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4 November 2016

**To:** Chief, D14 [redacted]

**From:** Investigator [redacted]

**Subject:** Computer Misuse

**File No:** IV-15-0053

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

**Precedence:** Routine

**Purpose:** To provide a summary report of investigation and to refer this matter to the Chief, Maryland Procurement Office (B312); and the Associate Directorate for Security and Counterintelligence (ADS&CI) - Contractor Clearances (A5232) and Special Actions (A5242), for review and any action deemed appropriate.

**Details:**

**I. (U) Background:**

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(U//FOUO) On 13 July 2015, the NSA/CSS Office of the Inspector General (OIG) received a referral from [redacted] indicating possible misuse of the unclassified NSA/CSS Information System (IS) by contractor affiliate, [redacted]. Through routine monitoring of the unclassified NSA/CSS IS, [redacted] was observed conducting sexually-explicit conversations with a person suspected to be a prostitute. [redacted] was employed by [redacted] as a Language Analyst in [redacted] and supported the [redacted] contract [redacted] Technical Task Order [redacted]. On 17 September 2015, the OIG initiated an investigation into [redacted] suspected misuse of the unclassified NSA/CSS IS. [redacted] was debriefed from the Agency [redacted].

**II. (U) Allegation:**

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(U//FOUO) Did [redacted] a former NSA/CSS contractor affiliate, misuse the unclassified NSA/CSS IS during the period 16 October 2014 – 19 March 2015, by engaging in personal, non-contract-related activity, and billing the time spent engaged in such activity to the [redacted] contract, in violation of NSA/CSS Policy 6-4?

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### III. (U) Applicable Standard(s):

(U//~~FOUO~~) NSA/CSS Policy 6-4, *Contractor Use of NSA/CSS Information Systems and Resources*, dated 22 October 2013

### IV. (U) Investigative Activity:

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#### A. (U//~~FOUO~~) Network Activity Report Detailing [redacted] Unclassified NSA/CSS IS Activity:

(U//~~FOUO~~) On 13 July 2015, the OIG received a referral from ADS&CI - Special Actions (A5242) indicating that during routine monitoring of the unclassified NSA/CSS IS, the user account bearing [redacted] NSA/CSS Standard Identification (SID) [redacted] was detected conducting sexually-explicit email conversations during the period 16 October 2014 - 19 March 2015. Further analysis of the network activity report (see Appendix) revealed that [redacted] accessed his personal email account via an unclassified NSA/CSS workstation and conducted sexually-explicit email conversations with an unknown person or persons. [redacted] conversations were graphic in nature and characterized by detailed descriptions of his sexual experiences with several partners. The topics of discussion included intercourse, masturbation, ejaculation, swinging<sup>1</sup>, sexual domination/submission, sexual fantasies, and specific sexual acts which he anticipated performing on his partner(s) and/or being performed on him. The network activity report further revealed that [redacted] requested and received nude photographs from the person or persons with whom he engaged in these conversations. Finally, [redacted] also appeared to offer payment to an unknown person in return for sex, and inquired as to whether that person would be at a specific location on or about a certain time of day.

#### B. (U) Interview(s):

(U//~~FOUO~~) On 12 October 2016, former NSA/CSS contractor affiliate [redacted] was interviewed by telephone and provided the following sworn testimony:

(U//~~FOUO~~) [redacted] was a contractor affiliate with [redacted] and supported [redacted] as a Language Analyst before being debriefed [redacted]. He worked for [redacted] for approximately 3.5 years. [redacted] was the subcontractor on the contract on which [redacted] worked, [redacted] was the prime contractor. [redacted] had been affiliated with NSA for 22 years as a military, civilian and contractor affiliate, and had been at NSA Georgia for approximately 18 years. He typically worked Monday through Friday, from 6am - 2pm. His SID was [redacted].

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(U//~~FOUO~~) [redacted] is aware that Agency ISs are monitored. He is quite certain that he received training regarding the Agency's policies on proper use of Agency ISs. His recollection

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<sup>1</sup> "Swinging", also known as wife/partner swapping, is a non-monogamous behavior in which both singles and partners in a committed relationship engage in sexual activities with others as a recreational or social activity. (Bergstrand, Curtis; Blevins Williams, Jennifer (2000-10-10). "Today's Alternative Marriage Styles: The Case of Swingers". Electronic Journal of Human Sexuality (www.ejhs.org/volume3/swing/body.htm);

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of the training he received is that Agency ISs are to be used for official use only. [redacted] explained that the unclassified IS was to be used to complete timesheets, check [redacted] email, and for official uses only. He is sure that he has been exposed to NSA/CSS Policy 6-4 at some point. He does not recall being informed by [redacted] management that the unclassified IS could be used to perform personal, non-work-related activity.

