

NATIONAL SECURITY AGENCY OFFICE OF THE INSPECTOR GENERAL



(U) Report of Investigation (U) Lack of Candor

IV-23-0035

24 August 2023

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Approved for Release by NSA on 09-16-2024, FOIA Case # 117098

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(U) SUMMARY

(U//~~FOUO~~) Subject, [REDACTED] GG-14, was interviewed as a witness in an OIG investigation into potential violation of NSA/CSS Policy 4-11, *Restrictions on Employment of Relatives*. During the interview under oath, [REDACTED] provided statements that were contradicted by electronic communications. As a result, the OIG conducted a separate investigation into [REDACTED] potential lack of candor.

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(U//~~FOUO~~) The investigation included sworn testimony under oath from [REDACTED] sworn testimony of two witnesses involved in a related case, and a review of [REDACTED] email and Skype chats.¹

(U//~~FOUO~~) The OIG investigation found that [REDACTED] lacked candor and failed to give the OIG full and complete cooperation in providing a forthright testimonial statement under oath during an OIG investigation. The OIG concluded that [REDACTED] actions violated of DoD Directive 5500.07R, *Joint Ethics Regulation*, Chapter 12-401(a)(3) and NSA/CSS PMM 1-60, paragraph 26(c).

(U) A copy of the OIG report will be forwarded to Employee Relations [REDACTED] for information and action deemed appropriate. Additionally, a summary of the findings will be forwarded to Security and Counterintelligence, [REDACTED] and [REDACTED] supervisor.

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¹ (U) Skype is a form of real-time electronic mail used for conversations/discussions between one or more persons

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(U) SCOPE OF INVESTIGATION

(U//~~FOUO~~) The investigation included an interview under oath with [REDACTED] and one other witness. The OIG also reviewed [REDACTED] emails and Skype chats.

(U) INVESTIGATIVE ACTIVITY

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(U//~~FOUO~~) ALLEGATION: [REDACTED] lacked candor and failed to give the OIG full and complete cooperation in providing forthright testimony under oath during an OIG investigation.

(U) Applicable Authorities

(U) The investigation examined potential violations of the following authorities. Applicable excerpts are contained in [Appendix A](#).

- (U) DoD Directive 5500.07R, *Joint Ethics Regulation*, issued August 1993
- (U) NSA/CSS Policy 1-60, *NSA/CSS Office of the Inspector General*, issued 9 March 2020

(U) Evidence

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(U//~~FOUO~~) [REDACTED] worked in [REDACTED] Section Chief [REDACTED]. In [REDACTED] obtained a position at the [REDACTED] Division level as the Operations Officer. As a Section Chief, he is responsible for managing property accountability and typical supervisory duties to include hiring, awards, promotion, and performance reviews. As the Operations Officer, [REDACTED]

(U//~~FOUO~~) The Division Chief, the subject of a separate OIG investigation, began working in [REDACTED]. The Division Chief's [REDACTED] had already been in the organization when the Division Chief became the Chief of the organization, and the Division Chief became part of the [REDACTED] chain of command upon arrival.

(U//~~FOUO~~) In the fall of 2022, [REDACTED] released a vacancy advertisement to fill a vacated Branch Chief position in [REDACTED]. The [REDACTED] Chief was listed as the selection official. Four candidates applied for the vacancy and were interviewed by [REDACTED] and the previous Branch Chief. Each candidate was asked identical questions and ranked by the interviewers. The interview notes and selections were sent to the [REDACTED] Chief of Staff and their staff for processing. The Division Chief's [REDACTED] was ultimately selected for the Branch Chief position which was under the Division Chief.

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(U//~~FOUO~~) Following receipt of the selection, questions arose as to whether nepotism played any role in the hiring decision, as the selectee was related to the [REDACTED] Division Chief and the qualifications of the selectee against other candidates. The OIG subsequently convened an investigation into a potential violation of NSA/CSS Policy 4-11 (i.e. nepotism). As part of that investigation, in February 2023, [REDACTED] was interviewed under oath by the OIG regarding his involvement in the interview and selection for the Branch Chief position.³ During the OIG interview, [REDACTED] testified that the Division Chief had no involvement in the hiring or selection process, but [REDACTED] did work with the Deputy Division Chief prior to making the selection. [REDACTED] responded, "Nope" when asked if the Division Chief had knowledge of her [REDACTED] application or mentioned her [REDACTED] had applied for the Branch Chief position. However, electronic communications and testimony from other witnesses contradicted the testimony provided by [REDACTED].

(U//~~FOUO~~) During the course of the investigation, the Division Chief (the Subject of that investigation) revealed that [REDACTED] had an initial conversation with them making them aware he had finalized a selection for the Branch Chief position. The Division Chief believed they had a hallway conversation with [REDACTED] following his the skype message he sent to her on 27 October 2022. During this conversation he let them know the selection had been submitted, but they were unsure whether [REDACTED] provided the name of the selected person at that time. The Division Chief learned via an email from [REDACTED] on 28 October 2022 that [REDACTED] was selected for the Branch Chief position.

(U//~~FOUO~~) Following the selection, the Division Chief had an in-person meeting with [REDACTED] during which he informed them that the selection was being questioned due to concerns of nepotism and questionable work-level experience of the selectee. The Division Chief stated that [REDACTED] told them that the second interviewer had changed their selection concurrence against [REDACTED] Division Chief's [REDACTED] and [REDACTED] speculated that it was due to influence from the Chief of Staff.

(U//~~FOUO~~) The second interviewer stated that they had a discussion with [REDACTED] following the last interview in which the selection ranking was done. They recalled the Division Chief's [REDACTED] being number 2 at the conclusion of the interview process and were surprised to see that [REDACTED] changed the [REDACTED] ranking to number one when he submitted the final selection email to the [REDACTED] COS.

(U//~~FOUO~~) In a follow-up interview, [REDACTED] testified he had not had any conversations with the Division Chief prior to sending the selection email to the [REDACTED] staff on 28 October 2023.⁴ He stated he followed the normal process of including leadership on the selection email and admitted given the relationship between the Division Chief and the selectee, he should not have. [REDACTED] further stated he had no conversations with the Division Chief when questions arose as to whether or not nepotism by the Division Chief played any role in the selection.

³ The interview was in support of another OIG case IV-23-0027; records related to that case are maintained by the OIG.

⁴ [REDACTED] may have violated 18 USC 1001. [REDACTED]

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(U//FOUO) The OIG noted the discrepancy between the information provided by the Division Chief and [redacted] Skype conversation history and emails were obtained and analyzed to determine the Division Chief's awareness level of the hiring and selection of [redacted] for the Branch Chief position. A review of those electronic communications revealed that [redacted] received an email from the Division Chief on 5 October 2022, prior to conducting any applicant interviews, which included the list of applicants for the Branch Chief vacancy. On 28 October 2022, [redacted] sent an email to the [redacted] staff and the Division Chief with the list of candidates for the Branch Chief position, their ranking, interview notes, and the final position selection. [redacted] also sent a Skype chat on 7 November 2022 to the Division Chief informing them that [redacted] leadership was asking his perspective on the Branch Chief selection and the ranking of the applicants. The emails and chat sent by [redacted] to the Division Chief are included in [Appendix B](#).

