG substantiated computer misuse case?

(U//FOUO) CONCLUSION: Substantiated. The preponderance of the evidence supports the conclusion that used Government resources to engage in continuous and excessive non-work related chat, after the initial OIG notification on 14 August 2013, in violation of JER 5500.7-R and NSA/CSS Policy 6-12. Based on own admission, he engaged in non-work related chat every work day.

(U) Documentary Evidence

(U) NISIRT Report

(U//FOUO) The NISIRT provided the OIG with an analysis of activities on the classified NSA/CSS IS. was observed engaging in non-work related chat. Based on NISIRT estimate, engaged in approximately 7.5 hours of non-work related chat over a 9 day period worked between 15 August and 27 August 2013. A sample of the chat activity can be found at Appendix C.

(U) Testimonial Evidence

(U//FOUO) On 23 January 2014, was interviewed and provided the following sworn testimony:

(U) has been at the Agency for stated that non-work related chat should last no more than 30 minutes total per day and not interfere with a person’s official work duties. acknowledged receiving the OIG notification on 14 August 2013 which stated that he was using the collaboration tools to chat about non-work related activities in violation of the JER500.7-R and NSA/CSS policy 6-12. testified he wanted to question the OIG email notification but did not because felt his non-work related chat activity was within the allowed limited personal use guidelines, so he simply responded that he had read the policy and continued to chat about non-work related activities.
(U) Analysis and Conclusions

(U//FOUO) The JER 5500.7-R defines authorized uses of Government communications and systems to include “brief communications made by DoD employees while they are traveling on Government business to notify family members of official transportation or schedule changes. They also include personal communications from the DoD employee's usual work place that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor and auto or home repair appointments; brief internet searches; e-mailing directions to visiting relatives).” Authorized uses must also be of “reasonable duration and frequency, … [s]erve a legitimate public interest (such as keeping DoD employees at their desks rather than requiring the use of commercial systems; educating the DoD employee on the use of the communications system; improving the morale of DoD employees stationed for extended periods away from home; enhancing the professional skills of the DoD employee; job-searching in response to Federal Government downsizing); … and [do not] reflect adversely on DoD or the DoD Component.” non-work related chat, which often consumed more than 30 minutes of a workday, served no legitimate public interest, were not of reasonable duration and frequency and therefore not authorized uses of government resources. As a result, activities violated JER 5500.7-R.

(U//FOUO) NSA/CSS Policy 6-12 states users of collaboration tools and services, including chat, should be for work related purposes and is generally considered to reflect the view of the Agency, chat was not work related and reflected poorly on the Agency. On 26 August 2013, wrote, and on 27 August 2013, wrote, His use of derogatory terms and profanity in his chat entries, was unprofessional and demonstrated a lack of good judgment.

(U//FOUO) Despite the OIG notification on 14 August 2013, chose not to comply with policy and continued to engage in continuous and excessive non-work related chat.

(b) (3) – P.L. 86-36
(b) (6)
<table>
<thead>
<tr>
<th>Date</th>
<th>Time of first chat entry</th>
<th>Time of last chat entry</th>
<th>number of chat entries</th>
</tr>
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<tr>
<td>15 August 2013</td>
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<td>14:22</td>
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<tr>
<td>16 August 2013</td>
<td>6:05</td>
<td>12:55</td>
<td>106</td>
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<tr>
<td>19 August 2013</td>
<td>7:44</td>
<td>14:21</td>
<td>100</td>
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<td>20 August 2013</td>
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<td>14:05</td>
<td>70</td>
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<tr>
<td>21 August 2013</td>
<td>6:03</td>
<td>14:26</td>
<td>112</td>
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<td>6:07</td>
<td>14:26</td>
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</tr>
<tr>
<td>26 August 2013</td>
<td>6:45</td>
<td>14:21</td>
<td>69</td>
</tr>
<tr>
<td>27 August 2013</td>
<td>7:21</td>
<td>14:29</td>
<td>47</td>
</tr>
</tbody>
</table>

(U//FOUO) The chart above documents chat activity one day after he replied to the initial OIG notification of misuse. The chart reveals non-work related chat activity was continuous and excessive.

(U) Documentary evidence, combined with testimony, supports the allegation that he misused his classified NSA/CSS IS to engage in continuous and excessive chat about non-work related activities.

(b)(3) - P.L. 86-36
(b)(6)
IV. (U) RESPONSE TO TENTATIVE CONCLUSION(S)

was provided the tentative conclusions on 7 July 2014. Later that day, responded to the tentative conclusion stating:

I agree with the report. However, I would like to repeat your admission (during the January 2014 interview) that the initial OIG notification that was sent to me on the 14th of August had incorrect information (I would like that fact to be stated in the conclusions paragraph), and had I known how much I was actually misusing government systems, I would have ceased using the chats completely.

