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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



INSPECTOR GENERAL

REPORT OF INVESTIGATION

4 November 2013

IV-13-0076

Misuse of Government Resources

**WARNING: THIS REPORT MAY CONTAIN GRAPHIC IMAGES
AND/OR LANGUAGE**

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(U) OFFICE OF THE INSPECTOR GENERAL

(U) Chartered by the NSA Director and by statute, the Office of the Inspector General conducts audits, investigations, inspections, and special studies. Its mission is to ensure the integrity, efficiency, and effectiveness of NSA operations, provide intelligence oversight, protect against fraud, waste, and mismanagement of resources by the Agency and its affiliates, and ensure that NSA activities comply with the law. The OIG also serves as an ombudsman, assisting NSA/CSS employees, civilian and military.

(U) AUDITS

(U) The audit function provides independent assessments of programs and organizations. Performance audits evaluate the effectiveness and efficiency of entities and programs and their internal controls. Financial audits determine the accuracy of the Agency's financial statements. All audits are conducted in accordance with standards established by the Comptroller General of the United States.

(U) INVESTIGATIONS

(U) The OIG administers a system for receiving complaints (including anonymous tips) about fraud, waste, and mismanagement. Investigations may be undertaken in response to those complaints, at the request of management, as the result of irregularities that surface during inspections and audits, or at the initiative of the Inspector General.

(U) INTELLIGENCE OVERSIGHT

(U) Intelligence oversight is designed to insure that Agency intelligence functions comply with federal law, executive orders, and DoD and NSA policies. The IO mission is grounded in Executive Order 12333, which establishes broad principles under which IC components must accomplish their missions.

(U) FIELD INSPECTIONS

(U) Inspections are organizational reviews that assess the effectiveness and efficiency of Agency components. The Field Inspections Division also partners with Inspectors General of the Service Cryptologic Elements and other IC entities to jointly inspect consolidated cryptologic facilities.

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I. (U) SUMMARY

(U//~~FOUO~~) On 24 April 2013, the Inspector General (IG) received a referral from the NSA/CSS Information Systems Incident Response Team (NISIRT) identifying potential computer misuse by an NSA civilian, [REDACTED]. On 20 June 2013 the IG initiated an investigation.

(U//~~FOUO~~) The preponderance of the evidence collected during the investigation substantiates that from April to June 2013, [REDACTED] misused his NSA/CSS Information System (IS) to search for and access adult-oriented material. [REDACTED] also bought and sold items on eBay and viewed non-work related videos and TV shows. These activities violate the DoD Joint Ethics Regulation (JER) 5500-7-R and NSA/CSS Policy 6-6.

(U//~~FOUO~~) A copy of the NSA/CSS OIG report will be forwarded to the Employee Relations and Special Actions, ADS&CI for review and any action deemed appropriate. An information copy will be provided to the Office of General Counsel (Administrative Law).

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II. (U) BACKGROUND

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(U) Introduction

(U//~~FOUO~~) [redacted] is a [redacted] civilian employee (employee id number [redacted]) assigned to the [redacted]. He entered on duty at the NSA/CSS on [redacted] as a [redacted].

(U//~~FOUO~~) During routine monitoring of Agency ISs, the NISIRT detected possible misuse of [redacted] unclassified U.S. Government account on 11, 14, 16, 17, 21 April 2013. The possible misuse included searching for adult oriented material, selling items on eBay, and viewing non-work related material. The NISIRT provided their activity report to the Office of the Inspector General (OIG) on 3 May 2013. NISIRT detected possible misuse again on 19 June 2013 which was reported to the OIG on 20 June 2013.

(U) Applicable Authorities

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(U//~~FOUO~~) DoD Joint Ethics Regulation (JER) 5500.7-R Subpart 2-301: Use of Federal Government Resources.

(U//~~FOUO~~) NSA/CSS Policy 6-6, "USE OF UNCLASSIFIED INFORMATION SYSTEMS SUCH AS THE INTERNET," revised 20 June 2012.

(U) See Appendix A for the full text of the applicable authorities.

III. (U) FINDINGS

(U//~~FOUO~~) Did [redacted] misuse the unclassified NSA/CSS IS in violation of the JER 5500-7-R, Subpart 2-301 and NSA/CSS Policy 6-6?

(U//~~FOUO~~) CONCLUSION: **Substantiated.** [redacted] used the unclassified NSA/CSS IS to routinely search for and to access adult-oriented material. [redacted] also bought and sold items on eBay and viewed non-work related videos and TV shows. The preponderance of the evidence supports the conclusion that [redacted] misused his unclassified NSA/CSS IS in violation of JER 5500-7-R and NSA/CSS Policy 6-6.