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(U//FOUO) When presented with a Skype chat ([Appendix C](#)) he sent to the Division Chief requesting a conversation about the Branch Chief selection prior to sending the selection on 28 October 2022, [redacted] could not recall what conversation took place. [redacted] repeatedly responded, "I don't recall" when asked what he spoke to the Division Chief about following the Skype chat message. [redacted] speculated that he may have told the Division Chief that he had made a selection or that the selection was complete. He was adamant he did not provide the name of the selectee to the Division Chief. [redacted] was sure he did not have any conversations about the interviews with the Division Chief. [redacted] also asserted that throughout the process, the Division Chief never asked [redacted] when he was interviewing [redacted] how [redacted] did during the interview, or where [redacted] was in the process. Additionally, the Division Chief did not ask [redacted] for any information about the interviews with the other candidates. [redacted] remembered meeting with the Deputy Division Chief after the final candidate interview to discuss the selection decision. This meeting happened prior to the Skype chat with the Division Chief.

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(U) Analysis

(b) (6)

(U) DoD Directive 5500.07R, *Joint Ethics Regulation*, Chapter 12-401(a)(3), states, "Candor is the forthright offering of unrequested information. It is necessary in accordance with the gravity of the situation and the nature of the relationships. Candor is required when a reasonable person would feel betrayed if the information were withheld."

(U) Under NSA/CSS Policy 1-60, *NSA/CSS Office of the Inspector General*, all employees are to, "Cooperate fully and completely with OIG as it performs its duties and fulfills its responsibilities."

(U//FOUO) Information provided by [redacted] during his initial OIG interview was contradicted by his electronic communications and witness testimony. [redacted] testified that the Division Chief was not involved in the hiring and selection process for the Branch Chief position, and nonsensically, he claimed that the Division Chief did not even know that [redacted] had applied to the position. However, [redacted] emails revealed the Division Chief sent him a message about not being involved in the interviews and asking who he would have as the second interviewer. This message included the list of applicants for the position, meaning [redacted] was aware the Division Chief had knowledge that [redacted] had applied. [redacted] also stated the Division Chief,

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was not involved in the hiring and selection process, but his Skype chat revealed he requested a conversation with them to discuss the vacancy selection prior to submitting the final selection to the [] staff.

(U//FOUO) [] denied having any conversations with the Division Chief after the selection was questioned by [] leadership. [] Skype chats revealed he sent the questions he was asked about the selection by [] leadership to the Division Chief. The Division Chief testified that [] met with them in person to make them aware of the issues surrounding the selection of [] [] failure to cooperate fully and completely violated NSA/CSS Policy 1-60, *NSA/CSS Office of the Inspector General*.

(U//FOUO) [] provided information during both interviews regarding the selection of [] Division Chief's []. By his testimony, the [] was the most qualified candidate, ranked as number 1, and selected for the position. The second interviewer testified that the Division Chief's [] was not the best candidate and that [] changed the interview ranking after the initial decision discussion took place. [] changed the interview rankings in favor of [] Division Chief's [] making him the person selected to fill the position. Given [] lack of candor in other instances surrounding the hiring, we credit the statement of the second interviewer that [] unilaterally changed the rating before sending the final selection to the [] COS.

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(U) Conclusion

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(U//FOUO) The OIG concluded, based on the preponderance of the evidence, that [] lacked candor and failed to give the OIG full and complete cooperation in providing a forthright testimonial statement. These actions violated of DoD Directive 5500.07R, *Joint Ethics Regulation*, Chapter 12-401(a)(3) and NSA/CSS PMM 1-60, *NSA/CSS Office of the Inspector General*, paragraph 26(c).

(U) Legal Review

(U) This report of investigation was reviewed by IG counsel on 27 July 2023 and found to be legally sufficient to support the conclusion.

(U) Distribution of Results

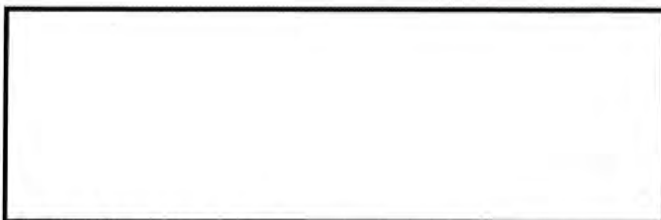
(U//FOUO) A copy of this report will be retained in OIG internal files.

(U//FOUO) REPORT PREPARED BY:

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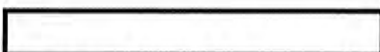
IV-23-0035



Senior Investigator

(U//~~FOUO~~) CONCURRED BY:

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Assistant Inspector General for Investigations

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(U) List of Appendices and Documentary Evidence

(U) Appendix

- (U) Subject's Electronic Communications with Division Chief _____ A
- (U) Applicable Authorities _____ B
- (U) Skype Chat – Branch Chief Selection _____ C
- (U) Reposnse to Tentative Conclusion _____ D

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(U) Appendix A
(U) Applicable Authorities

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(U) Appendix A – Authorities

(U) DOD 5500.7-R, *Joint Ethics Regulation*, Section 4, Ethical Values (dated August 1993)

12-401. Primary Ethical Values

a. Honesty. Being truthful, straightforward and candid are aspects of honesty.

(1) Truthfulness is required. Deceptions are easily uncovered and usually are. Lies erode credibility and undermine public confidence. Untruths told for seemingly altruistic reasons (to prevent hurt feelings, to promote good will, etc.) are nonetheless resented by the recipients.

(2) Straightforwardness adds frankness to truthfulness and is usually necessary to promote public confidence and to ensure effective, efficient conduct of Federal Government operations. Truths that are presented in such a way as to lead recipients to confusion, misinterpretation or inaccurate conclusions are not productive. Such indirect deceptions can promote ill-will and erode openness, especially when there is an expectation of frankness.

(3) Candor is the forthright offering of unrequested information. It is necessary in accordance with the gravity of the situation and the nature of the relationships. Candor is required when a reasonable person would feel betrayed if the information were withheld. In some circumstances, silence is dishonest, yet in other circumstances, disclosing information would be wrong and perhaps unlawful.

(U) NSA/CSS Policy 1-60, *NSA/CSS Office of the Inspector General*, Responsibilities

NSA/CSS Employees and Affiliates

46. All NSA/CSS employees and affiliates shall:

c. Cooperate fully and completely with OIG as it performs its duties and fulfills its responsibilities. This includes submitting to sworn interviews, as well as permitting access to physical areas, personnel, data, databases, and information, in whatever form OIG personnel determine is necessary to execute OIG's mission.

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(U) Appendix B

(U) Subject's Electronic Communications with Division Chief

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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: [REDACTED]
Date: Wednesday, October 5, 2022 1:17:31 PM
Attachments: [image001.png](#)
ISR and VP for [REDACTED]

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[REDACTED] I cannot assist with interviews. Who will you have interview with you?

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From: [REDACTED]
Sent: Monday, October 3, 2022 8:50 AM

To: [REDACTED]
[REDACTED]
Cc: [REDACTED]
Subject: (U) [REDACTED]
CLOSED

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Good Morning [REDACTED]

The [REDACTED]
recently closed. Below is the list of applicants and attached is their ISR and VP.

