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ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

*Welcome To
Espionage "A-Z"*

*"Inspire me, that I may this treason
find! ... That we may know the
traitors and the truth!"*

William Shakespeare
"Titus Andronicus," Act IV, scene 1

**OBJECTIVES
OF THE
ESPIONAGE INVESTIGATION**

OBJECTIVES
To Determine...

**WHAT MAKES ESPIONAGE CASES
SO DIFFICULT TO WORK?**

OBJECTIVE

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**WHAT DO WE NEED
TO
PROVE?**

ELEMENTS OF THE CRIME

**THE
ESPIONAGE STATUTE**

18 U.S.C. s794(a) or (c)

18 U.S.C. s794(a)

Elements

- > Transmittal...of
- > National Defense Information (NDI)...to
- > A Foreign Power, or Agent thereof ...with
- > The Intent to injure the U.S. or aid the FP

(All elements of the statute must be met)

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18 U.S.C. s794(a)

Penalty

- No statute of limitations (maybe)
- Death or life imprisonment
- Criminal forfeiture provisions
- "Son of Sam" provision

*SATISFYING THE
ELEMENTS OF THE CRIME
(what do we need to do?)*

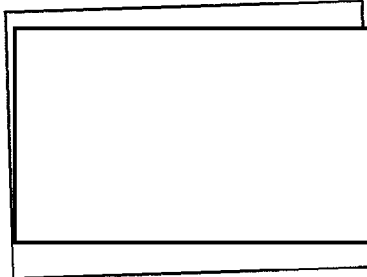
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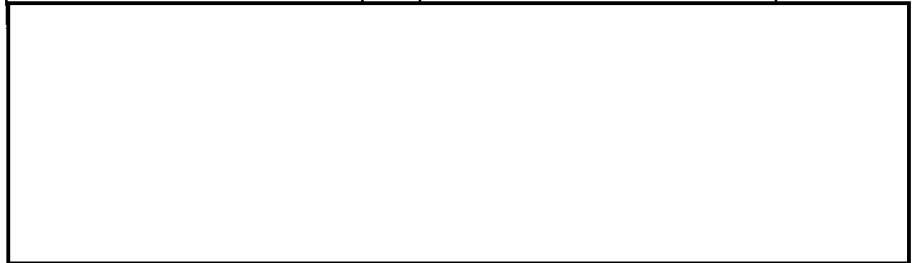
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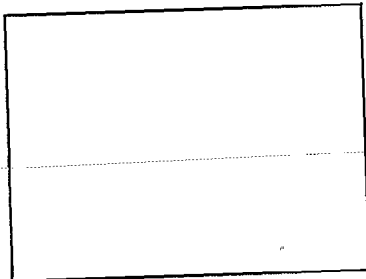


LEGAL ISSUES

LEGAL ISSUES (Cont)



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*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*



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*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*



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*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*

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*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*

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*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*

*PHASES OF AN ESPIONAGE
INVESTIGATION*

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REASON: 1.4 (c)
DECLASSIFY ON: 01-30-2037

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Building an Espionage Case



"A to Z"

*While much of the daily work of
counterintelligence is laborious and humdrum,
its complex and subtle operations are very much
like a gigantic chess game that uses the whole
world for its board."*

Allen Dulles (former DCI)
"The Craft of Intelligence"

Assessment?

Preliminary Investigation?

Full Investigation?

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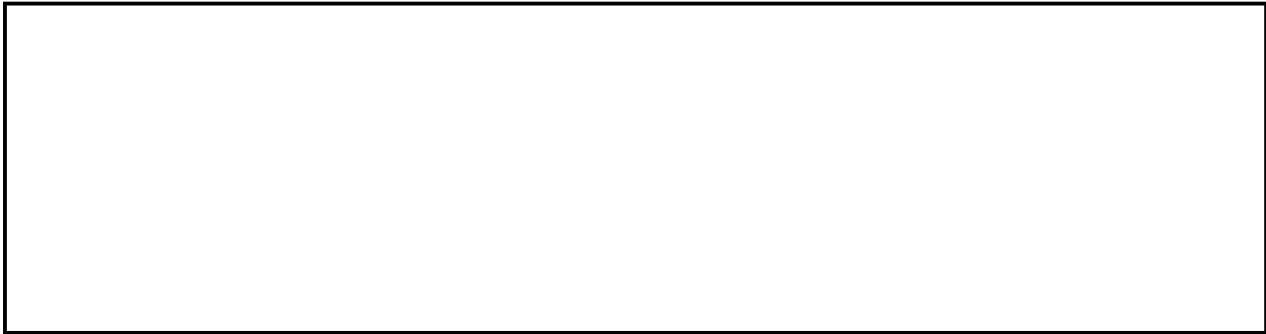
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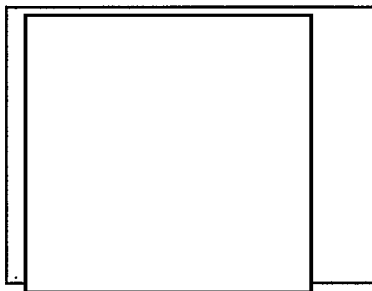


"I (name)...

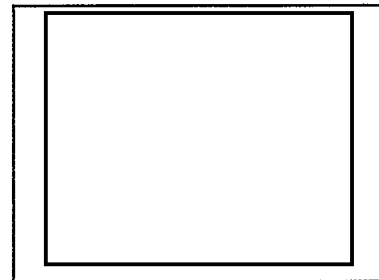
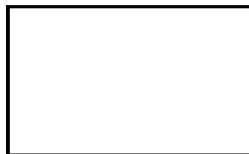
*do solemnly swear that I will support and defend the
Constitution of the United States against all enemies,
foreign and domestic; that I will bear true faith and
allegiance to the same; that I take this obligation
freely, without any mental reservation or purpose of
evasion; and that I will well and faithfully discharge
the duties of the office on which I am about to enter.
So help me GOD."*



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Now ... Investigate!



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Travel (yours)

Identify

Investigation

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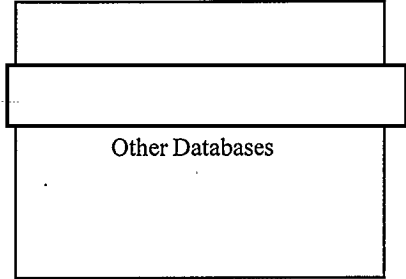
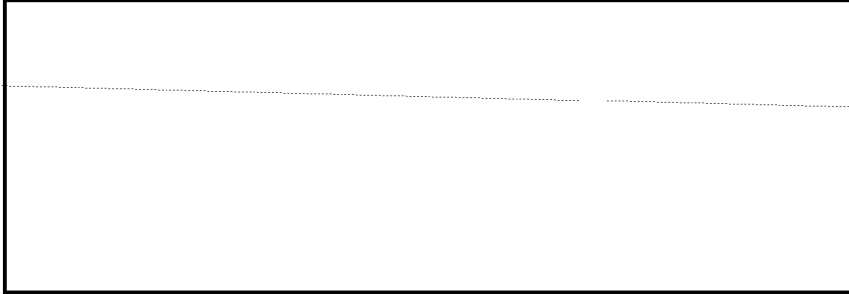
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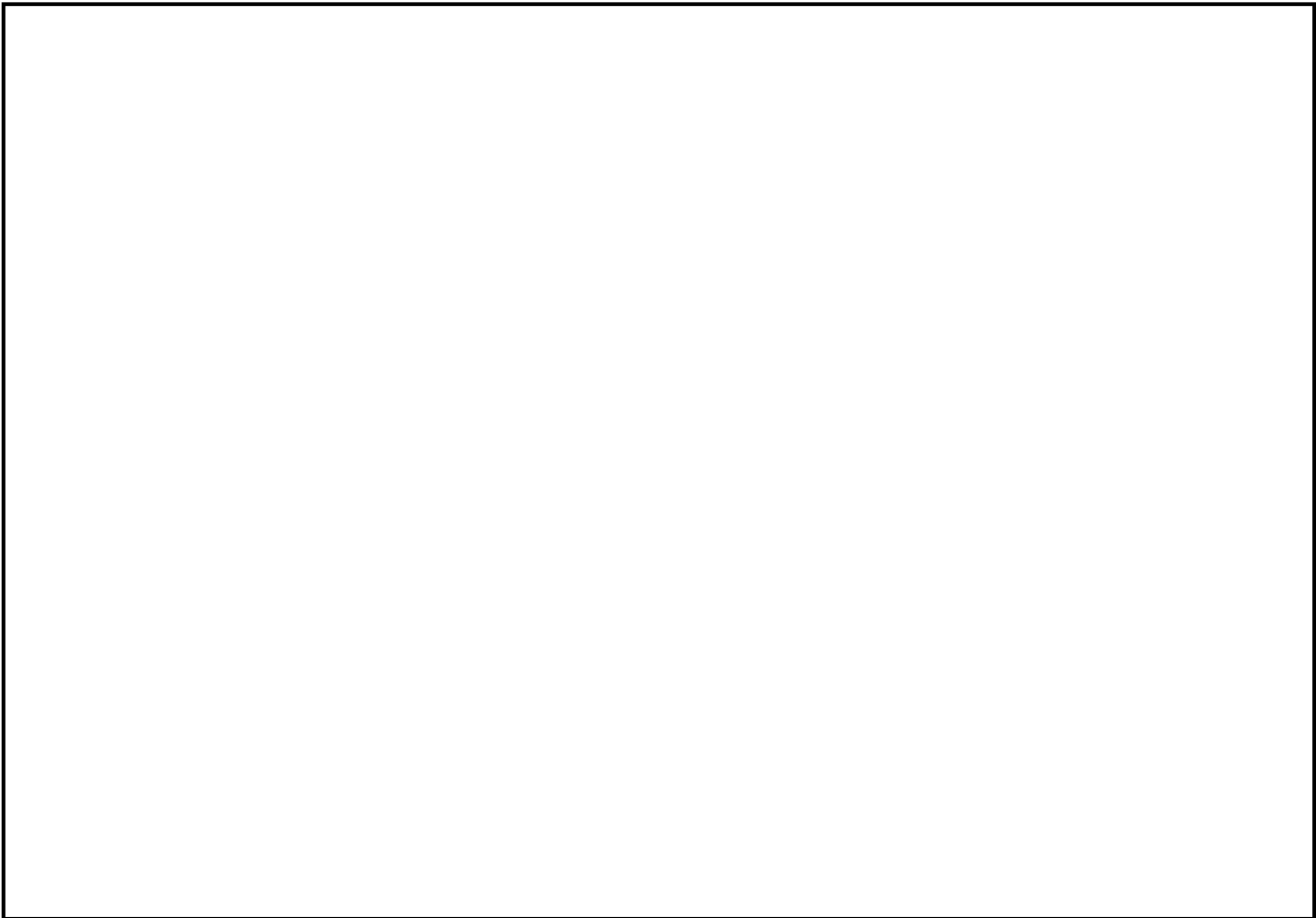
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What To Search	Planning the Search	Implementing the Search