Below is my personal statement on my situation:

I did not fully understand the extent to which I was using the chat systems. The original email stated that I only misused the systems by 14 hours over two months, when the actual numbers were much higher. The actual numbers of FWA did not come into light until my interview and I would like that to be considered during the process. Again, had I known how high the FWA numbers were for those two months, I would have immediately ceased my actions. It was stupid of me to continue these actions anyways and it reflected poorly on myself and my organization.

The main reason I used the chats was to communicate with friends and other previous colleagues while at work, to keep my morale up. I figured that since I did not take a lunch, and we were required to work an extra 30 minutes a day, that using that chats sporadically throughout the day would not be wrong. Unfortunately for myself, I did not know about nor had I read the JER 5500.7-R, and I was not completely familiar with the NSA/CSS policy 6-12. *I did a quick calculation below in order to make my viewpoint clear. As I told the OIG investigator, I did not feel that this was excessive and I have learned from my mistakes, and I do realize that this was still wrong and a violation of the NSA policies.

*With the original numbers (14 Hours of chat use over 350 hours (350 hours is the amount of time I worked in the months of May and June 2013) of work, that would be approx. 15 minutes per day, which was less than the 30 minute lunch break (during which I worked through completely almost every day)). Some days it was more, some days it was less.

To be clear, I would also like to add that while I was using the chat systems, it was not adversely affecting my work; I still completed more than the minimum amount of work (most of the time I averaged at least 15%-25% more than the minimum). I never sat and waited for messages to pop-up, I was always working.
Since the January 2014 interview, I have not used the chat channels at all, with the exception of the last week, when I used Lync to notify team members of [redacted] and one or two occasions relating to lunch (it is much more convenient to send a quick message as opposed to walking down the hall to another office, saving time and money). I have continued to be a model employee and a very valuable asset to my organization, being recognized for my work ethic and my ability to adapt to any situation and assist other team members when needed with almost any task. My work habits have definitely changed and I am no longer associated with the chat room or [redacted] for that matter. I am usually not the one to complain and make excuses for myself but I would like to make it very clear that I am working extremely hard to gain the trust of the NSA and OIG again. I ask that my contributions to the agency are not overlooked during the completion of this process.

My points in short:
I have not and will not misuse the systems again.
I never allowed the chat use to interrupt my work.
My work habits have improved and I have been working to better myself and my reputation.

I am also willing to work with payroll in order to set up a payment plan to repay any time that I wrongfully charged in order to get back on good standing grounds with my employer.

[UFO] The fact that the 14 August 2013 OIG notification associated with the first case of IS misuse under-estimated the amount of time [redacted] spent on non-work related chat is not relevant to the conclusions of this investigation. The conclusion of this investigation remains unchanged.
V. (U) CONCLUSION

(U//FOUO) The preponderance of the evidence supports the conclusion that [REDACTED] used Government resources to engage in continuous and excessive non-work related chat, after the initial OIG notification on 14 August 2013, in violation of the JER 5500.7-R and NSA/CSS Policy 6-12.

(b)(3) - P.L. 86-36
(b)(6)
VI. (U) DISTRIBUTION OF RESULTS

(U//FOUO) A copy of this report of investigation will be provided to Employee Relations. A summary memorandum will be provided to the Special Actions, ADS&CI for review and appropriate action.

Senior Investigator

Concurred by:

Deputy Assistant Inspector General
For Investigations

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

(U) Security Referral and emails relating to the first OIG case
From: [Redacted]
Sent: Wednesday, August 14, 2013 11:38 AM

Subject: (U) ACTION REQUIRED - Official Notification (13-0734)

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

(U) The OIG recently received some information regarding alleged misuse of Government resources. It was determined that you violated the policies for use of the Agency classified Information System. Specifically, your account has been observed excessively chatting on non work related material. Estimates provided represent 9 hours of typing in May and 5 hours typing in June. This activity is in violation of both the DoD Joint Ethics Regulation (JER) and NSA/CSS Policy 6-12.

(U) Specifically, JER 5500.7-R, subpart 2-301, Use of Federal Government Resources states authorized purposes include brief communications that are reasonable in duration and frequency and serve a legitimate public interest. Additionally, NSA/CSS Policy 6-12, “Collaborative Communications on classified NSA/CSS Information Systems,” requires all users to use collaboration services on classified NSA/CSS Information Systems for work related purposes.

(U//FOUO) You are required to review the policies and guidance listed below and send me an email acknowledging that you have reviewed the policies and guidance, understand them, and will adhere to them in the future.