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

- 1.
- 2.
- 3.
- 4.

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

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

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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED]
Date: Friday, October 28, 2022 2:03:12 PM
Attachments: [image001.png](#)
[Interview Notes](#) [REDACTED]

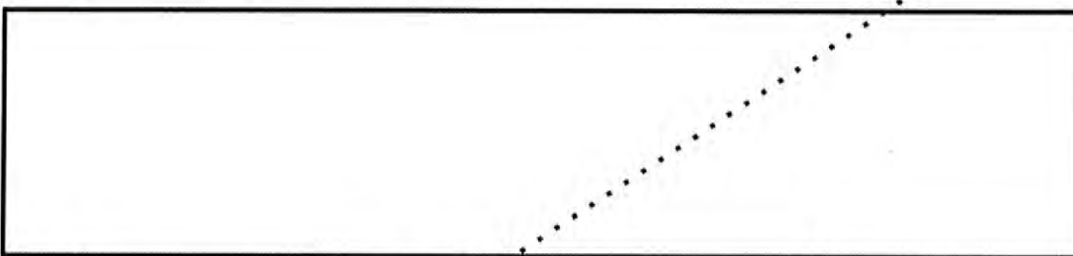
(b) (3) - P.L. 86-36

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Hello,

Here you go.

Thanks

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

From: [REDACTED]
Sent: Monday, October 3, 2022 8:50 AM
To: [REDACTED]
[REDACTED]
Cc: [REDACTED]
Subject: (U) [REDACTED]
CLOSED

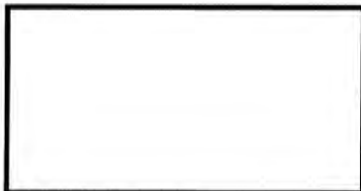
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Good Morning [REDACTED]

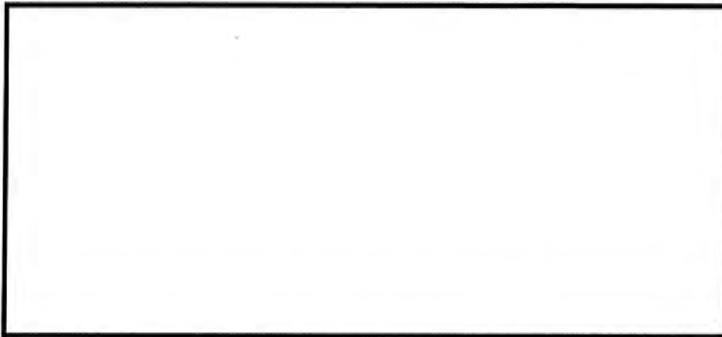
(b) (3) - P.L. 86-36

The [REDACTED]
recently closed. Below is the list of applicants and attached is their ISR and VP.

- 1.
- 2.
- 3.
- 4.

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



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

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(b) (3) - P.L. 86-36
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From: [REDACTED]
To: [REDACTED]
Subject: Conversation with [REDACTED]
Date: Monday, November 7, 2022 8:21:42 AM

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

[REDACTED] 8:00 AM:

Can you send me an e-mail with your point of view on the branch Chief selection [REDACTED] replacement).
Who was the top candidate in your mind? What was the order?
from [REDACTED] I guess it's not over.

[REDACTED] 8:09 AM:

:) or since [REDACTED] is on leave maybe she doesn't have your input??

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(U) Appendix C

(U) Skype Chat – Branch Chief Selection

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From: [REDACTED]
To: [REDACTED]
Subject: Conversation with [REDACTED]
Date: Thursday, October 27, 2022 9:12:42 AM

(b) (3) - P.L. 86-36
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[REDACTED] 8:55 AM:

GM
sent you uipdate on tdy on texas and utah for your awareness
also need to talk to you about selection for [REDACTED]

[REDACTED] 8:57 AM:

thank you. you have mtg at 0930 scheduled for texas? i don't have invite. or just via email.

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still on call. give me a few

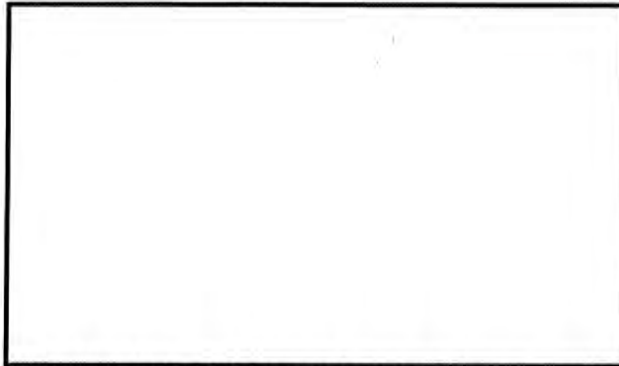
[REDACTED] 9:00 AM:

its our weekly meeting with texas

(U) Appendix D
(U) Response to Tentative Conclusion

From: [REDACTED]
To: [REDACTED]
Subject: FW: (U) OIG Notification of Tentative Conclusion (IV-23-0035)
Date: Monday, August 21, 2023 3:03:54 PM
Attachments: image001.png

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(U) INSPECTOR GENERAL SENSITIVE INFORMATION: This email, including any attachments, is intended only for authorized recipients. This email message may contain information that is confidential, sensitive, and/or protected by Federal law, including the Privacy Act of 1974, as amended.

From: [REDACTED]
Sent: Friday, August 18, 2023 12:17 PM
To: [REDACTED]
Subject: RE: (U) OIG Notification of Tentative Conclusion (IV-23-0035)

(b) (3) - P.L. 86-36
(b) (6)~~Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

Hello,

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

(U//~~FOUO~~) Information provided by [REDACTED] during his initial OIG interview was contradicted by his electronic communications and witness testimony. [REDACTED] testified that the Division Chief was not involved in the hiring and selection process for the Branch Chief position, and nonsensically, he claimed that the Division Chief did not even know that [REDACTED] had applied to the position. In February, when OIG asked me this question I didn't recall sending Division Chief list of applicants and there was no way to confirm or deny as I would need access to my e-mail. In May, OIG said that I sent an e-mail with list applicants and I said " If you have an e-mail that I sent the e-mail, then I sent it".

(b) (6)

Looking back through my emails. However, [REDACTED] emails revealed the Division Chief sent him a

message about not being involved in the interviews and asking who he would have as the second interviewer. This is correct. This message included the list of applicants for the position, meaning [redacted] was aware the Division Chief had knowledge that [redacted] had applied. Again, didn't recall sending Division Chief list of applicants until I went through my e-mails which I did recently after receiving this e-mail. Also, going through my e-mails I didn't realize that the [redacted] front office sent the Division Chief a list of the applicants two days prior to my e-mail.