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Things to Watch Out For	All Logical Investigation Complete No Outstanding Leads Now What?? Can We (should we) Arrest?	
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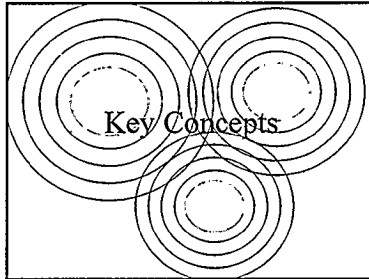
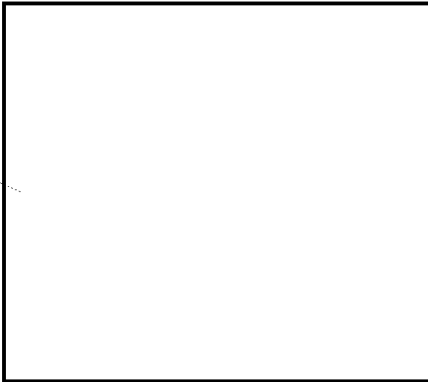
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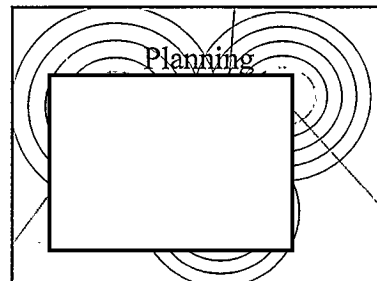
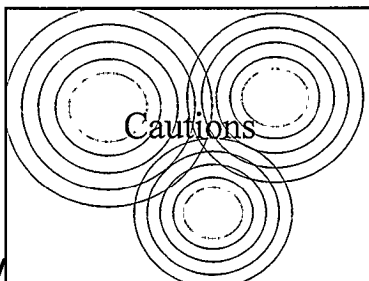
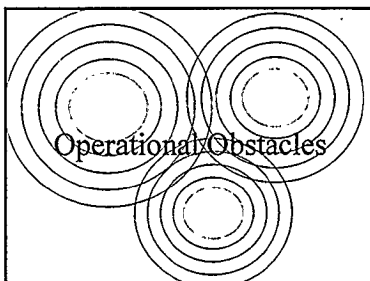
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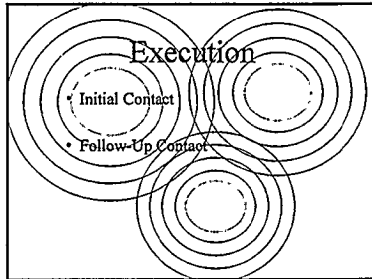


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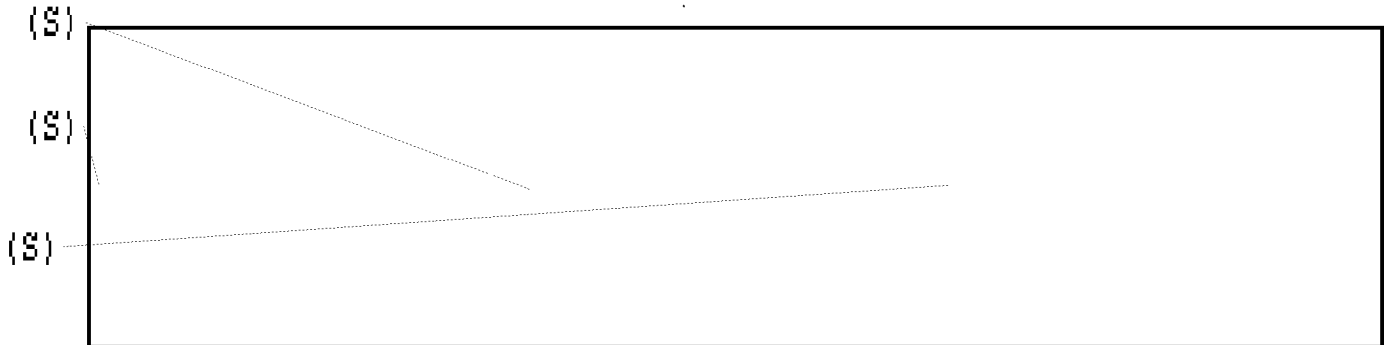


"I don't know why, but a lot of people seem to assume that . . . You know, the FBI is incompetent and everything, but it's amazing what they hear and what they know. I get to see some of the stuff that they're up to and I don't want to tangle with them in North America."

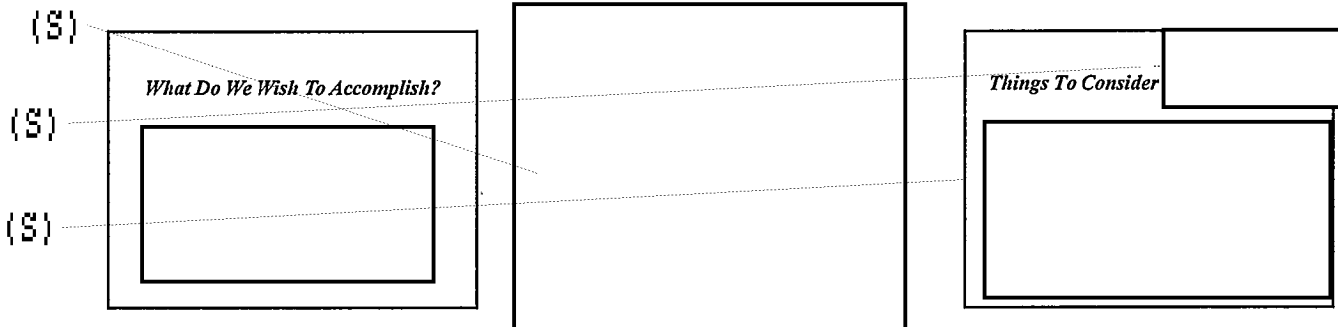
-Jean-Phillippe Wispelaere

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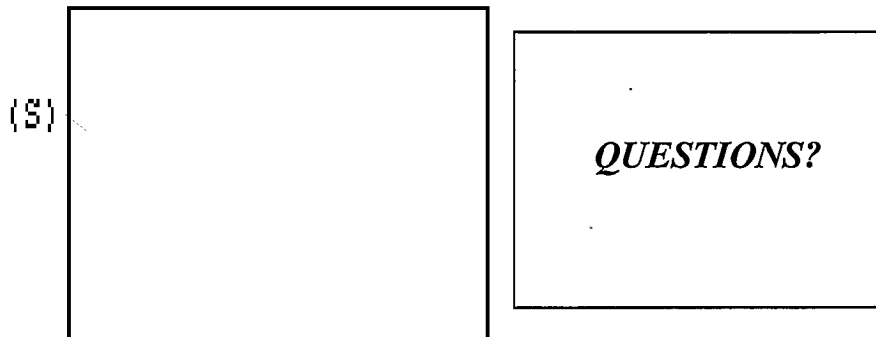
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Motives for Committing Espionage

(primary motives)

Clayton Lonetree

Loneliness and caught in a “honey trap.” The Russians exploited his loneliness and disassociation in the American Embassy in Moscow and facilitated a sexual relationship between Lonetree and a Soviet asset.

Earl Pitts

Revenge/Anger and Money. Pitts was angry at the FBI (FBIHQ) for not addressing the cost of living problems agents were experiencing in New York at the time he was assigned there (1987). This was before COLAs were established. Pitts saw the “revolving door” that the New York office was, unable to retain agents due to the high cost of living in New York. Pitts was angry at FBIHQ because in his view HQ knew what the problems were but they were unwilling to do anything about it (HQ was in the process of establishing COLAs but Pitts was unaware of this). Pitts acknowledges he was better off in New York than many as he had no children. He stated that the reason he committed espionage was because, in his opinion, the two things the Bureau held most dear were it’s secrets and it’s people. Therefore Pitts could embarrass the Bureau by betraying both it’s secrets and it’s people. When asked how his espionage would embarrass the Bureau had he not been caught, his answer was; it was good enough that he (Pitts) knew.

Pitts also had the perception he needed money to survive in New York. At one point he was forced to borrow money from his father which he states was extremely humiliating for him.

Aldrich Ames

Money. Ames maintained a lifestyle far above his means; e.g. expensive home and car, etc. Ames was also pushed by his wife (a co-conspirator) to keep her in a manner he could not afford.

Robert Hanssen

Ego/Money/Psychological Factors. Hanssen had a tremendous ego believing he was smarter than most other people, especially Bureau people. He also felt his knowledge and abilities were not utilized properly in the Bureau. He put six kids through parochial school and some through private universities. He could not afford this on his salary, thus “needed” money to support his family in the manner in which he chose to do. Hanssen was psychologically abused by his father, never being able to live up to his fathers expectations. This was a deep seeded issue for Hanssen. Through committing espionage he was able to stroke his own ego, feel like he one upped his father and provide (financially) for his family...Hanssen’s case is extremely complicated...this is simplistic overview.

Anna Montes

Ideology. Montes while having no particular tie to Cuba believed that the U.S. was a bully in many of it’s foreign policies and did not have the right to dictate policy to other countries. There are psychological issues here as well, as her father was a “bully” in her family and she deeply resented it. This was not so much ideology toward a particular country or government, but more against the “bully,” the U.S.

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ESPIONAGE

SUBJECT

INTERVIEWS

SUBJECT INTERVIEWS

☐ Goals of the interview

SUBJECT INTERVIEWS

☐ Goals of the Interview

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SUBJECT INTERVIEWS

☐ Goals of the Interview

SUBJECT INTERVIEWS

☐ Goals of the Interview

SUBJECT INTERVIEWS

☐ Goals of the Interview

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SUBJECT INTERVIEWS

☐ Goals of the Interview

SUBJECT INTERVIEWS

SUBJECT INTERVIEWS

Conducting the interview...