(U//FOUO) He did not need access to the unclassified IS for work-related purposes, however, he did have access to the unclassified IS. There was a non-attributable unclassified account available to use if he had to conduct work-related research. His understanding was that he could use the unclassified IS to submit his timesheets and check his [redacted] email account, but that he could not check his personal email account. He used the unclassified IS to check his personal email and to browse news and sports websites every couple of hours throughout any given day.

(U//FOUO) He is aware of the "Consent to Monitoring" banner that displays when logging on to Agency ISs. It is possible that he may have conducted a sexual conversation with one person via email over the course of six to twelve months. He is fairly certain that he only conducted these conversations with one person. He does not believe he solicited the services of prostitutes. It is probable that he used his personal email account to conduct sexual conversations. He is not denying that he conducted these sexual conversations while at work. He recalls receiving nude photographs/images. He regrets accidentally downloading them at work and never had any intention of doing so.

(U//FOUO) He did not spend significant amounts of time conducting these email conversations. If there was an email in his inbox, he would respond and then go back to work. He checked his email sporadically throughout the day. The conversations were not continuous throughout the workday and he did not sit there for hours on end responding to his personal emails. [redacted] suggested that his work record supported his claim that he did not spend significant amounts of time on this personal activity because he completed "a ton" of reports and translated many documents.

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#### V. (U) Analysis:

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(U//FOUO) [redacted] is a former [redacted] employee who worked as an NSA/CSS contractor affiliate until he was debriefed [redacted]. During the period of suspected computer misuse, 16 October 2014 - 19 March 2015, [redacted] supported [redacted] as a Language Analyst and worked on the [redacted] contract. As [redacted] stated and the network activity report reflected, he had access to the unclassified IS and occasionally used that access to conduct work-related research. In this capacity, [redacted] was considered an authorized user<sup>2</sup> of the NSA/CSS unclassified IS. As such, NSA/CSS Policy 6-4, *Contractor Use of NSA/CSS Information Systems and Resources* (dated 22 October 2013) applied to his use of the unclassified NSA/CSS IS during the period of suspected misuse.

(U//FOUO) The network activity report detailing [redacted] activity on the unclassified NSA/CSS IS confirmed that he used the unclassified IS to conduct personal, non-contract-related

<sup>2</sup> See NSA/CSS Policy 6-6, Purpose and Scope;

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activities. Specifically, during the period 16 October 2014 – 19 March 2015, [redacted] used the unclassified IS to conduct sexually-explicit email conversations, and to request and view nude and sexually-explicit photographs. [redacted] admitted during his interview with the OIG that he did in fact engage in these activities while using the unclassified NSA/CSS IS and that he had done so for six to twelve months, encompassing the period of suspected misuse.

(U//~~FOUO~~) NSA/CSS Policy 6-4 specifically limits contractor use of NSA/CSS ISs to the performance of tasks authorized by contract, approved by the Contracting Officer, and permitted by the policy itself.<sup>3</sup> Further, NSA/CSS Policy 6-4 expressly prohibits contractors from engaging in personal use of the unclassified IS “except for brief, infrequent communications to deal with urgent matters. This limited exception to the personal use prohibition applies only when:

- a. (U) Unavoidable personal matters arise such as, but not limited to, contacting a spouse, dependent family member, or other individuals responsible for a dependent’s care; scheduling a physician’s appointment; or vehicle maintenance;
- b. (U) The communication does not adversely affect the NSA/CSS mission or reflect poorly on NSA/CSS;
- c. (U) The communication does not result in other than minimal expense to the Government (e.g., the call is local, toll-free);
- d. (U) Time spent using the NSA/CSS IS or resource is not billed to the contract; and
- e. (U) The use is not associated with personal business activities outside the scope and purpose of the contract.”<sup>4</sup>