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[redacted] also stated the Division Chief was not involved in the hiring and selection process, but his Skype chat revealed he requested a conversation with them to discuss the vacancy selection prior to submitting the final selection to the [redacted] staff. Division chief was not involved in the hiring and selection, yes, she was informed throughout process (i.e. interviews are being conducted, selection has been made, notes are being sent in). At no time did the Division Chief have influence or did I feel pressured on the hiring and selecting process. As a matter of fact [redacted] was hired to the agency prior to the Division Chief coming to [redacted] Myself and the [redacted] COS did the interview and offered the CJO. We were initially not even aware that they were related until he was forward deployed to a customer from E&P and the customer told us that they were related. The Division Chief and [redacted] wanted to keep their relationship outside of work and for it not to interfere with the job.

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(U//FOUO) [redacted] denied having any conversations with the Division Chief after the selection was questioned by [redacted] leadership. [redacted] Skype chats revealed he sent the questions he was asked about the selection by [redacted] leadership to the Division Chief. The Division Chief testified that [redacted] met with them in person to make them aware of the issues surrounding the selection of [redacted]. [redacted] failure to cooperate fully and completely violated NSA/CSS Policy 1-60, NSA/CSS Office of the Inspector General. Again, I don't recall every e-mail and conversation I had on this topic. My understanding was the topic of the OIG investigation was about nepotism. After I recommended my selection the process was out of my hands. Not sure how nepotism would apply after the selection had been made as it pertains to me.

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(U//FOUO) [redacted] provided information during both interviews regarding the selection of the Division Chief's [redacted]. By his testimony, the [redacted] was the most qualified candidate, ranked as number 1, and selected for the position. The second interviewer testified that the Division Chief's [redacted] was not the best candidate and that [redacted] changed the interview ranking after the initial decision discussion took place. Not sure how I changed the interview rankings when I had the Division chief [redacted] number 1. My impression was second interviewed was ok with either candidate 1 or 2. As the selection officer I would have final say on order. I didn't know consensus was a requirement for selection or recommendation. I have always been the selection officer and one of my branch chiefs as the information POC and that is how I sent the vacancy ad forward.

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[redacted] changed the interview rankings in favor of the Division Chief's [redacted] making him the person selected to fill the position. Given [redacted] lack of candor in other instances surrounding the hiring, we credit the statement of the second interviewer that [redacted] unilaterally changed the rating before

sending the final selection to the [] COS. Technically, I didn't make the final selection, [] did per her e-mail on November 15, 2022 "After discussions with the interviewers (skype meeting with me only on 15 November 2022) and reviewing all information below I would like to proceed with the selection of []. I also, received an e-mail from [] on 15 November 2022 "I appreciate the candid conversation. Again, I apologize if you felt I was insinuating that you were biased, that was never my intent. My use of the word unbiased was merely in context of a person who would be unaware of the initial interviews and the discussion surrounding the candidates and the selection. Did the second interviewer receive the same kind of message?! What made [] decide to go forward with []. Obviously, something changed her mind because her previous e-mail on 9 November 2022 stated "Due to the lack of consensus between interviewers (yourself and [] we need to re-start the process."

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On 31 October 2022 the [] COS Staff officer sent email stating the following (purple text) and here are my answers back to her (blue text):

- In your interview notes you put that [] has leadership but does not have that on his ISR or vacancy profile. In [] ISR it clearly indicates that he has management experience as an acting chief.
- How did you make the determination between the two? [] had experience in previous job outside of the government, he also has led projects in [] showing his leadership abilities.
- Also just as an fyi [] cannot be on these emails. Ok

(b) (6)

On 1 Nov. 2022 COS [] had a skype meeting with myself and the second interviewer - First words out of COS [] mouth - nepotism - then she said it again - I spoke up and said what are you talking about, you know me better than that. COS [] says - I know, I know. I feel that since she couldn't tie it back to nepotism they then decided to go after his qualification (particularly leadership) which he had on the outside before coming to the Agency. I had just answered about his leadership in the email to the staff officer the day before and she was on the email. [] COS was well aware of their qualifications since they conducted the external interview with me on the hiring of the Division Chief's [] and leadership experience is one of the questions we ask. I don't recall the second interviewer saying one thing throughout the whole conversation. I have never had an issue in the past when hiring family members of [] personnel. Never has anything been stated or questioned about nepotism even when the [] COS [] was hired.

(b) (6)

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

As for the second interviewer - they worked for me as a contractor property officer. [] was able to do some external hires and I interviewed them and offered a CJO. When they entered the agency, they worked for me in the same capacity as a government employee. Their branch chief left, second interviewer was selected as branch chief by me. "Selected for hire due to extensive experience in management/leadership, [] HR, and customer service skills. She has a diverse background from working as a government contractor and the private section. I received a note from my boss, for great selection.

[] - [] was able to do some external hires and both myself and the [] COS

interviewed him and offered a CJO. When he entered the agency, he worked directly for the second interviewer and me as the section chief. Their branch chief left, he was selected for the same reasons that the second interviewer was. He basically followed the same path as the second interviewer. Second interviewer only leadership was outside the agency just like [REDACTED] (b) (6)

I feel that the second interviewer was coerced and that the [REDACTED] COS used her position of power to sway the second interviewer's selection since she had just started working for the [REDACTED] COS. I feel that the interviewers are being caught in the middle of a dispute between the [REDACTED] COS and Division Chief. (b) (3)-P.L. 86-36

Regards,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Friday, July 28, 2023 7:18 AM
To: [REDACTED]
Subject: (U) OIG Notification of Tentative Conclusion (IV-23-0035)

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

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

[REDACTED] (U//FOUO) Prior to finalizing the Report of Investigation, we are notifying you of our tentative conclusions and extending an opportunity for you to provide a response. We include this step in our investigative process to ensure that subjects are afforded the opportunity to review our findings and reply with any mitigation, facts, information, or evidence that might not have been considered in reaching our conclusion.

(U) Please take the following actions:

1. (U) Immediately confirm receipt of this email.
2. (U) Although you are not required to provide any input, if you choose to do so, please provide your input by **11 August 2023**. Your reply can be in the form of an email, memo, or any format you choose. Please provide as much detail as possible, including dates, facts, names, and supporting documentation.
3. (U) If you choose not to provide any input, please let us know that as soon as practicable, but no later than **11 August 2023**.

(U) Analysis

(U) DoD Directive 5500.07R, *Joint Ethics Regulation*, Chapter 12-401(a)(3), states, "Candor is the forthright offering of unrequested information. It is necessary in accordance with the gravity of the situation and the nature of the relationships. Candor is required when a reasonable person would feel betrayed if the information were withheld."

(U) Under NSA/CSS Policy 1-60, *NSA/CSS Office of the Inspector General*, all employees are to, "Cooperate fully and completely with OIG as it performs its duties and fulfills its responsibilities."

(U//FOUO) Information provided by [] during his initial OIG interview was contradicted by his electronic communications and witness testimony. [] testified that the Division Chief was not involved in the hiring and selection process for the Branch Chief position, and nonsensically, he claimed that the Division Chief did not even know that [] had applied to the position. However, [] emails revealed the Division Chief sent him a message about not being involved in the interviews and asking who he would have as the second interviewer. This message included the list of applicants for the position, meaning [] was aware the Division Chief had knowledge that [] had applied. [] also stated the Division Chief was not involved in the hiring and selection process, but his Skype chat revealed he requested a conversation with them to discuss the vacancy selection prior to submitting the final selection to the [] staff.