Not so fast there bucko...

What hasn't been done yet?

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SUBJECT INTERVIEWS

☐ Interview Preparation

> When and Who?

SUBJECT INTERVIEWS

☐ Interview Preparation

> Planning the interview

SUBJECT INTERVIEWS

☐ Interview Preparation

> Planning the interview

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SUBJECT INTERVIEWS

☐ Interview Preparation

☐ Planning the interview

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SUBJECT INTERVIEWS

☐ Interview Preparation

> Planning the interview

SUBJECT INTERVIEWS

☐ Interview Preparation

> Planning the interview

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And now...

*THE
INTERVIEW
PROCESS*

SUBJECT INTERVIEWS

☐ The Interview Process

SUBJECT INTERVIEWS

☐ The Interview Process

> Truisms

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7/20/2011

SUBJECT INTERVIEWS
☐ The Interview Process
 > Truisms (cont)

[Redacted]

SUBJECT INTERVIEWS
☐ The Interview Process

[Redacted]

SUBJECT INTERVIEWS
☐ The Interview Process

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SUBJECT INTERVIEWS
☐ The Interview Process

[Redacted]

SUBJECT INTERVIEWS
☐ The Interview Process

And now, similar but different...

*THE
INTERROGATION
PROCESS*

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SUBJECT INTERVIEWS

SUBJECT INTERVIEWS
☐ The Interrogation Process

SUBJECT INTERVIEWS
☐ The Interrogation Process

[Redacted]

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7/20/2011

<i>SUBJECT INTERVIEWS</i>	<i>SUBJECT INTERVIEWS</i>	<i>SUBJECT INTERVIEWS</i>
☐ The Interrogation Process	☐ The Interrogation Process	☐ The Interrogation Process

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<i>SUBJECT INTERVIEWS</i>		<i>SUBJECT INTERVIEWS</i>
☐ The Interrogation Process	<i>STRATEGIC MISTAKES IN ESPIONAGE INTERVIEWS</i>	☐ Strategic Mistakes

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<i>SUBJECT INTERVIEWS</i>	<i>SUBJECT INTERVIEWS</i>	
☐ Strategic Mistakes	☐ Strategic Mistakes	<i>TACTICAL MISTAKES IN ESPIONAGE INTERVIEWS</i>

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7/20/2011

<i>SUBJECT INTERVIEWS</i>	<i>SUBJECT INTERVIEWS</i>	<i>SUBJECT INTERVIEWS</i>
☐ Tactical Mistakes	☐ Tactical Mistakes	☐ Tactical Mistakes

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<i>SUBJECT INTERVIEWS</i>	<i>SUBJECT INTERVIEWS</i>	<i>SUBJECT INTERVIEWS</i>
☐ Tactical Mistakes	☐ Tactical Mistakes	☐ Tactical Mistakes

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<i>Questions?</i>

--

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ON 01-30-2012

Espionage Interviews

Goals

Preparation
When and Who

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Planning

Strategic Mistakes

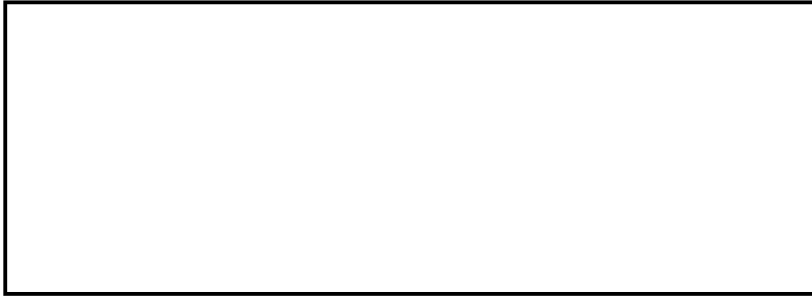
The Interview Process

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Truisms

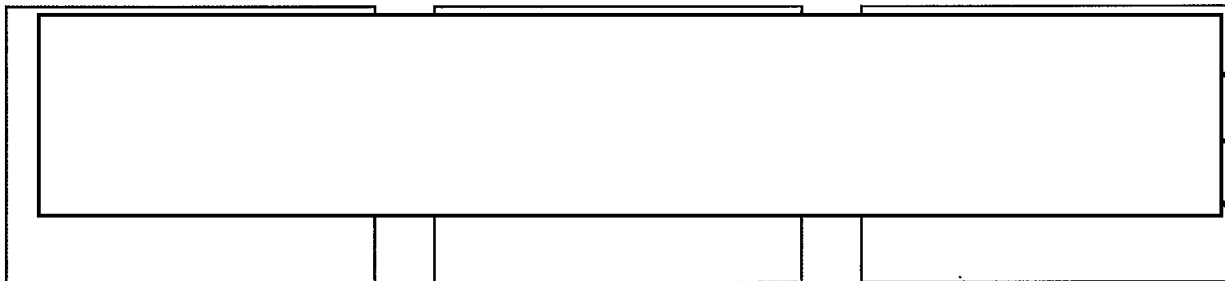
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The
Interrogation
Process

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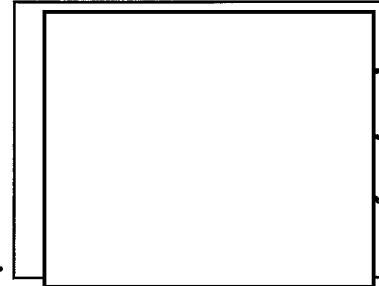
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Tactical Mistakes



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Key Questions
From the Subject

"..since I'll be doing my
time in a federal prison,
will it count toward my
retirement?"

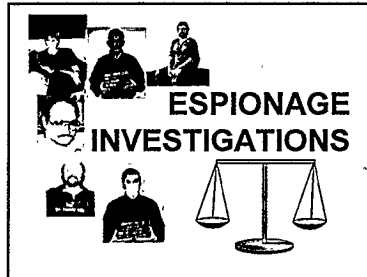


April 30, 1993

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Counterintelligence
Division
Counterintelligence
Training Center



ESPIONAGE

Espionage: The act or practice of spying or of using spies to obtain secret intelligence.

(Webster's II Dictionary)

ESPIONAGE STATUTES

18 USC 794 - Espionage Statute

- 1 Transmittal
- 2 National Defense Information
- 3 To an Agent of a Foreign Power
- 4 With Intent to Injure U.S. or Aid Foreign Power

50 USC 783 - Unauthorized Disclosure

- A "Filler" Statute
- 1 U.S. Government Employee
- 2 Who Knowingly Transmits
- 3 Classified Information
- 4 To a Foreign National

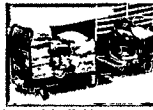


BRIAN PATRICK REGAN (NRO)

"We are here today to tell the full story of Brian Patrick Regan's betrayal of his country. We want you to see the magnitude of the damage this man was willing to inflict on his country and fellow citizens." US Attorney Paul McNulty



Former Air
Force
Intelligence
Officer
Life in
prison



20,000 pages of classified documents
Buried in 19 locations in Virginia and Maryland

ANNA BELAN MONTES (DIA)



- Born 1957, single (never married, no children)
- Oldest of four, siblings FBI employees
- US Citizen, Puerto Rican descent
- BS University of Virginia (1979)
- MS Johns Hopkins, SAIS (1984)
- Worked at DOJ, FOIPA (1979-85)
- Hired by Defense Intelligence Agency (DIA) in 1985

ROBERT P. HANSSEN (FBI)

Robert Hanssen

A 57 year old veteran FBI employee who received more than \$1.4 million in cash and jewels while spying for 17 years for the KGB/SVR. He pled guilty to 15 counts of espionage-related charges. Sentence: life



"ELLIS" Drop Site under a footbridge near Vienna, Virginia



Package dropped by Hanssen at the CIA drop site on 10/10/91

ROBERT P. HANSSEN (FBI)



Package recovered at the Lewis drop site containing \$20,000 cash left by Russians for Hanssen.

FBI PRESS RELEASE - February 20, 2001 -

Attorney General John Ashcroft, FBI Director Louis L. Ladd and United States Attorney John Edgar Hoover announced today that a veteran FBI counterintelligence agent was removed from duty by the FBI and charged with committing espionage by providing highly classified national security information to Russia and the former Soviet Union.

At the time of the arrest at a police station, Robert Philip Hanssen, age 56, was deliberately showing a pickup containing highly classified information in a prearranged, or "blind drop," site for pickup by the Russian spy. Hanssen had previously received a substantial amount of money from the Russians for information he had provided them.

WERE THEY BELIEVERS?

Jonathan Jay Pollard

Naval Intelligence
Service officer who
spied for Israel.
Spied for two years
1987: sentenced to life.



Teresa Squillacote

Pentagon Attorney
Spied for East
Germans and Russia
Sentence: 22 years
Motivation: Ideology

Kurt Stand Recruited Squillacote, Clark
Sentenced in 1999 to 17 years in prison
Convicted with wife of conspiracy to commit
espionage, attempted espionage and illegally
obtaining national defense information



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DAVID SHELDON BOONE (NSA)

David Sheldon Boone
 Spied from 1988 to 1991 for the Soviet Union
 Former Army Signal Intelligence Officer
 Paid: \$50,000
 1999. Pleaded guilty to conspiracy;
 sentenced to 24 years, 4 months




David Boone

EDWIN EARL PITTS (FBI)

Earl Edwin Pitts
 Spied for Russians
 from 1987 - 1992
 Sentence: 27 years

Among the things
 he gave up: a list of
 individuals spying
 against the
 Russians for the
 United States

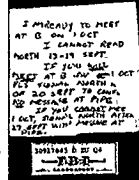



Aldrich Hazen Ames (CIA)




Aldrich Ames
 and wife
 CIA Veteran
 KGB-Soviet spy from
 1965 to 1994
 Paid up to \$2.5 million
 Sentenced to life

Ames signal to KGB that
 the drop was ready



Ames note from Ames' trash
 The first evidence of espionage

The WALKER Spy Ring (USN)

FAMILY OF SPIES

John Walker
 US Navy Veteran
 KGB Spy - 1968-1985
 Provided Crypto Information
 Paid Approximately \$1 million
 Sentenced to Life in Prison






John Walker Demos
 a Minor B Camera



KGB Photo of Walker's Drop Site

TYPES OF SPIES

spy - Ronald Pelton
 spy - Jonathan Pollard
 spy - Robert Hanssen
 spy - Brian Regan
 spy - Richard Miller





A FEW OTHER SPIES

Where are spies found?
 Everywhere

- Peter H. Lee
- [Redacted]
- Aluru J. Prasad
- [Redacted]

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A FEW OTHER SPIES

Where are spies found?
 Everywhere

- Douglas Tsou
- Hou Desheng



ECONOMIC ESPIONAGE ACT

- The Economic Espionage Act of 1996 (18 USC section 1832): any person or organization who knowingly steals or destroys any trade secrets with intent to (a) economically benefit anyone other than the owner; and (b) injure the owner of the trade secret.

includes civil relief and forfeiture

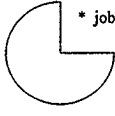


For example

WHY A NEW LAW?