(U) Documentary Evidence

(U) NISIRT Report

(U//~~FOUO~~) The NISIRT analyzed [redacted] unclassified NSA/CSS IS from 11 April to 22 April 2013 and provided the OIG with an analysis of [redacted] possible misuse. [redacted] was observed accessing adult oriented material, selling items on eBay, and viewing non-work related material. The full NISIRT report can be found at Appendix B.

[redacted]
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(U) Testimonial Evidence

(U) On 24 June 2013, [redacted] was interviewed and provided the following sworn testimony:

(U) Activity pertaining to his private business

(U) [redacted] acknowledged that he buys and sells [redacted] as a private business. He resells [redacted] through eBay auctions; [redacted] checks the activity on his eBay auctions periodically throughout his shift. Once an auction had ended (normally on Sundays), [redacted] while at work, would check on the results then send an invoice to customers who purchased his merchandise. [redacted] also admitted to spending approximately 1 to 2 hours responding to email questions regarding his merchandise during his shift. Due to the mission tempo of the office during the dayshift, [redacted] personal activity was considerably less than his personal activity on the nightshift. This business related activity began in [redacted] when he started working for NSA. Prior to [redacted] [redacted] was in the military and did not have access to the internet to perform this personal activity.

[redacted]
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(U) Activity pertaining to his internet searches

(U) [redacted] admitted his surfing the internet for adult oriented material was due to "being bored and stupid." He claimed to be ashamed and embarrassed by his activity. [redacted] admitted he "made this horrible mistake." [redacted] estimates his internet searching would last up to an hour depending on which shift he was working on. If he was on dayshift, he stated he was too busy to search on the internet. When [redacted] worked on the nightshift, he would have more time to perform personal activities.

(U) [redacted] denied becoming sexually aroused while searching for adult related material. He claimed he did not engage in searching for pornography and adult oriented material every night but the activity occurred on maybe one shift per week. Many of his internet searches began with reading news articles or watching TV then searching for items described in the article or TV program. When searching for adult oriented terms, [redacted] explained he was "curious to see what will pop up" and "curious to see the progression of the filtering." He would close the browser and not access websites listed from the search results. [redacted] admitted he knew that searching the internet using adult oriented terms would result in him accessing and viewing inappropriate material.

(U) Activity pertaining to his on-line games and streaming media

(U) After reading relevant policies, [redacted] realized that he should not be playing games at work. He usually visits a site called [redacted] and usually completed 2 to 3 brain teasers on the website during each shift. [redacted] admitted the watching non-work related videos and TV shows while at work. [redacted] claims the videos and TV shows would play in the background while he was working.

[redacted] (b) (6) [redacted] (b) (3) - P.L. 86-36 (b) (6)

(U) Analysis and Conclusions

(U//~~FOUO~~) The JER states that Government resources may not be used for unofficial advertising, soliciting or selling. The NISIRT evidence and [redacted] admission to using the NSA/CSS IS to sell his [redacted] substantiates a violation of this regulation. Since [redacted] [redacted] engaged in this business related activity demonstrating a consistent violation of the regulation.

(U//~~FOUO~~) The JER also states that Government resources are not to be used for activities that would reflect adversely on DoD or the DoD Component (such as uses involving pornography). [redacted] admitted that he knew his internet searches using certain terms would result in accessing inappropriate, adult oriented material. Although [redacted] claimed that his inappropriate web searches did not occur every night, NISIRT evidence showed that he performed searches for adult oriented material on a regular basis. [redacted] personal use of the NSA/CSS ISs was not reasonable in duration and frequency as the activity extended to all parts of his workday not just personal time or lunch periods. His activity served no legitimate public interest and reflected negatively on the Agency and the DoD.

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(U//~~FOUO~~) [redacted] use of the NSA/CSS IS failed to comply with the JER and NSA policy. Forensic evidence combined with [redacted] testimony supports the allegation that he misused his unclassified NSA/CSS IS.

[redacted]
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IV. (U) RESPONSE TO TENTATIVE CONCLUSION

(U//~~FOUO~~) [redacted] was provided the tentative conclusions on 23 October 2013. On 31 October 2013, [redacted] responded to the tentative conclusion stating:-----

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I am in agreement with most of the conclusions.

Conclusion 1: [redacted] used the unclassified NSA/CSS IS to routinely search for pornography and to access adult-oriented material.

Response: It wasn't my intent to search for porn or adult related material.

Conclusion 2: [redacted] also bought and sold items on eBay and viewed non-work related videos and TV shows.

Response: Yes I agree

Conclusion 3: The preponderance of the evidence supports the conclusion that [redacted] misused his unclassified NSA/CSS IS in violation of JER 5500-7-R and NSA/CSS Policy 6-6.

Response: Mitigating information. Please take my unclassified account away from me. I do not need it to do my job.

(U//~~FOUO~~) The conclusion of this investigation remains unchanged.