(U//FOUO) [] denied having any conversations with the Division Chief after the selection was questioned by [] leadership. [] Skype chats revealed he sent the questions he was asked about the selection by [] leadership to the Division Chief. The Division Chief testified that [] met with them in person to make them aware of the issues surrounding the selection of []. [] failure to cooperate fully and completely violated NSA/CSS Policy 1-60, *NSA/CSS Office of the Inspector General*.

(U//FOUO) [] provided information during both interviews regarding the selection of the Division Chief's []. By his testimony, the [] was the most qualified candidate, ranked as number 1, and selected for the position. The second interviewer testified that the Division Chief's [] was not the best candidate and that [] changed the interview ranking after the initial decision discussion took place. [] changed the interview rankings in favor of the Division Chief's [] making [] the person selected to fill the position. Given [] lack of candor in other instances surrounding the hiring, we credit the statement of the second interviewer that [] unilaterally changed the rating before sending the final selection to the [] COS.

(U) Conclusion

(U//FOUO) The OIG concluded, based on the preponderance of the evidence, that [] lacked candor and failed to give the OIG full and complete cooperation in providing a forthright testimonial statement. These actions violated of DoD Directive 5500.07R, *Joint Ethics Regulation*, Chapter 12-401(a)(3) and NSA/CSS PMM 1-60, *NSA/CSS Office of the Inspector General*, paragraph 26(c).

~~(U//FOUO)~~ *Feel free to contact me, if you have any questions. You can reach me by phone at*

[REDACTED]

or by email at

[REDACTED]

~~(U//FOUO)~~

[REDACTED]

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



(U) INSPECTOR GENERAL SENSITIVE INFORMATION: This email, including any attachments, is intended only for authorized recipients. This email message may contain information that is confidential, sensitive, and/or protected by Federal law, including the Privacy Act of 1974, as amended.

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NATIONAL SECURITY AGENCY
OFFICE OF THE INSPECTOR GENERAL



(U) Report of Investigation
(U) Alleged Computer Misuse

IV-23-0037

14 September 2023

(U) This report has not been reviewed, redacted, or approved by P13 for release outside of NSA/CSS. In addition, this report might not be releasable under the Freedom of Information Act or other statutes and regulations. Consult the NSA/CSS Assistant Inspector General for Investigations before releasing or posting all or part of this report.

Approved for Release by NSA on 06-07-2024, FOIA Case 117098

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(U//~~FOUO~~) The National Security Agency (NSA)/Central Security Service (CSS)—hereinafter referred to as NSA—Office of the Inspector General (OIG) conducted this investigation in response to an allegation that [REDACTED] executive assistant at NSA Washington, misused the NSA unclassified information system (IS) by engaging in an outside business activity unrelated to their official job responsibilities. (b) (6)

(U//~~FOUO~~) [REDACTED] used the NSA unclassified IS to send 233 emails, work on 52 documents, and print 17 documents related to [REDACTED] responsibilities as [REDACTED]. This use of the unclassified IS was not work-related. Furthermore, the [REDACTED] is a part-time paid position. (b) (3) - P.L. 86-36
(b) (6)

(U//~~FOUO~~) The OIG concluded, based on the preponderance of the evidence, that [REDACTED] misused the NSA unclassified IS on numerous occasions between 8 September 2021 and 7 February 2023, by engaging in outside business activities unrelated to their official NSA job responsibilities, in violation of 5 Code of Federal Regulations (C.F.R.) 2635.704; Department of Defense (DoD) *Joint Ethics Regulation* (JER) 5500.7-R, Subpart 2-301; and NSA/CSS Policies 6-6, *Use of Unclassified Systems and Internet-Based Capabilities*, Paragraph 22(g), and 6-8, *NSA/CSS Information System User and Supervisor Security Responsibilities*, Paragraph 7(b).

(U//~~FOUO~~) A copy of this report will be forwarded to Employee Relations (ER/[REDACTED] for information and any action deemed appropriate. Additionally, a summary of the findings will be forwarded to Security and Counterintelligence (S&CI) Special Actions [REDACTED] and [REDACTED] supervisor. (b) (3) - P.L. 86-36

(U) INVESTIGATION

(U) Scope of Investigation

(U//~~FOUO~~) The investigation included an interview with [REDACTED] and a review of NSA unclassified IS activity from 8 September 2021 through 7 February 2023.

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(b) (6)

(U) Investigative Activity

(U) Allegation

(U//~~FOUO~~) [REDACTED] misused the NSA unclassified IS by engaging in an outside business activity unrelated to their official job responsibilities.

(U) Applicable Authorities

(U) The investigation examined potential violations of the following authorities:

- (U) 5 C.F.R., Subpart G, *Misuse of Position*, § 2635.704;
- (U) DoD Regulation 5500.7-R, JER, issued 17 November 2011;
- (U) NSA/CSS Policy 6-6, *Use of Unclassified Information Systems and Internet-Based Capabilities*, issued 1 August 2014, updated 26 October 2020; and
- (U) NSA/CSS Policy 6-8, *NSA/CSS Information System User and Supervisor Security Responsibilities*, issued 1 August 2016, updated 20 December 2019.

(U) Applicable excerpts are contained in ([Appendix A](#)).

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(b) (6)

(U) Evidence

(U//~~FOUO~~) [REDACTED], a GG-14 civilian employee, has worked for the Agency since [REDACTED]. Prior to [REDACTED] work for the Agency, [REDACTED] served in the [REDACTED].

(U//~~FOUO~~) Analysts of records related to [REDACTED] NSA unclassified computer activity from 8 September 2021 through 7 February 2023 revealed that they used the Agency's unclassified IS to send 233 emails, work on 52 documents, and print 17 documents related to their [REDACTED] responsibilities.

(U//~~FOUO~~) Specifically, [REDACTED] accessed and replied to emails on the unclassified IS via [REDACTED] personal Yahoo email account, which appeared to also be tied to [REDACTED] email address. The emails included, but were not limited to, subjects related to [REDACTED].

(b) (6)

[REDACTED] [REDACTED] emailed various recipients with email [REDACTED]

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(b) (6)

addresses. Additionally, [REDACTED] worked on reports and tasks in Microsoft Word that appeared to be related to [REDACTED] position as [REDACTED] some of which [REDACTED] printed out.

(U//FOUO) [REDACTED] was not forthcoming when initially asked about [REDACTED] activities on the unclassified IS. [REDACTED] initially testified that [REDACTED] was on Yahoo reading news articles and checking emails from parents and children. After further questioning, [REDACTED] admitted to using the IS for [REDACTED] duties, testifying, "If I get an email, like, there's a request, then there might be a response to that, yes." [REDACTED] also testified, "I know very well that this is not something that I can do relative to this job, so it's not like I'm just doing that." When asked what percentage of time was spent working on outside [REDACTED] duties, [REDACTED] testified, "So it's, I don't know 20 percent. I mean, because I'm doing the work of the Agency the rest of the time."

(U//FOUO) [REDACTED] testified to a variety of reasons as to why [REDACTED] believed conducting [REDACTED] duties on the unclassified IS was permissible, including equating the activities to going to the restroom or being the [REDACTED] (Appendix B) [REDACTED] also claimed to have correspondence from the NSA Office of General Counsel (OGC) that gave permission to conduct the [REDACTED] duties.