The cost to the US, its corporations and its residents:

- * business loss
- * jobs
- * tax revenue
- * market share
- * trade balance




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STATUTE SPECIFICS

- Extends the definition of “goods, wares or merchandise” to include “proprietary economic information” owned by a company
- Allows intelligence investigations when foreign intelligence services are using tradition methods to gather proprietary information, not just classified government information

FOUR PILLARS and OTHER CASES

- Dr. Ten Hong Lee, Pin Yen Yang and his daughter Sally Hwei Chen Yang and Four Pillars Enterprises of Texas and Taiwan
- Three arrested in September 1997 and charged with stealing trade secrets
- Avery-Dennison's estimated its damages at \$50 to 60 million.

WHY A NEW LAW?

Let's revisit this question of why a new law, and look to the words of what is considered a friendly country?

There is but one evil I dread, and that is, their spies – George Washington

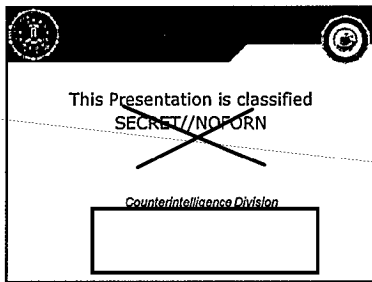
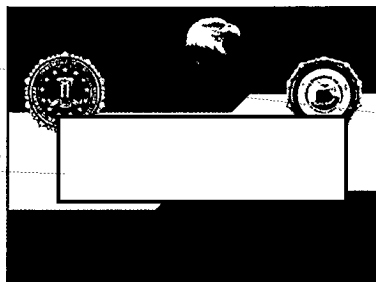
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Why are we here?

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Threat Assessment

Intelligence Goals

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Intelligence Goals

Intelligence Methods

Intelligence Methods

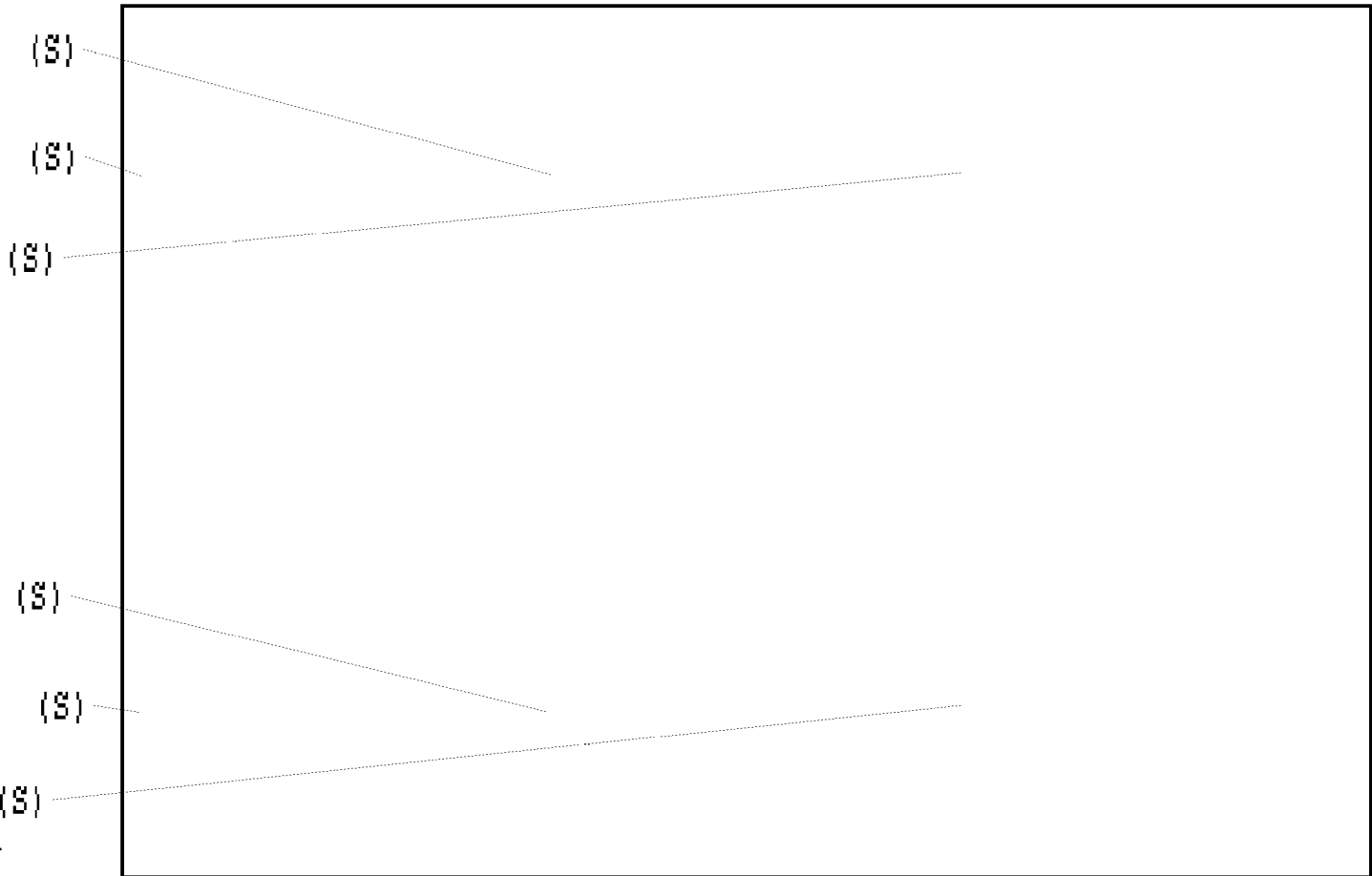
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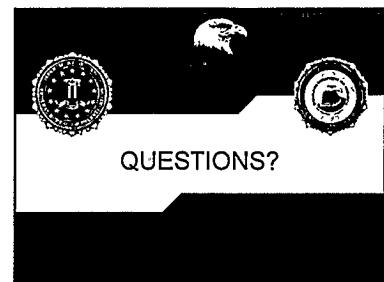
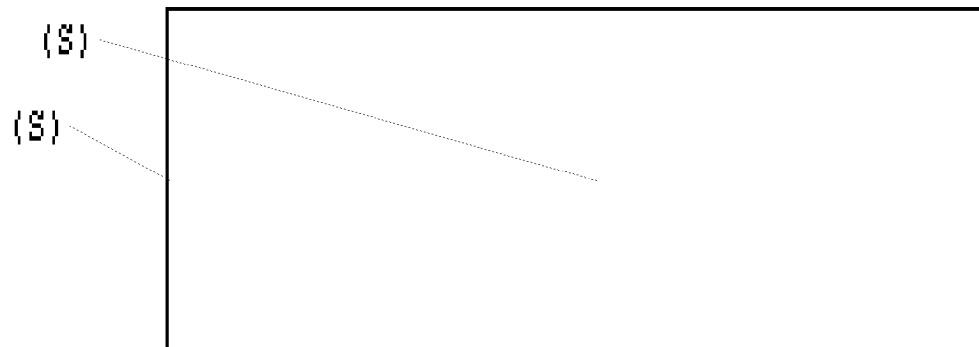
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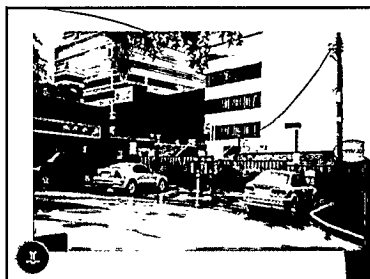
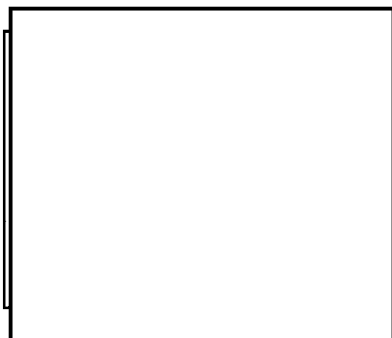
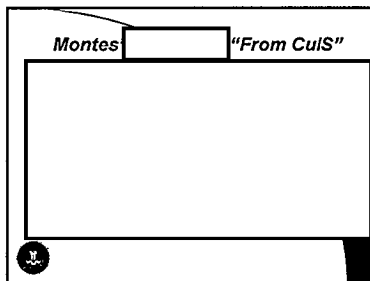
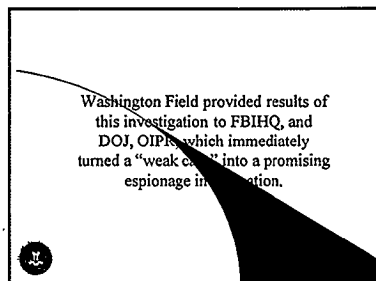


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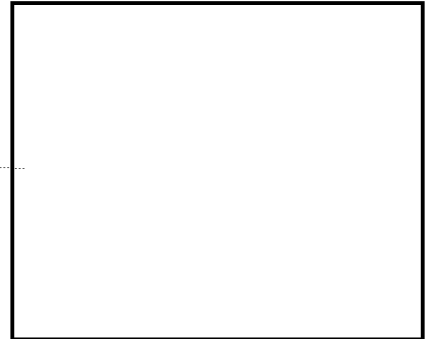
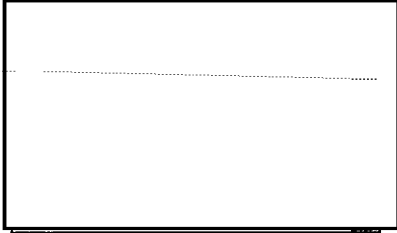