V. (U) CONCLUSION

(U//~~FOUO~~) The preponderance of the evidence supports the conclusion that [redacted] used the unclassified NSA/CSS IS to routinely search for pornography and to access adult-oriented material. [redacted] also bought and sold items on eBay and viewed non-work related videos and TV shows using his NSA/CSS IS. The preponderance of the evidence supports the conclusion that [redacted] misused his unclassified NSA/CSS IS in violation of JER 5500-7-R and NSA/CSS Policy 6-6.

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VI. (U) DISTRIBUTION OF RESULTS

(U//~~FOUO~~) A copy of the NSA/CSS OIG report will be forwarded to the Employee Relations and Special Actions, ADS&CI for review and any action deemed appropriate. An information copy will be provided to the Office of General Counsel (Administrative Law).

[Redacted Signature]

Senior Investigator

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Concurred by:

[Redacted Signature]

Deputy Assistant Inspector General
For Investigations

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Appendix A

(U) Applicable Authorities

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(U//~~FOUO~~) DoD Joint Ethics Regulation (JER) 5500.7-R: Subpart 2-301: Use of Federal Government Resources.

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

(1) Official use includes emergency communications and communications that the DoD Component determines are necessary in the interest of the Federal Government. Official use may include, when approved by theater commanders in the interest of morale and welfare, communications by military members and other DoD employees who are deployed for extended periods away from home on official DoD business.

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

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

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

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

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

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b. Other Federal Government Resources. Other than the use of Federal Government communications systems authorized in accordance with subsection 2-301.a. of this Regulation, above; the use of Federal Government resources as logistical support to non-Federal entity events in accordance with subsection 3-211 of this Regulation, below; and the use of Federal Government time authorized in accordance with subsection 3-300 of this Regulation, below; Federal Government resources, including personnel, equipment, and property, shall be used by DoD employees for official purposes only, except as follows:

(1) Agency Designees may permit their DoD employees to make limited personal use of Federal Government resources other than personnel, such as typewriters, calculators, libraries, and other similar resources and facilities, if the Agency Designee determines the following:

- (a) The use does not adversely affect the performance of official duties by the DoD employee or the DoD employee's organization;
- (b) The use is of reasonable duration and frequency, and made only during the DoD employee's personal time such as after duty hours or lunch periods;
- (c) The use serves a legitimate public interest (such as supporting local charities or volunteer services to the community; enhancing the professional skills of the DoD employee; job-searching in response to Federal Government downsizing);
- (d) The use does not put Federal Government resources to uses that would reflect adversely on DoD or the DoD Component (such as involving commercial activities; unofficial advertising, soliciting or selling; violation of statute or regulation; and other uses that are incompatible with public service); and
- (e) The use creates no significant additional cost to DoD or the DoD Component.

....

~~(U//FOUO)~~ NSA/CSS Policy 6-6, "USE OF UNCLASSIFIED INFORMATION SYSTEMS SUCH AS THE INTERNET," revised 20 June 2012:

25. (U) All Users shall:

...

n. (U) Use good judgment and common sense when accessing and/or communicating on unclassified ISs;

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Appendix B

(U) NISIRT Report

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The NISIRT Report

Edits were made for readability purposes. Below is a list of search terms observed.

- 04/11/2013 03:08:43
[Redacted]
- 04/14/2013 21:05:15
[Redacted]
- 04/14/2013 21:07:36
[Redacted]
- 04/14/2013 22:14:47
[Redacted]
- 04/16/2013 22:04:40
[Redacted]
- 04/17/2013 01:44:04
[Redacted]
- 04/17/2013 01:47:26
[Redacted] (b) (6)
- 04/17/2013 01:50:46
[Redacted]
- 04/21/2013 11:59:32
[Redacted]
- 04/21/2013 14:01:03
[Redacted]
- 04/21/2013 14:08:16
[Redacted]
- 04/21/2013 14:11:00
[Redacted]

04/21/2013 14:11:46

[Redacted]

04/21/2013 15:18:49

[Redacted]

04/21/2013 15:40:30

[Redacted]

04/21/2013 15:58:18

[Redacted]

06/19/2013 02:35:00

[Redacted]

06/19/2013 02:34:35

[Redacted]

06/19/2013 01:01:35

[Redacted]

(b) (6)

06/19/2013 00:58:42

[Redacted]

06/19/2013 00:58:11

[Redacted]

06/19/2013 00:45:14

[Redacted]

06/19/2013 00:40:54

[Redacted]

06/19/2013 00:40:31

[Redacted]

Analyst comments regarding user's activity

- User routinely uses EBAY to buy and then sell [Redacted] (User will make 2-3 bids on Ebay every day that HE is working and correspond via e-mail with customers that are buying the [Redacted] HE is selling)

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