(U//FOUO) [REDACTED] further testified, "I did respond to things," related to [REDACTED] duties while assigned to the [REDACTED] organizations. [REDACTED] clarified, "don't say 'duties,' because 'duties' implies that I was doing the job. I was responding to things, one quick here, one quick there, but not in my [REDACTED] capacity, inasmuch as a [REDACTED]"

(U//FOUO) Email evidence revealed that [REDACTED] contacted the NSA OGC in July 2021 for guidance about answering questions related to [REDACTED]. On 5 August 2021, OGC followed up with [REDACTED] and provided outside employment guidance related to [REDACTED]. The guidance specifically addressed the use of Government time and resources, advising, "Also, please keep in mind that you may not use Federal Government resources (such as official time or Agency communications systems) to conduct outside employment activities. See 5 C.F.R. 2635.704, 705." (Appendix C) [REDACTED] responded on 6 August 2021, "... thank you so much for the timely details." *Id.*

(U) Analysis

(U) 5 C.F.R. § 2635.704, *Use of Government Property*, prohibits the use of Government property for other than authorized purposes. Similarly, the JER, Subpart 2-301, *Use of Federal Government Resources*, states that use of Government communication systems "shall be used for official use and authorized purposes only."

(U) NSA policy outlines authorized and prohibited activities related to the use of Government IS. NSA/CSS Policy 6-6 specifically prohibits conducting a private business or commercial venture, including engaging in personal sales activities, operating a private business for profit, and engaging in communications related to outside business activities. Additionally, NSA/CSS Policy 6-8 provides that Agency ISs are for official government and/or mission-related purposes, subject to some minor exceptions.

(U//FOUO) Evidence reflects that on numerous occasions between 8 September 2021 and 7 February 2023, [REDACTED] conducted outside business activities that were not related to Agency work by viewing and replying to emails and working on and printing documents in support of [REDACTED] duties. These activities were neither for official NSA use nor for authorized purposes.

(U//~~FOUO~~) The preponderance of the evidence also reflects that [REDACTED] knew that performing activities in support of [REDACTED] position was not permitted. Although [REDACTED] testified that NSA OGC gave [REDACTED] permission to perform [REDACTED] duties, the guidance specifically advised [REDACTED] not to use Government time or resources to perform these duties.

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(b) (6)

(U) Conclusion

(U//~~FOUO~~) The OIG concluded, based on the preponderance of the evidence, that [REDACTED] misused the NSA unclassified IS on numerous occasions between 8 September 2021 and 7 February 2023 by engaging in an outside business activities unrelated to [REDACTED] official job responsibilities, in violation of 5 C.F.R. 2635.704; DoD JER 5500.7-R, Subpart 2-301; and NSA/CSS Policies 6-6, Paragraph 22(g), and 6-8, Paragraph 7(b).

(U) Legal Review

(U) This report of investigation was reviewed on 30 August 2023 by Inspector General Counsel and found to be legally sufficient on to support the conclusion.

(U) Response to Tentative Conclusion

(U//~~FOUO~~) On 31 August 2023, [REDACTED] was notified of the tentative conclusions by email, and [REDACTED] responded on the same day.

(U//~~FOUO~~) [REDACTED] provided no information that would require further investigation or arguments that were not previously addressed by the OIG. Therefore, the OIG tentative conclusions became final. [REDACTED] full response is contained in [Appendix D](#).

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

(U) Distribution of Results

(U//~~FOUO~~) A copy of the NSA OIG report will be forwarded to Employee Relations (ER) [REDACTED] for information and any action deemed appropriate. Additionally, a summary of the findings will be forwarded to Security and Counterintelligence (S&CI) Special Actions [REDACTED] and [REDACTED] supervisor.

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

(U) Report prepared by:

(U//~~FOUO~~)

X

on behalf of

Investigator
(U//~~FOUO~~)

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

Concurred by:
(U//~~FOUO~~)

Assistant Inspector General for Investigations
(U//~~FOUO~~)

(U) APPENDICES AND DOCUMENTARY EVIDENCE

[\(U\) Appendix A: Applicable Authorities](#)

[\(U\) Appendix B: Subject Testimony Excerpts](#)

[\(U\) Appendix C: OGC Correspondence](#)

[\(U\) Appendix D: Subject Response to Tentative Conclusion](#)

**(U) Appendix A:
Applicable Authorities**

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- **(U) 5 C.F.R. 2635.704 - Use of Government Property.**
 - (a) Standard. An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, or other than authorized purposes.
- **(U) Joint Ethics Regulation 2-301, *Use of Federal Government Resources***

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

- **(U) NSA/CSS Policy 6-6, *NSA/CSS Use of Unclassified Information Systems and Internet-Based Capabilities***

(U) Prohibited Activities

22. (U) Users shall avoid all prohibited activity and must not take any action (e.g., opening an IbC application) that potentially circumvents security protections and/or presents a security risk to the NSA/CSS ITI. When using an associated access account, the following actions are prohibited:

- g. (U) Conducting a private business or commercial venture, including engaging in personal sales activities, operating a private business for profit, engaging in communications related to outside business activities, or participating in online gaming or gambling activity;

- **(U) NSA/CSS Policy 6-8, *NSA/CSS Information System User and Supervisor Security Responsibilities***

(U) All Information System (IS) users

7. (U) All IS users shall:

- b. (U) Use Agency ISs for official government and/or mission-related purposes. Users may, with supervisory approval, conduct limited personal communications while using an Agency-sponsored account or while using U.S. Government resources, per the guidance provided within DoD Regulation 5500.7-R, "Joint Ethics Regulation" (Reference e), and NSA/CSS Policy 6-4,
- u. (U) Fully cooperate with the appropriate officials during the investigation of computer security incidents. Investigative officials may include, but are not limited to: the ADS&CI, an appropriate ISSO ("go isso"), the NSA/CSS Information Systems Incident Response Team (NISIRT), the Office of the General Counsel, and the Office of the Inspector General;

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**(U) Appendix B:
Subject Testimony Excerpts**

(U//FOUO) [redacted] Testimony Excerpts

(U) "...this is a part-time job, but those questions come in. I don't see this as any different than if I'm going to the restroom."

(U) "I have correspondence with OGC that gives me permission to do this job. I understand this policy [Policy 6-6], but there isn't a soul at NSA that is not doing things in support of their life outside of NSA."

(b) (6)

(U) "... I'm also kinda like the [redacted] If something happens or if someone dies, then there is a need for me to support them, because technically, that's kinda the role that I'm in."

(U//FOUO) "In the context in which the Office of General Counsel allowed me to support, then technically, I'm like the [redacted] If something's broken, interviewer interrupted, 'then you can fix it on NSA time?' [redacted] concluded, "not on NSA time, it's that I can quickly look at it and say, 'hey this seems broken,' but that's no different than if you're a mom and someone says, 'hey, your kid needs you,' and you say I'm on NSA time, I can't talk to them. It's no different."