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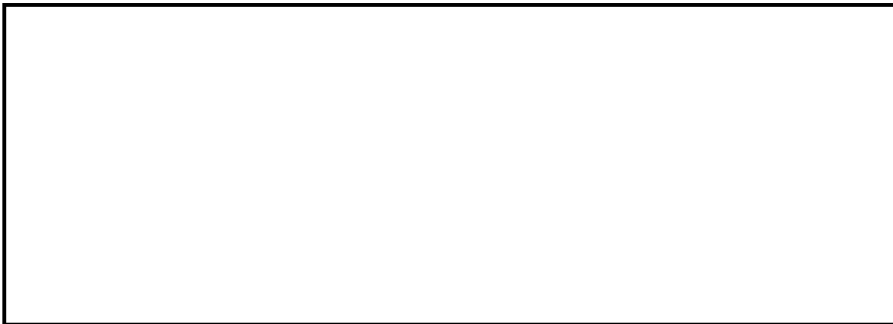
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Montes [redacted] "To CulS"

(S)

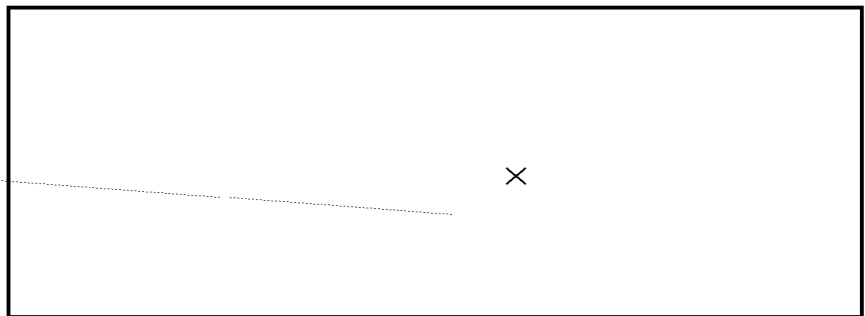
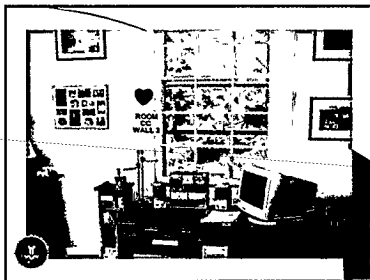


b1
b7E



b7E

(S)



b1
b7E

~~SECRET~~

ACLURM043646

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~~SECRET~~

Building an Espionage Case



From "A to Z"

The presentation is classified "SECRET" in its entirety

Threat Assessment

or

Preliminary Investigation?

Threat Assessment

b7E

b7E

~~SECRET~~

ACLURM043647

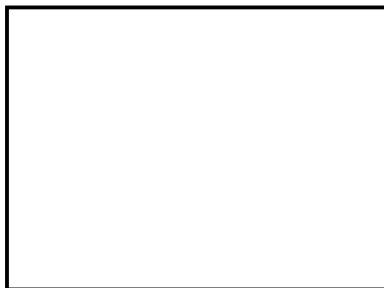
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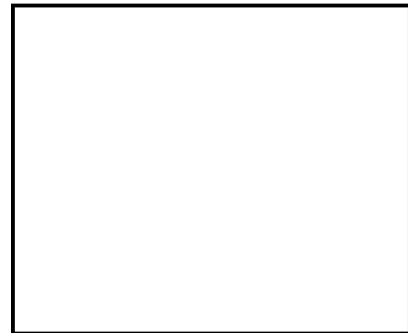
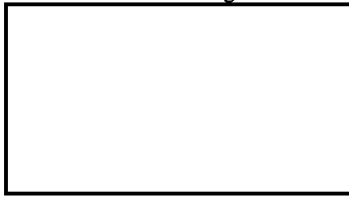
b7E



b7E



Now ... Investigate!



b7E

ACLURM043648

~~SECRET~~

~~SECRET~~

(S)

(S)

b1
b7E

Travel (yours)

Identify

b7E

Investigation

b7E

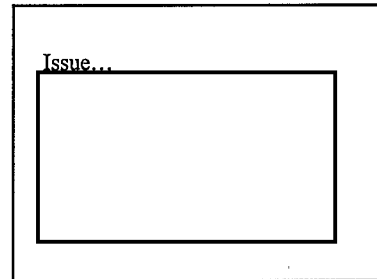
~~SECRET~~
ACLU/M 0418649

~~SECRET~~

(S)



b1
b7E



b7E

(S)



b1
b7E

~~SECRET~~

ACLURM043850

~~SECRET~~

What To Search	Planning the Search	Implementing the Search

b7E

Things to Watch Out For	All Logical Investigation Complete No Outstanding Leads Now What??	

b1
b7E

(S)

Tomorrow	
----------	--

(S)

b1
b7E

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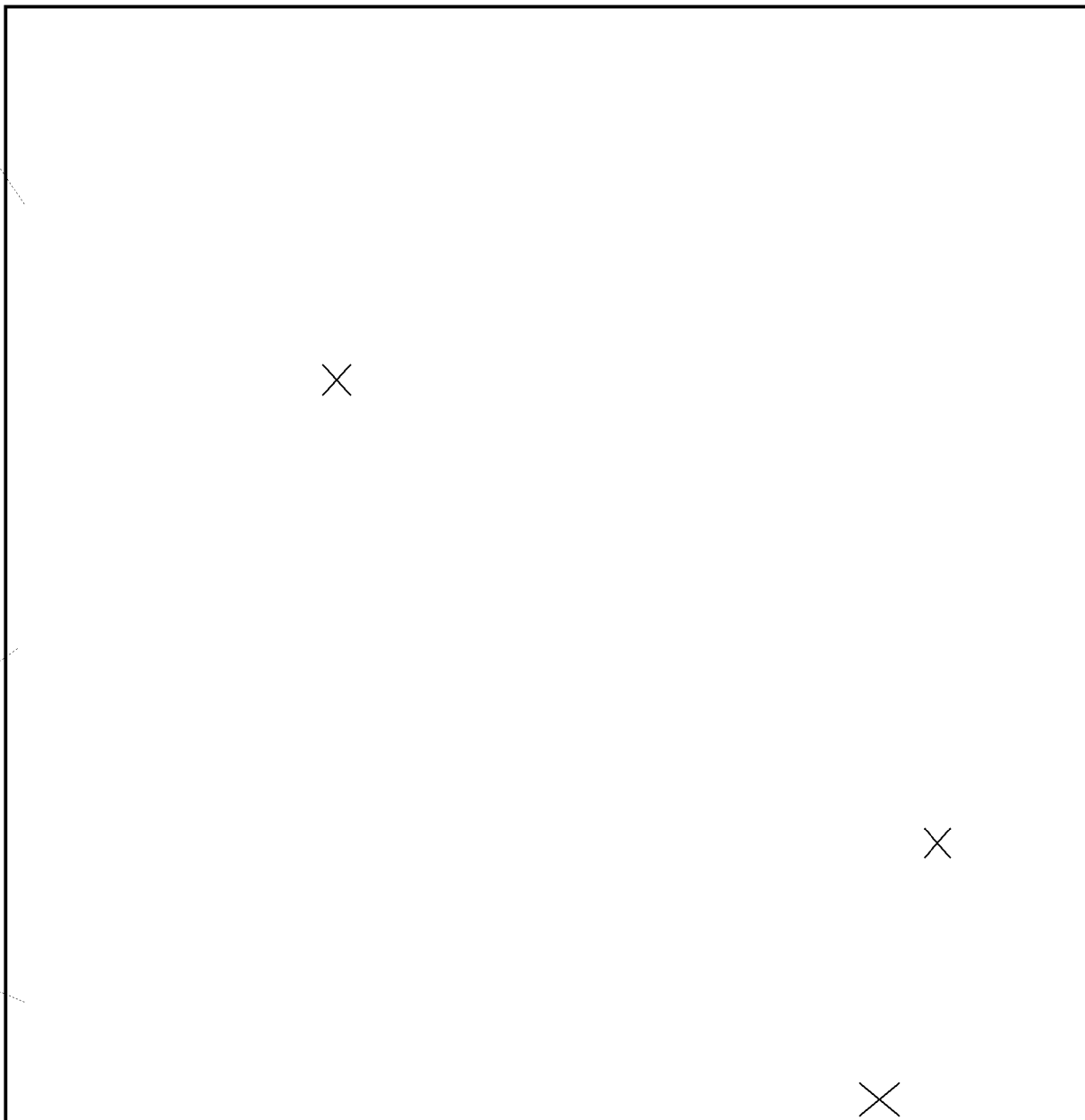
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~~SECRET//ORCON, NOFORN~~

Means of Effecting Various Forms of Electronic Surveillance and Physical Searches (U)

These descriptions were filed with the FISA Court on June 13, 2005 and will be incorporated by reference in applications filed after June 15, 2005.

Electronic surveillances:



b1
b7E

Derived from: ~~Submission to the FISA Court filed on June 13, 2005: IN RE CERTAIN FBI APPLICATIONS FOR ELECTRONIC SURVEILLANCE AND PHYSICAL SEARCH FILED AFTER JUNE 15, 2005.~~

~~Declassify on: Source marked X1~~

~~SECRET~~

~~SECRET//ORCON, NOFORN~~

ACLURM043652

~~SECRET//ORCON, NOFORN//X1~~

(S)

X

X

X

X

b1
b7E

Electronic surveillance in conjunction with physical search:

(S)

~~SECRET//ORCON, NOFORN~~

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Espionage "A-Z"

June 24 - 27, 2003

Tuesday 6/24

8:00am - 11:30am Welcome
 Administrative matters (secure space and Quantico rules)
 Objectives of Espionage Investigations
 Elements of the Crime
 Satisfying the Elements of the Crime
 Intelligence Authorization Acts (where cases come from)
 Reporting Requirements on Espionage Cases

11:30am - 1:00pm Lunch

1:00pm - 5:00pm Building an Espionage Case Practicum "A to Z"

Wednesday 6/25

8:00am - 11:30am Building an Espionage Case Practicum "A to Z" (cont.)

