~~TOP SECRET//SI//NOFORN~~

NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE

INSPECTOR GENERAL

REPORT OF INVESTIGATION

9 January 2014

IV-11-0073

Unauthorized SIGINT Tasking

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Classified By: [redacted]
Derived From: NSA/CSS 1-52
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Declassify On: ~~20390109~~

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I. (U) SUMMARY

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(U//~~FOUO~~) This investigation was conducted in response to a referral alleging that [redacted] United States Navy (USN), while deployed with United States Forces – Iraq (USFI), queried a telephone number belonging to a U.S. person through the SIGINT system without authorization.

(U//~~FOUO~~) A local audit of the SIGINT system revealed that [redacted] queried a telephone number belonging to a U.S. person on 4 June 2011. The query was made through the [redacted] system while [redacted] was assigned to the [redacted] The query sought data from 5 May to 4 June 2011. No information was retrieved as a result of this query due to system safeguards. An NSA/CSS Intelligence-Related Incident Report was completed by a local system auditor and provided to the NSA/CSS Signals Intelligence Directorate Oversight and Compliance office and to the NSA/CSS Office of the Inspector General (OIG). This matter was investigated by the OIG and the Navy Criminal Investigative Service.

(U//~~FOUO~~) The OIG concluded that [redacted] deliberately and without authorization queried a telephone number belonging to a U.S. person. Her actions violated Executive Order 12333, USSID 18, 5 C.F.R. §2635.704, and Department of Defense Regulation 5240.1-R, Procedures 2 & 14. A Navy Criminal Investigative Service investigation is pending.

(U) Copies of the OIG report will be provided to the NSA/CSS Associate Directorate for Security and Counter Intelligence, the NSA/CSS Office of General Counsel and NCIS for review and appropriate action.

II. (U) BACKGROUND

(U) Introduction

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(U//~~FOUO~~) On 9 July 2011 a local audit of the SIGINT system was conducted at [redacted] This audit discovered that on 4 June 2011 [redacted] queried a telephone number belonging to a U.S. person. The query was made through the [redacted] database search engine which uses the [redacted] database.

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(U//~~FOUO~~) The [redacted] site issued an NSA/CSS Intelligence-Related Incident Report documenting [redacted] query of a U.S. person. This report was provided to the NSA/CSS Signals Intelligence Directorate Oversight and Compliance office and the NSA/CSS Office of the Inspector General. Since the incident involved an active duty sailor, the Navy Criminal Investigative Service (NCIS) also opened an investigation. The results of the NCIS investigation is pending.

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(U//~~FOUO~~) [redacted] access to the NSA SIGINT system started on 4 June 2011. Her access to the SIGINT system was revoked on 10 July 2011. She remained at the [redacted] site until August 2011, serving in an administrative position. She returned to her home port of San Diego, CA in August 2011. She is currently assigned to the [redacted] and does not have access to SIGINT systems.

(U//~~FOUO~~) The OIG initially received information that [redacted] Navy chain of command had conducted an investigation into this matter. It was later determined that an investigation had not been conducted. The OIG opened its investigation after notifying NCIS.

(U) Applicable Authorities

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

- (U) Executive Order 12333 United States Intelligence Activities
- (U) United States Signals Intelligence Directive 18 (USSID 18)
- (U) DoD Regulation 5240.1-R, Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons
- (U) Standards of Ethical Conduct for the Executive Branch, 5 C.F.R. §2635.704, Use of Government Property

III. (U) FINDINGS

(U//~~FOUO~~) Did [redacted] deliberately and without authorization query a U.S. person's telephone number in the SIGINT system for non-foreign intelligence purposes?

(U//~~FOUO~~) CONCLUSION: Substantiated. The preponderance of the evidence supports the conclusion that [redacted] queried a U.S. person's telephone number in the SIGINT system for non-foreign intelligence purposes. Her actions violated Executive Order 1233, USSID 18, DoD Regulation 5240.1-R, and 5 C.F.R. §2635.704.