(U//FOUO) NSA/CSS Policy 6-12, “COLLABORATIVE COMMUNICATIONS ON CLASSIFIED NSA/CSS INFORMATION SYSTEMS”, dated 28 June 2012

Senior Investigator, NSA OIG 963-0924

***UNCLASSIFIED//FOR OFFICIAL USE ONLY***
From: [Redacted]
Sent: Wednesday, August 14, 2013 1:53 PM
To: [Redacted]
Subject: RE: (U) ACTION REQUIRED - Official Notification (13-0734)

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

I have read the attached policies.

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

(b)(6)

******************************************************************************

From: [Redacted]
Sent: Wednesday, August 14, 2013 2:25 PM
To: [Redacted]
Subject: (U) updated numbers (13-0734)

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

I just spoke to [Redacted] in NISIRT and he is going to provide you updated estimates for time of computer misuse. They are much higher than originally stated.

(U//FOUO)

Senior Investigator - NSA OIG
963-0924

******************************************************************************

From: [Redacted]
Sent: Wednesday, August 14, 2013 2:32 PM
To: [Redacted]
Cc: [Redacted]
Subject: (U) Earlier referral

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

All, I have just been provided revised numbers from NISIRT regarding the calculations on time spent in chat for [Redacted] and will be reissuing the cover letter for the referral. Please discard the cover letter only, from my previous email regarding
From: 
Sent: Wednesday, August 14, 2013 2:42 PM 
To: 
Cc: 
Subject: RE: (U) Earlier referral 

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY 

As promised...

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

(U) Applicable Authorities

a. Communication Systems. [...] Federal Government communication systems and equipment (including Government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the Federal Government) shall be for official use and authorized purposes only.

[...]

(2) Authorized purposes include brief communications made by DoD employees while they are traveling on Government business to notify family members of official transportation or schedule changes. They also include personal communications from the DoD employee’s usual work place that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor and auto or home repair appointments; brief internet searches; e-mailing directions to visiting relatives) when the Agency Designee permits categories of communications, determining that such communications:

(a) Do not adversely affect the performance of official duties by the DoD employee or the DoD employee’s organization;

(b) Are of reasonable duration and frequency, and whenever possible, made during the DoD employee’s personal time such as after duty hours or lunch periods;

(c) Serve a legitimate public interest (such as keeping DoD employees at their desks rather than requiring the use of commercial systems; educating the DoD employee on the use of the communications system; improving the morale of DoD employees stationed for extended periods away from home; enhancing the professional skills of the DoD employee; job-searching in response to Federal Government downsizing);

(d) Do not put Federal Government communications systems to uses that would reflect adversely on DoD or the DoD Component (such as uses involving pornography; chain letters; unofficial advertising, soliciting or selling except on authorized bulletin boards established for such use; violations of statute or regulation; inappropriately handled classified information; and other uses that are incompatible with public service)....

NSA/CSS Policy 6-12, “COLLABORATIVE COMMUNICATION ON CLASSIFIED NSA/CSS INFORMATION SYSTEMS” revised date 27 June 2013:

1. (U) Users shall use collaboration tools and collaboration services on classified NSA/CSS ISs for work-related purposes. ...Information posted using collaboration tools is generally considered to reflect the view of the Agency, as well as the professional
opinion of the person posting. As such, NSA/CSS may be held accountable for information posted on any Agency system...

[...]

13. (U) Users of NSA/CSS collaboration tools and collaboration services shall:

a. (U) Engage in the use of collaboration tools and services for work-related purposes and exercise discretion in posting information that will support or enhance productivity. Be mindful that all posted materials are NSA/CSS records and may be subject to disclosure under FOIA;

b. (U) Comply with the approved procedures (e.g., Rules of Engagements, Standard Operation Procedures) for appropriate use of the collaboration tool or collaboration service and preserve NSA/CSS records;

[...]

Policy 6-12 Annex, Standard Operating Procedures

(U) This Annex provides foundational requirements for all collaboration tools and services on the classified NSA/CSS ISs, including how such tools and services are to be tested and maintained, and further describes the users’ responsibilities in using such tools and services.

[...]

5. (U) Users shall conduct themselves in a professional manner, exhibit common courtesy, and use good judgment when posting. The following conduct will not be tolerated:

a. (U) Profanity, obscenity, personal insults, character assassinations, etc;

b. (U) Harassment of any type by any user;

c. (U) Non-work-related musings, rants, songs, lyrics, poetry, jokes, cartoons, pictures, drawings, sayings, and games. Note that content used to advance connections with other users and enhance work-related collaboration is allowed (e.g., credentials, alma mater, outside interests, or similar information);

[...]

do. (U) Pornography or lewd writing;

p. (U) Anything that could reflect adversely on the Agency,

[...]
APPENDIX C

(U) NISIRT Report
The NISIRT Report

Edits were made by the OIG for readability purposes. This is a sampling of the user's chat on the classified network.