11:30am - 1:00pm Lunch

(S) 1:00pm - 5:00pm Robert Hanssen Presentation

[REDACTED]
Espionage subject interviews

b1
b6
b7C
b7E

Thursday 6/26

(S) 8:00am - 11:30am [REDACTED] Report presentation

[REDACTED]
BAP

11:30am - 1:00pm Lunch

1:00pm - 5:00pm Pitts Presentation

Friday 6/27

8:00am - 12:00pm DOJ (OIPR, CES), NSLU roundtable
 Discussion and wrap-up

ACLURM043054

~~SECRET~~

FBI042554

~~SECRET~~

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ESPIONAGE "A-Z"

September 22-26, 2003

Monday 9/22

8:00am - 12:00pm

Welcome/Administrative Matters (secure space/Quantico rules)
Welcome [redacted] (issues)
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime

b7E

1:00pm - 5:00pm

Intelligence Authorization Acts (where cases come from)
Reporting Requirements on Espionage Cases
Behavioral Analysis Program (BAP)
Brian Regan Espionage Case Presentation

Tuesday 9/23

8:00am - 5:00pm

Building an Espionage Case Practicum "A - Z"

Wednesday 9/24

(S) 8:00am - 12:00pm

[redacted]
Economic Espionage

b1
b7E

(S) 1:00pm - 5:00pm

[redacted]
Robert Hanssen Espionage Case Presentation

Thursday 9/25

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

[redacted] Report Findings on the [redacted] Investigation
Earl Pitts Espionage Case Presentation

b6
b7C

Friday 9/26

8:00am - 9:45am

DOJ (CES/OIPR) and NSLB

9:45am

Dismissal

~~SECRET~~
ACLU RM043655

FBI042555

~~SECRET~~

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ESPIONAGE "A-Z"

November 17 - 21, 2003

Monday 11/17

8:00am - 12:00pm

Welcome/Administrative Matters (secure space/Quantico rules)
Welcome [] (issues)
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime

(S)

1:00pm - 5:00pm

[]
Ana Montes Espionage Case Presentation (Case Agent [])

b1
b6
b7C
b7E

Tuesday 11/18

8:00am - 5:00pm

Building an Espionage Case Practicum "A - Z"

Wednesday 11/19

8:00am - 12:00pm

Economic Espionage

(S)

1:00pm - 5:00pm

[]
Robert Hanssen Espionage Case Presentation (Case Agent [])

b1
b6
b7C
b7E

Pluta)

Thursday 11/20

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Espionage Case Presentation (Case Agent [])

b6
b7C

Friday 11/21

8:00am - 9:45am

DOJ (CES/OIPR) and NSLB

9:45am

Dismissal

~~SECRET~~
ACLUR 1043656

FBI042556

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ESPIONAGE "A-Z"

March 8-12, 2004

Monday 3/8

8:00am - 12:00pm

Welcome/Administrative Matters
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime
Phases of an Espionage Investigation

(S)

1:00pm - 5:00pm

[REDACTED]
Ana Montes Espionage Case Presentation (Case Agent [REDACTED])

b1
b6
b7C
b7E

Tuesday 3/9

8:00am - 5:00pm

Building an Espionage Case Practicum "A - Z"

Wednesday 3/10

8:00am - 12:00pm

[REDACTED] and the [REDACTED] Report
Economic Espionage

b1
b6
b7C
b7E

(S)

1:00pm - 5:00pm

[REDACTED]
Robert Hanssen Espionage Case Presentation (Case Agent [REDACTED])

Pluta)

Thursday 3/11

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Espionage Case Presentation (Case Agent [REDACTED])

b6
b7C

Friday 3/12

8:00am - 9:30am

Counterespionage Issues [REDACTED]

9:45am

Dismissal

b7E

~~SECRET~~

FBI042557

~~SECRET~~

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ESPIONAGE

"A-Z"

(September 13 - 17, 2004)

Monday 9/13

8:00am - 12:00pm

Welcome/Administrative Matters
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Psychology of Espionage ("what were they thinking?")
Brian Regan Case Presentation

Tuesday 9/14

(S)

8:00am - 9:00pm
9:00am - 5:00pm

[REDACTED]
Building an Espionage Case "A-Z"

b1
b7E

Wednesday 9/15

8:00am - 12:00pm

(S)

1:00pm - 5:00pm

[REDACTED] and the [REDACTED] Report
[REDACTED]
Ana Montes Case Presentation

b1
b6
b7C
b7E

Thursday 9/16

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Espionage Case Presentation

Friday 9/17

8:00am - 9:00am
9:00am - 10:30am

Administrative Issues
Counterespionage Issues, Acting Section Chief, [REDACTED]

b7E

ACLURM04656
~~SECRET~~

FBI042558

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ESPIONAGE "A-Z"

(March 29 - April 1, 2005)

Tuesday 3/29

8:00am - 12:00pm

Welcome/Administrative Matters
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime

(S)

1:00pm - 5:00pm

Building an Espionage Case "A-Z" (part I)

b1
b7E

Wednesday 3/30

8:00am - 12:00pm

Building an Espionage Case "A - Z" (part II)

(S)

1:00pm - 5:00pm

Ana Montes Case Presentation

b1
b7E

Thursday 3/31

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

Friday 4/1

8:00am - 12:00pm

Current Espionage Matters
Administrative Matters

b7E

ACLURM043058

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FBI042559

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ESPIONAGE

"A-Z"

(May 23-27, 2005)

Monday 5/23

8:00am - 12:00pm

Welcome/Administrative Matters
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Psychology of Espionage ("what were they thinking?")
Robert Hanssen Case Presentation

Tuesday 5/24

(S) 8:00am - 5:00pm

Building an Espionage Case "A-Z"

b1
b7E

Wednesday 5/25

8:00am - 12:00pm

DOJ (Counterespionage Section)

(S) 1:00pm - 5:00pm

Ana Montes Case Presentation

b1
b7E

Thursday 5/26

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

Friday 5/27

8:00am - 9:30am

Counterespionage Issue

9:30am - 5:00pm

Administrative Issues

b7E

~~SECRET~~

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ESPIONAGE

"A-Z"

(September 26-30, 2005)

Monday 9/26

8:00am - 11:45am

Welcome/Administrative Matters
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime

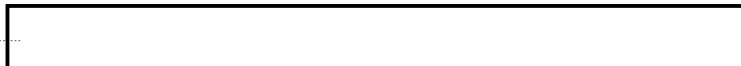
12:45pm - 5:00pm

Psychology of Espionage ("what were they thinking?")
Ana Montes Case Presentation

Tuesday 9/27

(S)

8:00am - 5:00pm



b1
b7E

Building an Espionage Case "A-Z"

Wednesday 9/28

8:00am - 12:00pm

DOJ (Counterespionage Section)

(S)

1:00pm - 5:00pm



b1
b7E

Brian Regan Case Presentation

Thursday 9/29

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

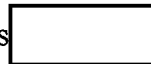
Friday 9/30

8:00am - 9:30am

Counterespionage Issues

9:30am - 5:00pm

Administrative Issues



b7E

~~SECRET~~

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ESPIONAGE

"A-Z"

(October 31 - November 4, 2005)

Monday 10/31

8:00am - 12:00pm

Welcome/Administrative Matters
Objectives of Espionage Investigations
Elements of the Crime
Satisfying the Elements of the Crime

b7E

1:00pm - 5:00pm

Psychology of Espionage ("what were they thinking?")

b1
b7E

Tuesday 11/01

8:00am - 5:00pm

Building an Espionage Case "A-Z"
Robert Hanssen Case Presentation

(S)

Wednesday 11/02

8:00am - 12:00pm

DOI (Counterespionage Section)

b1
b7E

1:00pm - 5:00pm

Ana Montes Case Presentation

(S)

Thursday 11/03

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

Friday 11/04

8:00am - 9:30am

Counterespionage Issues,
Administrative Issues

9:30am - 5:00pm

ACLU RM 043062
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FBI042562

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ESPIONAGE

"A-Z"

(March 13 - 17, 2006)

Monday 3/13

8:00am - 12:00pm

Welcome/Administrative Matters
Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Ana Montes Case Presentation
Psychology of Espionage ("What were they thinking?")

Tuesday 3/14

8:00am - 5:00pm

Counterespionage Section (DOJ)
Building an Espionage Case "A-Z"

Wednesday 3/15

8:00am - 12:00pm

Report of Contact/Statement Analysis Practicum

(S)

1:00pm - 5:00pm



b1
b7E

Thursday 3/16

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

Friday 3/17

8:00am - 9:30am

Counterespionage Issues, 

9:30am - 5:00pm

Administrative Issues

b7E

ACLURM04368

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FBI042563

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ESPIONAGE

"A-Z"

(November 13 - 17, 2006)

Monday 11/13

8:00am - 12:00pm

Welcome
Elements of the Crime
Satisfying the Elements of the Crime
Administrative Matters

1:00pm - 5:00pm

Clayton Lonetree Recruitment Case Study
Brian Regan Case Presentation

Tuesday 11/14

8:00am - 3:00pm

Building an Espionage Case "A-Z"

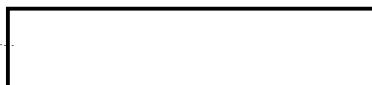
3:00pm - 5:00pm

Ronald Montaperto Case Presentation

(S)

Wednesday 11/15

8:00am - 12:00pm



b1
b7E

1:00pm - 5:00pm

William Kampiles Statement Analysis Practicum
Ana Montes Case Presentation

Thursday 11/16

8:00am - 5:00pm

Espionage Subject Interviews
Earl Pitts Case Study

Friday 11/17

8:00am - 5:00pm

Finale

~~SECRET~~
ACLURM043801

FBI042564

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ESPIONAGE

"A-Z"

(February 5 - 9, 2007)

Monday 2/5

8:00am - 12:00pm

Welcome
Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Brian Regan Case Presentation
Clayton Lonetree Recruitment Case Study

Tuesday 2/6

8:00am - 3:00pm

Building an Espionage Case "A-Z"

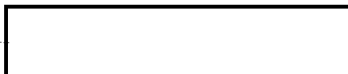
3:00pm - 5:00pm

Ronald Montaperto Case Presentation

(S)

Wednesday 2/7

8:00am - 12:00pm



b1
b7E

1:00pm - 5:00pm

Ana Montes Case Presentation
William Kampiles Statement Analysis Practicum

Thursday 2/8

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Study

Friday 2/9

8:00am - 5:00pm

Finale

ACLU/HRM/03065
~~SECRET~~

FBI042565

~~SECRET~~

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ESPIONAGE

"A-Z"