(U) Documentary Evidence

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(U) **Agency Training Records**

(U//~~FOUO~~) Agency training records show that [redacted] successfully completed the Legal Compliance and Minimization Procedures training course (OVSC 1800) on 7 March 2011. This course covers, in detail, the rules against targeting United States persons.

(U//~~FOUO~~) Agency training records also show that [redacted] successfully completed the Overview of Signals Intelligence Authorities training course (OVSC 1100) on 7 March 2011.

(U) **NSA/CSS Intelligence-Related Incident Report** (b)(3) - P.L. 86-36

(U//~~FOUO~~) On 4 June 2011 [redacted] made one [redacted] database query of a U.S. person's telephone number. The database query requested data from 5 May to 4 June 2011. No results were returned as a result of this query. The query did not involve FISA data. The query was discovered during a local audit on 9 July 2011. All information related to this query was purged locally (Appendix B).

(U) **United States Navy non-punitive counseling record**

(U//~~FOUO~~) [redacted] Navy supervisor at [redacted] issued non-punitive, corrective counseling letter to her on 12 September 2011 for conducting an "unauthorized database query on an NSA system" (Appendix C).

(U) Testimonial Evidence

(U//~~FOUO~~) **Petty Officer**

(U//~~FOUO~~) U.S. Navy, was interviewed on 15 August 2013 regarding the allegation that she had misused a U.S. SIGINT system to target a U.S. person for non-foreign intelligence purposes. Special Agent Naval Criminal Investigative Service (NCIS) also participated in the interview. The interview was conducted in NCIS spaces, 3405 Welles Street, San Diego, CA. waived her right to counsel before the interview, provided the following sworn testimony.

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(U//~~FOUO~~) is currently assigned to the San Diego, CA.

(U//~~FOUO~~) went TDY to NSA in approximately February 2011 to receive training on the use of SIGINT systems before being deployed to the program. The training consisted of one power point presentation after another. She learned that a U. S. person could not be targeted through SIGINT, unless there was a legitimate reason and permission was received from management.

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(U) was deployed to United States Forces – Iraq as part of the program from 4 June to August 2011. The only collection system she recalled having access to was ANCHORY.

(U//~~FOUO~~) On about 5 June 2011 was being trained on the SIGINT collection system by a U.S. Army enlisted soldier. She could not recall this soldier's name. The soldier trained all new arrivals for the program. The soldier was standing behind her while she received step-by-step training on the system. As training progressed, she typed in the telephone number of a cellular telephone that belonged to her boyfriend's son. It was her decision to input this particular telephone number into the collection system. The number was to a pre-paid phone purchased at a Walmart in San Diego, CA. In addition to her boyfriend's son, boyfriend, her daughter and her sister also used this pre-paid phone. She inputted the number into the SIGINT system because it was the only telephone number she could think of at the time. She could not explain why this telephone number came to mind instead of her own telephone number or any other number. The training also required her to put in search parameters and she

selected 5 May to 4 June 2011. She was then told to move on to another computer screen and keyboard and did so without clearing the telephone number and dates she had already entered. At some point she pressed the "enter" key on the second keyboard and both monitor screens displayed a bright red warning sign. She saw nothing more than the bright red screens after pressing the "enter" key. She did not see any data related to her query and did not know if actual telephone calling data was displayed as a result of her query. She became panicked and asked her training officer what had just happened. She was told not to worry and to clear out the various fields she had filled in and to clear both screens. She thought her training officer would report this incident, but he did not. She did not report this incident to her management.