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(U//~~FOUO~~) [redacted] admitted that throughout the period 16 October 2014 – 19 March 2015, he utilized the unclassified NSA/CSS IS to conduct sexually-explicit email conversations, and to request and view nude and sexually-explicit photographs via his personal email account. Contractor use of NSA/CSS ISs is subject to three conditions, i.e. the use must be: 1) limited to the performance of tasks authorized by the contract, 2) approved by the Contracting Officer, and 3) permitted by NSA/CSS Policy 6-4 itself. It is unlikely that the activities conducted by [redacted] were either authorized by the [redacted] contract or approved by the Contracting Officer. Assuming, arguendo, that these personal activities could have been authorized by the contract and approved by the Contracting Officer, they were not, however, authorized by NSA/CSS Policy 6-4. NSA/CSS Policy 6-4 authorizes personal use of NSA/CSS ISs to the extent that the use is for brief, infrequent communications to deal with urgent matters, i.e. those matters defined by Paragraph 8a – 8e. The activities conducted by [redacted] are clearly personal in nature and, thus, inconsistent with NSA/CSS Policy 6-4’s limited exception to the personal use prohibition. Specifically, [redacted] activities cannot reasonably be characterized as unavoidable personal matters requiring his immediate attention; rather, they

<sup>3</sup> See NSA/CSS Policy 6-4, Paragraph 1, dated 22 October 2013;

<sup>4</sup> See Ibid at Paragraph 8;

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were activities conducted for the benefit of his personal gratification that should have been conducted on his personal time, outside of NSA/CSS spaces. Therefore, by engaging in such non-contract-related, personal use of the unclassified NSA/CSS IS, [REDACTED] misused the unclassified IS in violation of NSA/CSS Policy 6-4, Paragraph 8.

(U//FOUO) Finally, [REDACTED] maintains that although he did use the unclassified IS to conduct personal, non-contract-related activity, he did not bill the time spent engaged in that activity to the contract. [REDACTED] explained that his participation in these email conversations was not a continuous activity conducted over long periods of time throughout the workday. Rather, it was an intermittent activity he only conducted occasionally for brief periods. Nevertheless, any billing of a contract for a contractor's unauthorized use of the unclassified IS, however slight, is a violation of NSA/CSS Policy 6-4. Although [REDACTED] claims the time he spent on this activity was minimal, the assessment he provided is based upon his recollection of events more than one year old and, thus are of questionable reliability. Moreover, the network activity report revealed that [REDACTED] engaged in sexually-explicit email conversations over the course of six hours on 22 October 2014 and 19 March 2015. Therefore, contrary to his assessment, it is reasonable to speculate that [REDACTED] may have conducted sexually-explicit email conversations for similar periods of time more often than he might recall. However, the network activity report did not provide a comprehensive analysis of the time [REDACTED] spent engaged in this activity throughout the period of misuse. Therefore, while it is likely that [REDACTED] billed some amount of time engaged in non-contract-related activity to the [REDACTED] contract, the lack of conclusive evidence prevents a definitive finding that he did in fact do so. As a result, no conclusions are made with respect to the allegation that [REDACTED] billed time spent conducting non-contract-related activity to the [REDACTED] contract, in violation of NSA/CSS Policy 6-4, Paragraph 9.

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(U//FOUO) The OIG finds that a preponderance of the evidence exists to support the conclusion that, during the period 16 October 2014 – 19 March 2015, [REDACTED] misused the unclassified NSA/CSS IS by conducting personal, non-contract-related activity, such as participating in sexually-explicit email conversations, and requesting and viewing nude and sexually-explicit photographs. These activities are in violation of NSA/CSS Policy 6-4, dated 22 October 2013, Paragraph 8.

#### VI. (U) Response to Tentative Conclusion:

(U//FOUO) The tentative conclusion was provided to [REDACTED] on 27 October 2016. On 1 November 2016, [REDACTED] responded to the tentative conclusion by stating the following:

I admit to a huge lapse in judgment, and do not dispute the findings of your investigation.

I would like to add that at no time was my work affected. I produced a large amount (dozens) of product reports and other deliverables during the time frame discussed. I also served as quality control for similar deliverables and as a mentor to junior analysts. In addition, no significant time was taken away from work, as these actions were taken in the process of doing translations, populating databases,

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and writing product reports. Meaning, it was not as if I was spending 8 hours a day instant messaging; these were quick emails and checking of emails between actual production.

Having said that, over a 22+ year period at NSA, as a military member, government employee, and contractor, I have never before or since misused any computer system, and I sincerely regret my actions.

(U//~~FOUO~~) [redacted] response provided no new information or mitigation that would impact our analysis, therefore, our preliminary conclusion became final.

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VII. (U) Conclusion(s):

(U//~~FOUO~~) **Substantiated:** The OIG finds that a preponderance of the evidence exists to support the conclusion that, during the period 16 October 2014 – 19 March 2015, [redacted] [redacted] misused the unclassified NSA/CSS IS by conducting personal, non-contract-related activity, such as participating in sexually-explicit email conversations, and requesting and viewing nude and sexually-explicit photographs. These activities are in violation of NSA/CSS Policy 6-4, dated 22 October 2013, Paragraph 8.