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(b) (6)

**(U) Appendix C:
OGC Correspondence**

UNCLASSIFIED//FOR OFFICIAL USE ONLY

From: [REDACTED]
To: [REDACTED]
Subject: RE: [REDACTED]
Date: Friday, August 6, 2021 9:45:11 AM
Attachments: [image001.png](#)

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(b) (6)

[REDACTED] thank you so much for the timely details.

(U//FOUO)

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

Vr, [REDACTED]

[REDACTED]

----- (U//FOUO) -----

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

[REDACTED]

From: [REDACTED]
Sent: Thursday, August 5, 2021 2:14 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [REDACTED]

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

(b) (6)

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

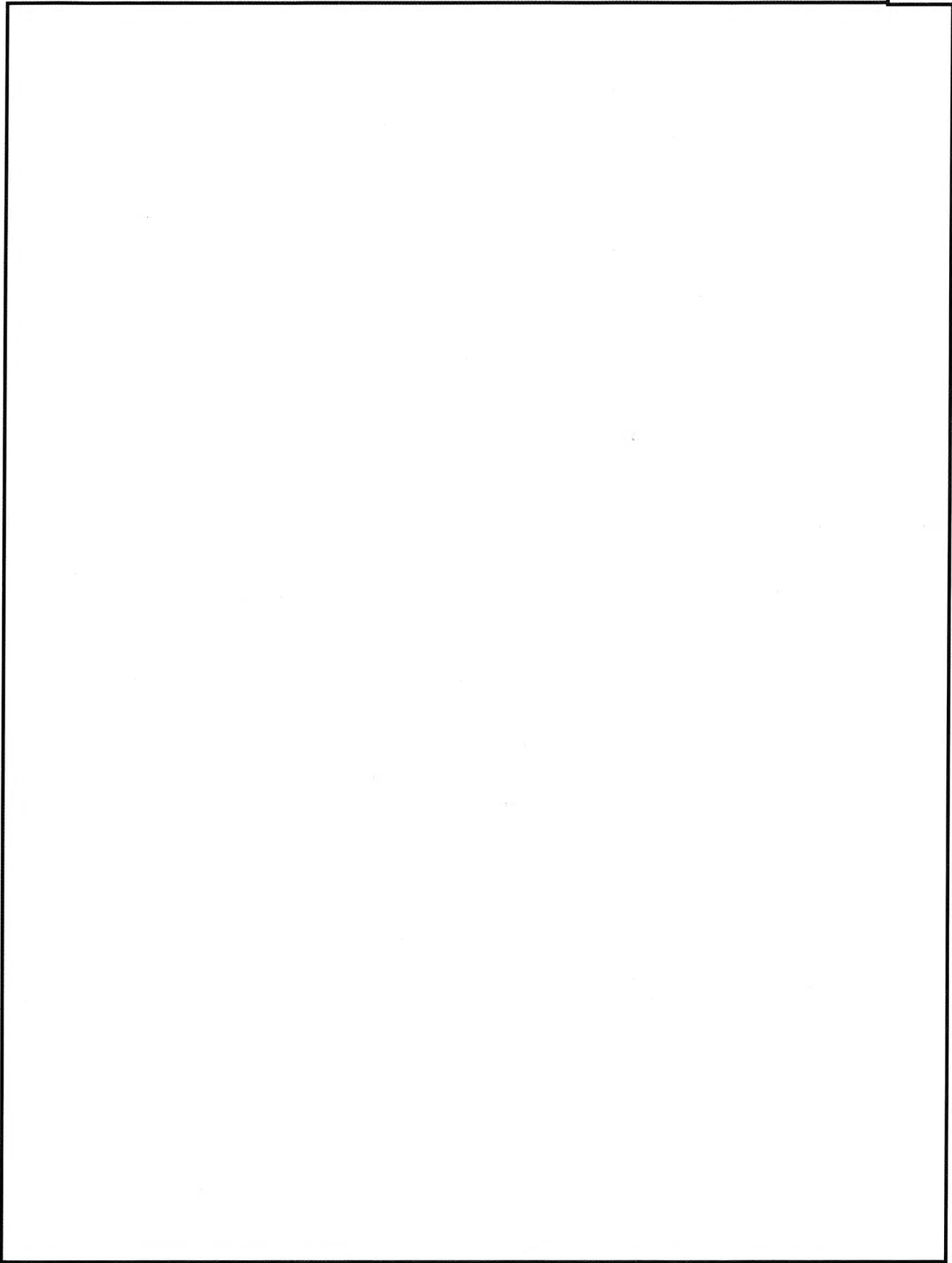
[REDACTED]

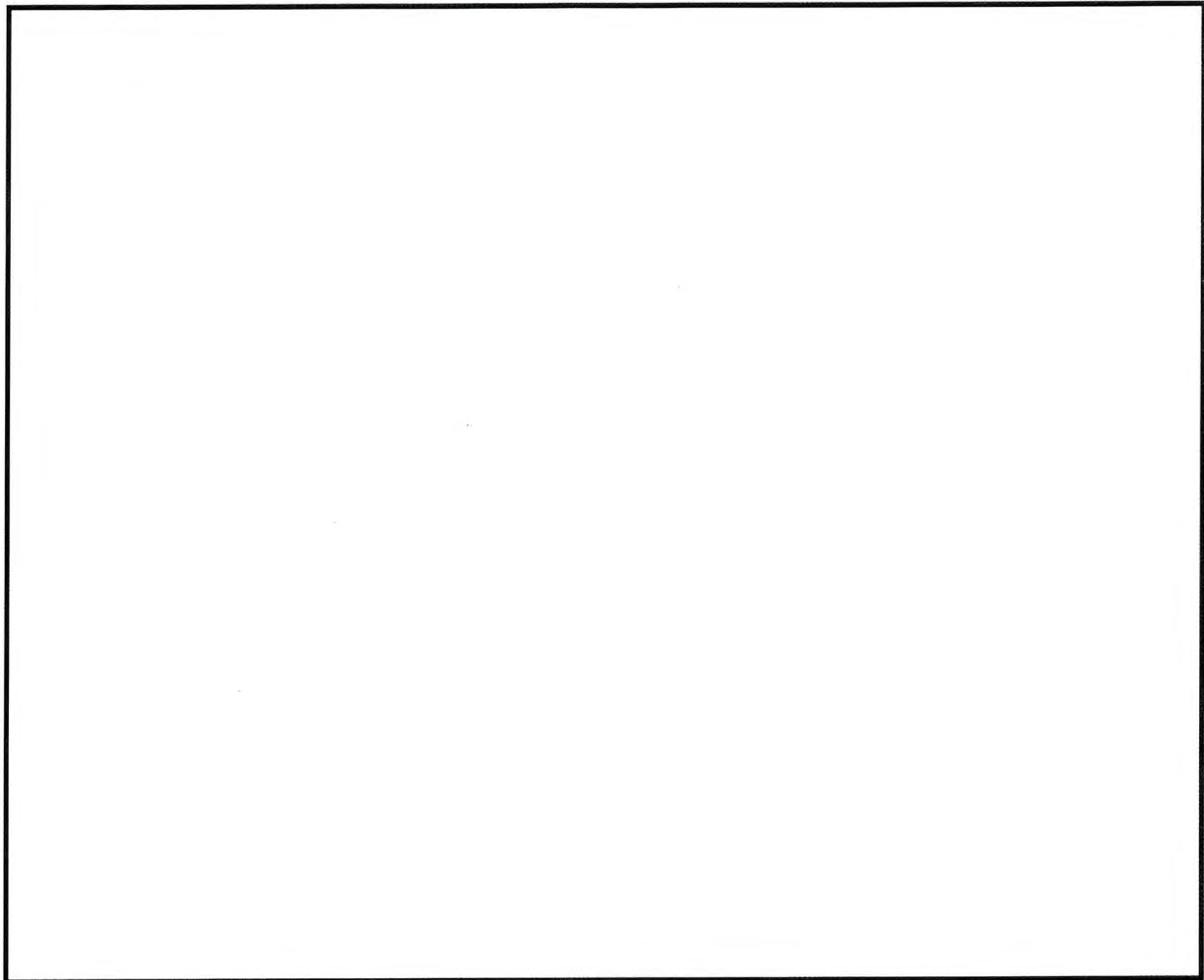
Thank you for the update. There are several ethics considerations to keep in mind when conducting this outside employment, as outlined below. If you have any questions after reviewing this guidance, please do not hesitate to contact our office.