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(U//~~FOUO~~) In approximately August 2011, [redacted] was asked to meet with [redacted] managers after she had completed a shift. She was asked if she had ever misused the collection system and, after some thought, recalled making the query on the cellular phone belonging to her boyfriend's son. She explained to her management that the incident involved a training mistake. However, she was removed from the [redacted] collection unit and reassigned to JFSTR headquarters, which was in a different building. She spent the remainder of her detail at [redacted] headquarters. She was required to conduct a one-time training course on the proper use of the SIGINT systems as part of non-punitive counseling. She completed the training in September 2011. She was not allowed back into the collection site or given access to the SIGINT system. She departed Iraq in October 2011 and returned to San Diego, CA.

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(U//~~FOUO~~) [redacted] did not know why she was not allowed to access the SIGINT systems after explaining to her management that her targeting of a U.S. person was the result of a training accident. She did not know why there have not been other instances of similar training accidents because the same U.S. Army enlisted person trained all new [redacted] arrivals. After making the query on the telephone belonging to her boyfriend's son, she made no further mistakes by targeting U.S. persons. She swore that her actions were merely a training mistake. She denied intentionally targeting the telephone belonging to her boyfriend's son.

(U) Analysis and Conclusion

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(U//~~FOUO~~) By her own admission, [redacted] was trained on the proper use of NSA SIGINT systems before deploying to the [redacted] detachment. Agency records document this training was given to [redacted] before her deployment.

(U//~~FOUO~~) Despite this training [redacted] conducted a query on a telephone number belonging to a U.S. person. Her actions were discovered through a local audit of the SIGINT system on 9 July 2011 and documented in the NSA//CSS Intelligence-Related Incident report.

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(U//~~FOUO~~) On several occasions [redacted] admitted to officials that she had entered the telephone number of a U.S. person into the SIGINT system and made a query on that telephone number. Her admissions are documented on the 12 September 2011 Navy counseling letter and during her interview with the OIG and NCIS on 15 August 2013.

(U//~~FOUO~~) [redacted] has attempted to minimize her actions by saying her unauthorized query of a U.S. person was the result of a training accident. Her argument does not change the facts that she had been trained on the proper use of the SIGINT system before deployment, entered the specific telephone number of a U.S. person into the SIGINT system, and conducted a query of a U.S. person without proper authorization.

(U//~~FOUO~~) Based upon the preponderance of the evidence, we conclude that [redacted] conducted a query of a U. S. person's telephone number in the U.S. SIGINT system for a non-intelligence purpose.

V. (U) RESPONSE TO TENTATIVE CONCLUSION

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(U//~~FOUO~~) Tentative conclusions were not sent to [redacted]. She no longer has access to NSA SIGINT systems and is not under NSA command authority.

VI. (U) CONCLUSION

(U//~~FOUO~~) Based upon the preponderance of the evidence, the OIG concluded that [redacted] deliberately and without authorization queried a telephone number belonging to a U.S. person. Her actions violated Executive Order 12333, USSID 18, 5 C.F.R. §2635.704, and Department of Defense Regulation 5240.1-R, Procedures 2 & 14.

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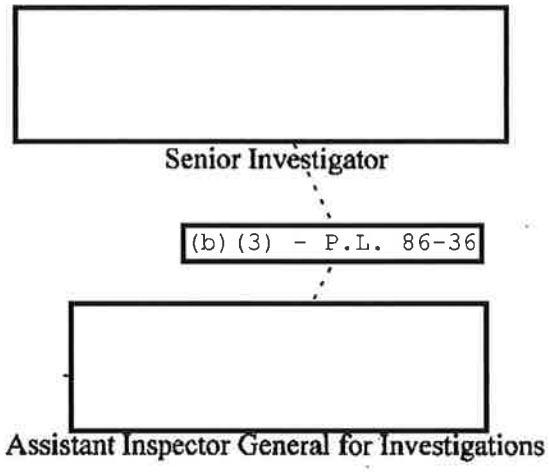
Senior Investigator
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Assistant Inspector General for Investigations

Appendix A – Applicable Authorities

(U) Executive Order 12333 United States Intelligence Activities

(U) Part 1, 1.7 Intelligence Community Elements....