(October 22-26, 2007)

Monday 10/22

8:00am - 12:00pm

Welcome
Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Psychology of Espionage
Ann Montes Case Presentation

Tuesday 10/23

8:00am - 3:00pm

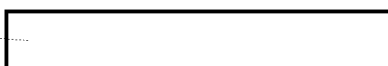
Building an Espionage Case "A-Z"

3:00pm - 5:00pm

Ronald Montaperto Case Presentation

(S) **Wednesday 10/24**

8:00am - 12:00pm



b1
b7E

1:00pm - 5:00pm

Brian Regan Case Presentation
Statement Analysis

Thursday 10/25

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Study

Friday 10/26

8:00am - 5:00pm

Closing Remarks by Clayt Lemme  Section Chief
Finale

b7E

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ESPIONAGE

"A-Z"

(December 10-14, 2007)

Monday 12/10

8:00am - 12:00pm

Welcome
Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Psychology of Espionage
Ann Montes Case Presentation

Tuesday 12/11

8:00am - 3:00pm

Building an Espionage Case "A-Z"

3:00pm - 5:00pm

Robert Hanssen Case Presentation

Wednesday 12/12

8:00am - 12:00pm

(S)



b1
b7E

1:00pm - 5:00pm

Brian Regan Case Presentation
Statement Analysis

Thursday 12/13

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Study

Friday 12/14

8:00am - 5:00pm

Closing Remarks by 
Finale

b7E

ACLJRM013667

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ESPIONAGE

"A-Z"

(March 31, 2008 - April 4, 2008)

Monday 3/31

9:00am - 12:00pm

Elements of the Crime
Satisfying the Elements of the Crime

1:30pm - 5:00pm

Case Presentation
Psychology of Espionage

b6
b7C

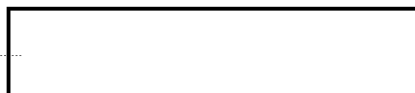
Tuesday 4/1

9:00am - 5:00pm

Building an Espionage Case "A-Z"

Wednesday 4/2

(S) 9:00am - 12:00pm



b1
b7E

1:30pm - 5:00pm

Brian Regan Case Presentation

Thursday 4/3

9:00am - 12:00pm

Espionage Subject Interviews

1:30pm - 5:00pm

Earl Pitts Case Presentation

b6
b7C

Friday 4/4

8:00am - 12:00pm

Case Presentation

Instructors



b6
b7C

ACLU 01/04/2008
~~SECRET~~

FBI042568

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE



ESPIONAGE

"A-Z"

(April 28, 2009 - May 1, 2009)

Tuesday 4/28

9:00am - 12:00pm

Elements of the Crime
Satisfying the Elements of the Crime

1:30pm - 5:00pm

Psychology of Espionage
Brian Regan Case Presentation

Wednesday 4/29

9:00am - 3:00pm

Building an Espionage Case "A-Z"

3:00pm - 5:00pm

Ronald Montaperto Case Presentation

Thursday 4/30

9:00am - 12:00pm

Statement Analysis

(S)

1:00pm - 5:00pm



b1
b7E

Friday 5/1

9:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

~~SECRET~~

FBI042569

~~SECRET~~

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ESPIONAGE

"A-Z"

(July 13 -16, 2009)

Monday 7/13

9:00am - 12:00pm

Elements of the Crime
Satisfying the Elements of the Crime

1:30pm - 5:00pm

Psychology of Espionage
Brian Regan Case Presentation

Tuesday 7/14

9:00am - 2:00pm

Building an Espionage Case "A-Z"

2:00pm - 5:00pm

Case Presentation

b6
b7C

(S)

Wednesday 7/15

9:00am - 2:00pm

b1
b7E

2:00pm - 5:00pm

Ana Montes Case Presentation

Thursday 7/16

9:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

~~SECRET~~

DATE: 01-30-2012
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ESPIONAGE

"A-Z"

(August 3 - 7, 2009)

Monday 8/3

8:00am - 12:00pm

Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Statement Analysis
Robert Hanssen Case Presentation

Tuesday 8/4

8:00am - 5:00pm

Building an Espionage Case "A-Z"
Brian Regan Case Presentation

Wednesday 8/5

8:00am - 12:00pm

(S)



b1
b7E

1:00pm - 5:00pm

Psychology of Espionage
Economic Espionage
Ana Montes Case Presentation

Thursday 8/6

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

Friday 8/7

8:00am - 10:00pm



FBIHQ

b7E

ACLU RM 043671

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FBI042571

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HEREIN IS UNCLASSIFIED EXCEPT
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ESPIONAGE

"A-Z"

(December 14-18, 2009)

Monday 12/14

8:00am - 12:00pm

Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Psychology of Espionage
Economic Espionage
Ana Montes Case Presentation

Tuesday 12/15

8:00am - 5:00pm

Building an Espionage Case "A-Z"
Brian Regan Case Presentation

(S)

Wednesday 12/16

8:00am - 12:00pm



b1
b7E

1:00pm - 5:00pm

Statement Analysis
Jean-Philippe Wispelaere Case Presentation

Thursday 12/17

8:00am - 12:00pm

Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

Friday 12/18

8:00am - 10:00pm



FBIHQ) Presentation

b7E

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FBI042572

DATE: 01-30-2012
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ESPIONAGE

"A-Z"

(February 22 -26, 2010)

Monday 2/22

8:00am - 12:00pm

Elements of the Crime
Satisfying the Elements of the Crime

1:00pm - 5:00pm

Psychology of Espionage
Jean-Philippe Wispelaere Case Presentation

Tuesday 2/23

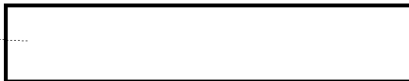
8:00am - 5:00pm

Building an Espionage Case "A-Z"
Brian Regan Case Presentation

Wednesday 2/24

8:00am - 12:00pm

(S)



b1
b7E

1:00pm - 5:00pm

Economic Espionage
Ana Montes Case Presentation

Thursday 2/25

8:00am - 12:00pm

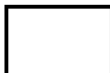
Espionage Subject Interviews

1:00pm - 5:00pm

Earl Pitts Case Presentation

Friday 2/26

8:00am - 10:00pm



(FBIHQ) Presentation

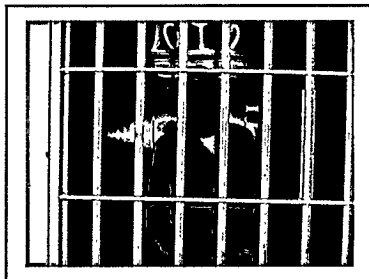
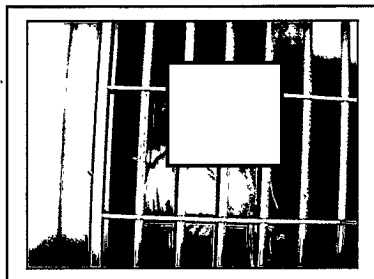
b7E

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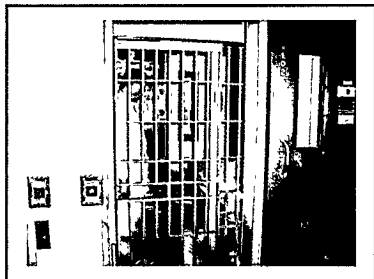
ACLURM043673

FBI042573

7/20/2011



b6
b7C

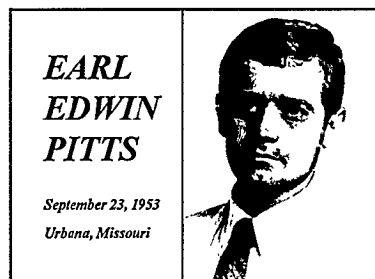
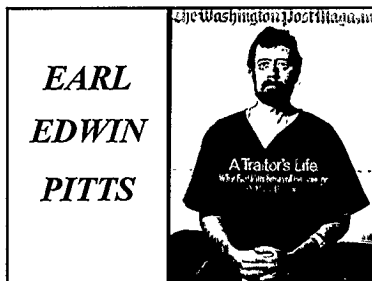


DATE: 01-30-2012
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REASON: 1.4 (c)
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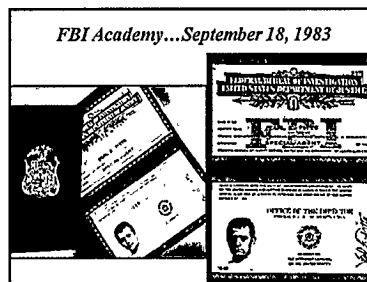
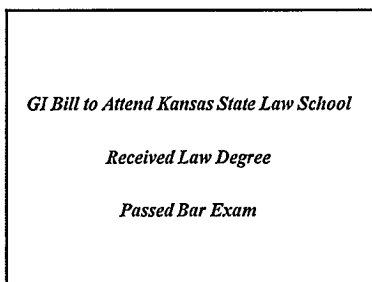
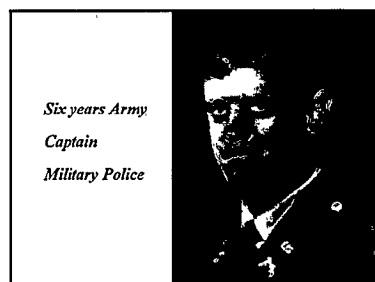
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b6
b7C



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ACLURM043675

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7/20/2011

Earl's Bureau Postings

- Alexandria Division.....1/84 - 3/85
- Fredericksburg RA.....3/85 - 12/86
- New York Division.....1/87 - 8/89
- FBIHQ (three positions)...8/89 - 1/95
- FBI Academy.....1/95 - 12/18/96