**\* (U//~~FOUO~~) This report is property of NSA and may not be disseminated further without specific approval of the NSA OIG and the Office of the General Counsel (OGC) - Litigation. Furthermore, the information in this report cannot be used in affidavits, court proceedings, subpoenas, or for other legal or judicial purposes without prior OIG and OGC (Litigation) approval.**

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## **(U) APPENDIX**

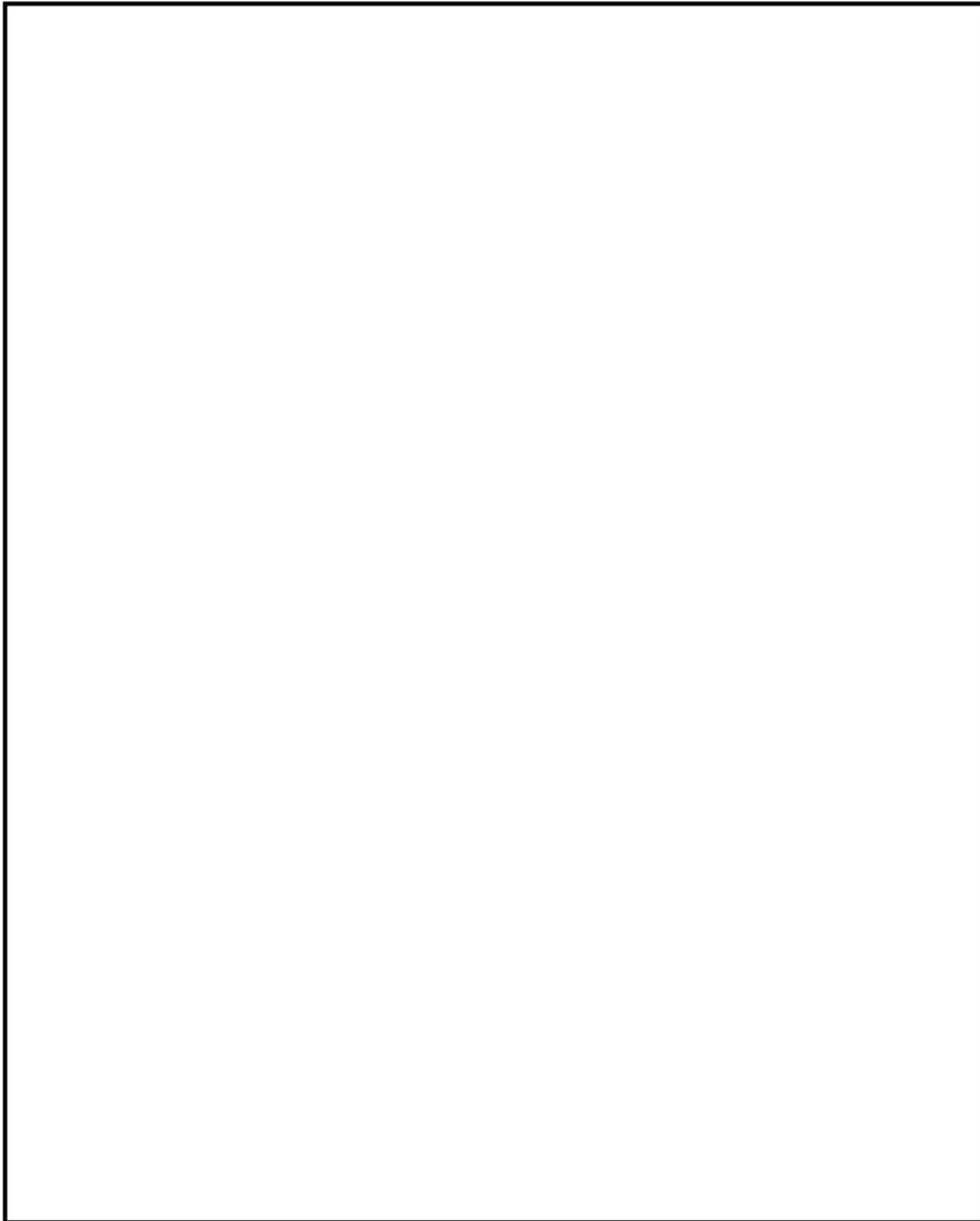
(U) Network Activity Report

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*Edits were made by the OIG for purposes of readability:*