[REDACTED]

(b) (5)
(b) (6)

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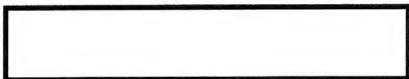




(U//~~FOUO~~)

Attorney – Administrative Law & Ethics
Office of the General Counsel

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



ATTORNEY CONFIDENTIALITY NOTICE:

The information contained in this email and any accompanying attachments constitute attorney work product and/or client advice, which are legally privileged.

NOT TO BE RELEASED WITHOUT OGC APPROVAL.

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

From:

Sent: Tuesday, July 27, 2021 3:49 PM

To:

Cc:

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



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

Subject: RE: (U [REDACTED])

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(b) (6)

Dear Mr. [REDACTED] What further actions should I conduct to ensure the NSA has all what's required of this action? Appreciate your feedback.

(U//FOUO)

Vr, [REDACTED]

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

----- (U//FOUO) -----

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

From: [REDACTED]

Sent: Thursday, July 15, 2021 12:17 PM

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: [REDACTED]

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

(b) (6)

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

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(b) (6)

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**(U) Appendix D:
Subject Response to Tentative Conclusion**

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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: (U) OIG Tentative Analysis and Conclusion for Review (IV-23-0037)
Date: Thursday, August 31, 2023 8:51:54 AM
Attachments: [image009.emz](#)
[image003.jpg](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

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

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(U) Good morning confirm receipt.

(U//~~FOUO~~) REPLY: Relative to business of outside duties, the suggestion of outside business and a violation of policy is misguided in this report. No measure of NSA work or attention to NSA work went undone ever: producing even two awards for excellence a personal time off award for resolving a 180% mission backlog in capabilities and a group award for period 06/2021 to 09-2022. I exceptionally completed work supporting this agency mission at a rate of well over 364% during the time of 09-2022 to 07-2023 during the time where in addition to being available for the supporting mission daily; I equally competed 22 college and industry courses to support the [REDACTED]

[REDACTED] In the regular NSA 36-weeks this level of work equated to 95 weeks of completed training all while being at the ready and support any tasks assigned by the core organization. These accomplishments in addition to being available for daily duties of this agency was met at during the period 11-2022 to 07-2023 with no delay/no diminished aptitude of mission value on any assigned tasks from the leadership. To include my personally assisting well over 30 promotional hopefuls with their document reviews, edits. The suggestion of outside business and a violation of policy is misguided in this report. No part of the actual outside business of my part-time [REDACTED] position can actually be done online or remotely (hence is why if I am absent for any period of time [REDACTED]) bottom-line, my [REDACTED] work in part requires my physical presence. There are as stated additionally, NSA/CSS Policy 6-8 provides that Agency ISs are for official government and/or mission-related purposes, subject to some minor exceptions. As I have been in this agency now just over 2-years there has been at no time the mission of this Nation (supported as a [REDACTED]) [REDACTED] or agency requirements ever gone undone.

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

(b) (6)

(U//~~FOUO~~)

Vr, [REDACTED]

[REDACTED]

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

National Security Agency

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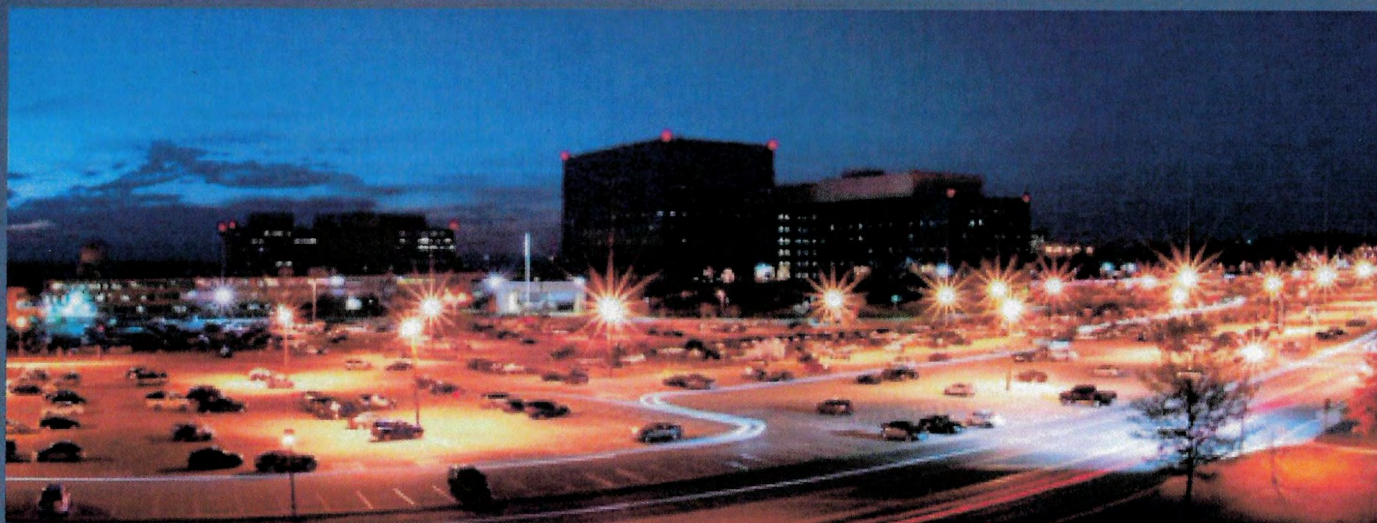
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(U) OFFICE OF THE INSPECTOR GENERAL



(U) Pursuant to the Inspector General Act of 1978, as amended and as specified in Chapter 4 of Title 5, United States Code, and in accordance with NSA/CSS Policy 1-60, the NSA/CSS Office of the Inspector General conducts independent oversight that promotes the wise use of public resources; adherence to laws, rules, and regulations; and respect for Constitutional rights. Through audits, evaluations, inspections, and investigations, we detect and deter waste, fraud, abuse, and misconduct and promote the economy, the efficiency, and the effectiveness of Agency operations.



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