c. The NATIONAL SECURITY AGENCY. The Director of the National Security Agency shall:

(1) Collect (including through clandestine means), process, analyze, produce, and disseminate signals intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;
(2) Establish and operate an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense, after coordination with the Director;
(3) Control signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;
(4) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements;
(5) Provide signals intelligence support for national and departmental requirements and for the conduct of military operations;
(6) Act as the National Manager for National Security Systems as established in law and policy, and in this capacity be responsible to the Secretary of Defense and to the Director;
(7) Prescribe, consistent with section 102A(g) of the Act, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling, and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the National Security Agency, and exercise the necessary supervisory control to ensure compliance with the regulations; and
(8) Conduct foreign cryptologic liaison relationships in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(U) Part 2, 2.3 Collection of Information. Elements of the Intelligence Community are authorized to collect, retain, or disseminate information concerning United States persons only in accordance with procedures established by the head of the Intelligence Community element concerned or by the head of a department containing such element and approved by the Attorney General, consistent with the authorities provided by Part 1 of this order, after consultation with the Director...

(U) United States Signals Intelligence Directive (USSID 18)

> (U) Section 3 – Policy, 3.1. The policy of the USSS is to TARGET or COLLECT only FOREIGN COMMUNICATIONS. The USSS will not intentionally COLLECT communications to, from or about U.S. PERSONS or persons or entities in the U.S. except as set forth in this USSID. If the USSS inadvertently collects such communications, it will process, retain and disseminate them only in accordance with the USSID.
>
> (U) Section 4 – Collection, 4.1. (S-CCO) Communications which are known to be to, from or about a U.S. person or non-diplomatically immune visitor to the U.S. will not be intentionally intercepted, or selected through the use of a selection term…

(U) DoD Regulation 5240.1-R, Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons

> (U) Procedure 2 – Collection of Information About United States Persons, C. Information that identifies a United States person may be collected by a DoD intelligence component only if it is necessary to the conduct of a function assigned the collection component, and only if it falls within one of the following categories…
>
> (U) Procedure 14 – Employee Conduct, B.1. Employee Responsibilities. Employees shall conduct intelligence activities only pursuant to, and in accordance with, Executive Order 12333 and the Regulation. In conducting such activities, employees shall not exceed the authorities granted the employing DoD intelligence components by law; Executive Order, including EO 12333, and applicable DoD directives.

(U) Standards of Ethical Conduct for the Executive Branch, Title 5, Code of Federal Regulations, §2635.704 Use of Government Property

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

(U) Title 18, United States Code, § 2511 – Interception and disclosure of wire, oral, or electronic communications prohibited.

> (U) (1) Except as otherwise specifically provided in this chapter any person who (a) Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication; (b) Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication; Shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5).

APPENDIX B

NSA/CSS INTELLIGENCE-RELATED INCIDENT REPORT

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(U) NSA/CSS Intelligence-Related Incident Report

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APPENDIX C

COUNSELING LETTER

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(U//FOUO) **DETAILED REASON FOR COUNSELING:**

This corrective counseling is being administered to [redacted] to correct a deficiency and should NOT be viewed upon as a punitive action.

On June 5, 2011 [redacted] conducted an unauthorized database query on an NSA system. Her actions, although not found to be malicious or intentional, were in violation of Executive Order 12333 (Section 2.3), Department of Defense (DoD) Regulation 5240.1-R (Chapter 2, Paragraph C2.3.1; Chapter 5, Paragraph C5.3.3.1/C5.3.3.2/C5.3.3.2.1; Chapter 5, Paragraphs C5.6 through C5.6.2.3), and Army Regulation (AR) 318-10.

It is the intent of this counseling to make [redacted] aware of the violations, to reinforce the importance of the above mentioned regulations, and to emphasize her responsibility to the United States government while conducting the SIGINT mission.