19 March 2015 (0641 – 1320 hours):

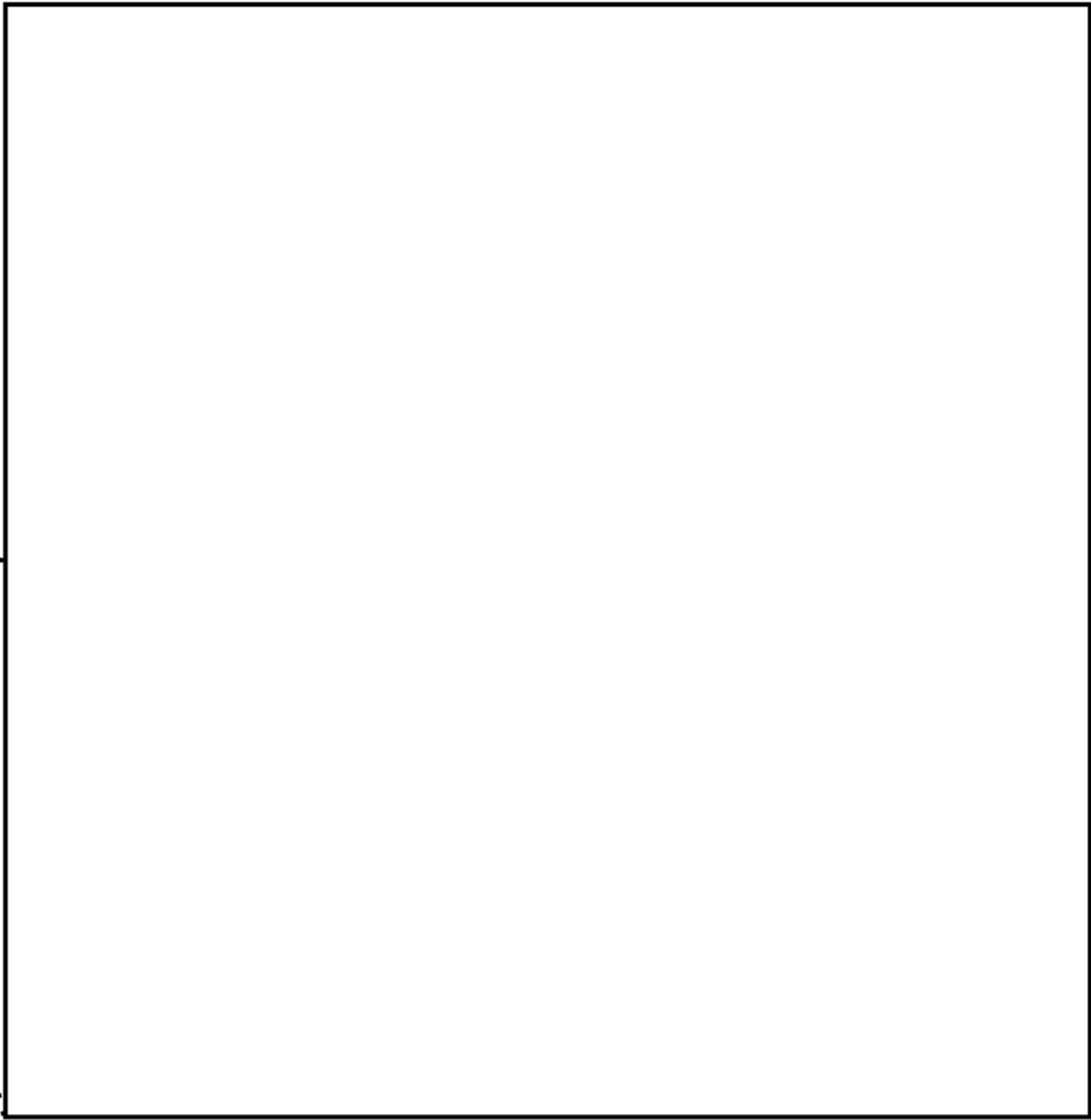


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2 January 2015 (0624 hours):



31 December 2014 (1125 hours):



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12/23/2014 (0620 – 1051 hours):

[Redacted]

22 December 2014 (0704 – 1333 hours):

[Redacted]

5 November 2014 (0728 – 0834 hours):

[Redacted]

[Redacted]

3 November 2014 ( 1047 – 1048 hours):

[Redacted]

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[Redacted]

31 October 2014 (0712 hours):

[Redacted]

28 October 2014 (0619 hours):

[Redacted]

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24 October 2014 (1251 hours):

[Redacted]

22 October 2014 (0613 – 1325 hours):

[Redacted]

21 October 2014 (1310 hours):

[Redacted]

17 October 2014 (0820 – 0821 hours):

[Redacted]

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16 October 2014 (0619 – 0624 hours):



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