(U) **OTHER AGENCIES INDIVIDUAL REFERRED TO FOR COUNSELING:** (b)(3) - P.L. 86-36 (b)(6)

None

(U//FOUO) **SOLUTION DEVELOPED TO OVERCOME PROBLEM AND PRECLUDE FURTHER INVOLVEMENT:**

[redacted] acknowledged her negligence and that she has a responsibility to adhere to ALL directives that govern her access to these safe guarded systems. [redacted] will coordinate with [redacted] and complete ALL annual Information Assurance training by COB 11SEP05. Furthermore, she will coordinate with [redacted] leadership, create training slides, schedule a training site, and conduct training on the above mentioned violations and USSID 18 (USSID SP0018) for [redacted] Detachment personnel on VBC. This training is to be completed by COB on 11SEP10.

(U) **INDIVIDUALS RESPONSE TO THIS COUNSELING SESSION:**

NONE AT THIS TIME. 1SEP11

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(U//FOUO) **FOLLOW-UP INFORMATION:**

[redacted] COMPLETED INFORMATION ASSURANCE CBT AND CONDUCTED TRAINING FOR ABOVE MENTIONED VIOLATIONS. CERTIFICATE OF COMPLETION AND ROSTER SHEET ARE ATTACHED. [redacted]

[redacted] 12SEP11
SUPERVISOR'S SIGNATURE / DATE

[redacted] DATE 12 SEP 11
COUNSELEE'S SIGNATURE / DATE

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RECORD OF COUNSELING
NAVSW 1510-45 (REV 8-91)

INSTRUCTIONS FOR THE COMPLETION OF THIS FORM

1. The counseling session should be in private and should respect the rights of the individual.
2. The statement, upon completion, should be reviewed very carefully in order to ensure counselee understands all comments.
3. Provide counselee a copy of this report if he/she so desires.
4. Ensure report is filed with Division Officer's Notebook in a locked desk or safe.

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PRIVACY ACT STATEMENT

Authorization to request the information in this form us derived from United States Code 301, Departmental regulations. Purpose of this form is to provide the Division Officer with readily accessible data concerning personnel in his/her division. The information is used by the Division Officer to manage and administer his/her personnel, and to take necessary actions regarding satisfactory or unsatisfactory performance. Disclosure of the following items of information is voluntary. The individual being documented has the right to examine and copy this documentation related to him/her; have the right to review and discuss the issues in order to resolve them; have the right to request amendments to, or modification of, this document. Any statement made can and may be used against him/her in a court of law.

01SEP11 [redacted] 01 SEP11
DATE COUNSELEE'S RATE & NAME SIGNATURE

01SEP11 [redacted] 01SEP11
DATE COUNSELOR'S RATE & NAME

REASON FOR COUNSELING SESSION
[NOTE: Insert (P) for Positive , (N) for Negative or (I) for Informative]

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N **PROFESSIONAL KNOWLEDGE:**
TECHNICAL KNOWLEDGE & APPLICATION
CAREER RESPONSIBILITY

— **QUALITY OF WORK:**
STANDARD OF WORK; VALUE OF END PRODUCT

— **EQUAL OPPORTUNITY:**
FAIRNESS; RESPECT FOR HUMAN WORTH
DOMESTIC & DEPENDENT RESPONSIBILITY

— **MILITARY BEARING/CHARACTER:**
ADHERENCE TO NAVY CORE VALUES; CONDUCT
DRESS & APPEARANCE; PHYSICAL FITNESS

N **JOB ACCOMPLISHMENT/INITIATIVE:**
RESPONSIBILITY & QUALITY OF WORK;
ON THE JOB TRAINING PROGRESS

— **TEAMWORK:**
CONTRIBUTIONS TO TEAM BUILDING & TEAM RESULTS

N **LEADERSHIP:**
ORGANIZING, MOTIVATING AND DEVELOPING OTHERS;
PERFORMANCE

N **OTHER:**
INDEBTEDNESS, COMMUNITY CONFLICT,ETC.

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