Federal Prison System...12/18/96 - 6/26/2020

Small three bedroom home in Fredericksburg



*Life is Sweet!
For Now!!*



PREDICATION FOR INVESTIGATION



**ALDRICH
HAZEN
AMES**

*Born: June 26, 1941
Arrested: Feb. 21, 1994
Sentence: Life*



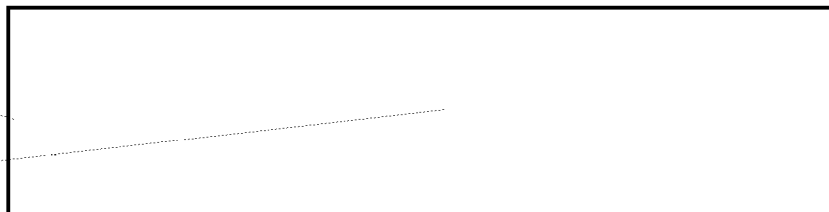
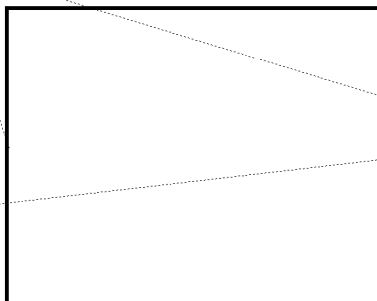
AMES DEBRIEFINGS

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b7E

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(S)

(S)



b1
b7E

• New York opened investigation

EARL PITTS

~~SECRET~~

ACLURM043676

7/20/2011

(S)

[Redacted]

• Full investigation opened on Earl Edwin
Pitts, April 29, 1994

[Redacted]

b1
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[Redacted]

[Redacted]

b1
b6
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INVESTIGATION

[Redacted]

Pitts Sent a Letter

[Redacted]

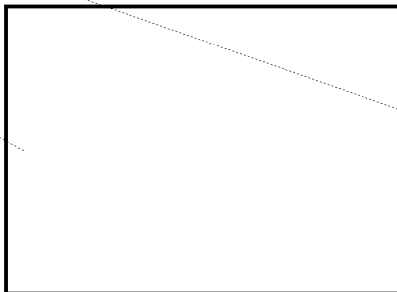
[Redacted]

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7/20/2011

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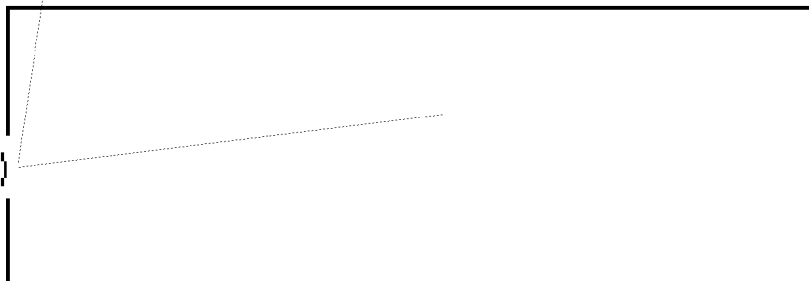


First meet
New York
Public
Library
ca. 8/1987

[Redacted]
Pitts was [Redacted]
from 1987-1989
[Redacted]

b1
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b7E

(S)



b1
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b7C
b7E

(S)



b6
b7C
b7E

~~SECRET~~

7/20/2011

INVESTIGATION

What did we learn?

Where do we go from here?

INVESTIGATION

b7E

INVESTIGATION

INVESTIGATION

INVESTIGATION

b6
b7C
b7E

SO NOW WHAT?

DO WE INTERVIEW PITTS?

b7E

(S)

b1
b7E

~~SECRET~~

7/20/2011

(S)

INITIAL CONTACT

b1
b6
b7C
b7E

(S)

NOW WHAT DO WE DO?



AT THE DOOR

b1
b6
b7C
b7E



b6
b7C

ACLURM043600
~~SECRET~~

7/20/2011

AT THE BATTLEFIELD

Pitts agrees to work

Given an envelope with a letter

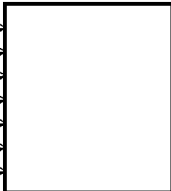
\$15,000 cash

Instructions for the next drop



CHRONOLOGY

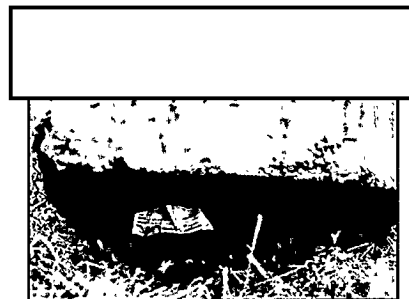
✓	. not good!
✓	. good!
✓	. bad!
✓	. very good!!
✓	. very bad!!
✓	. excellent!!!
✓	. horrendous!!!



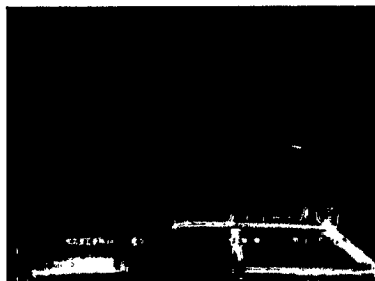
REMEMBER 



b6
b7C
b7E



b7E



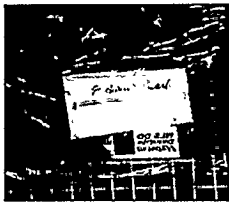
video of Pitts marking
Signal

PITTS' LETTER TO THE SVR

7/13/25



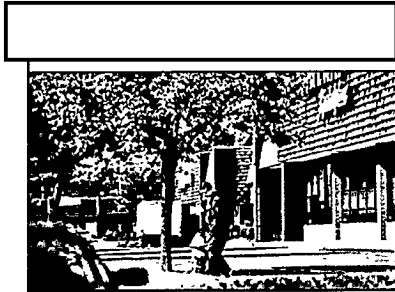
NO BAIL FOR EARL!



b6
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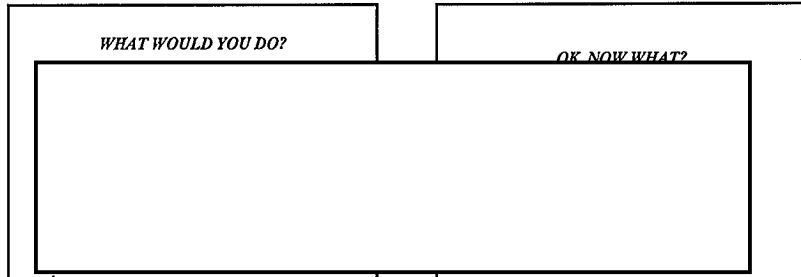
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7/20/2011

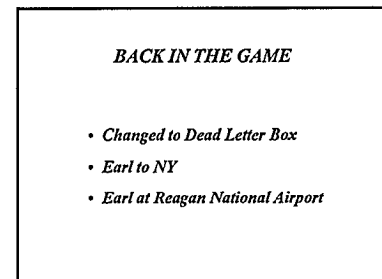


b7E

Video of Pitts making signal



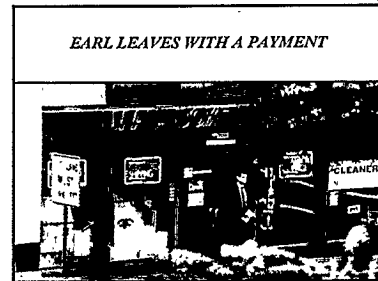
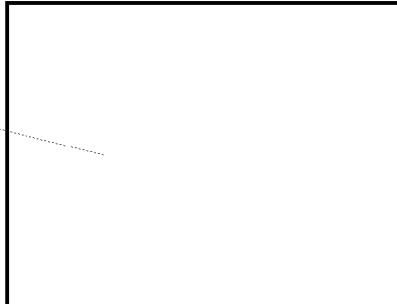
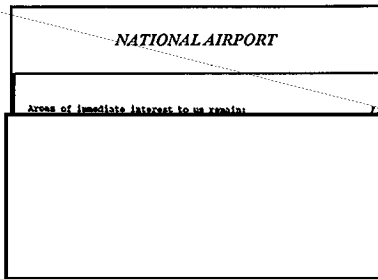
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7/20/2011

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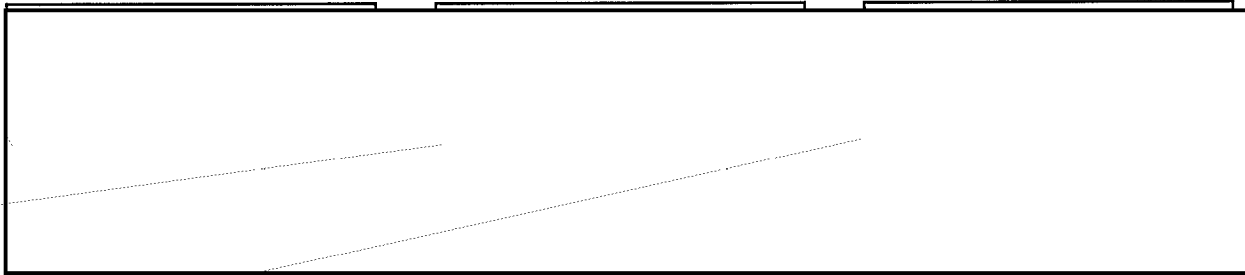


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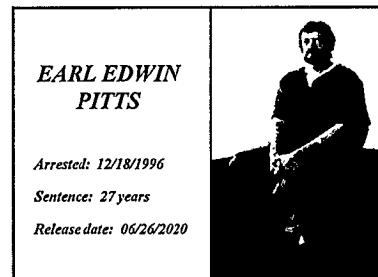
(S)

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b1
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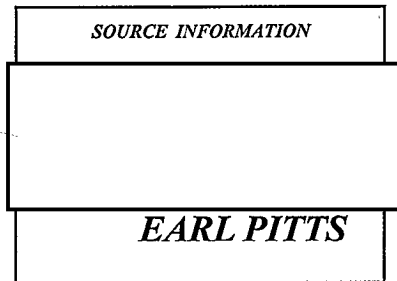
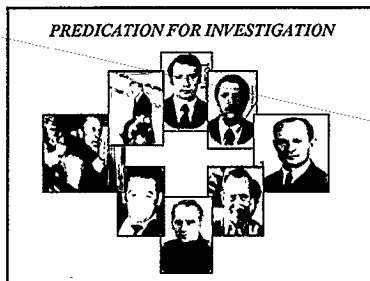
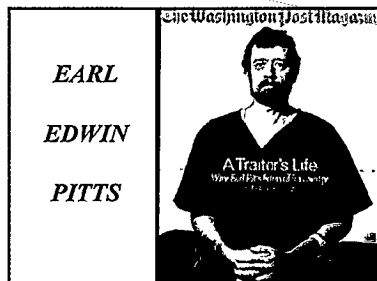
ACLURMO438830
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7/20/2011

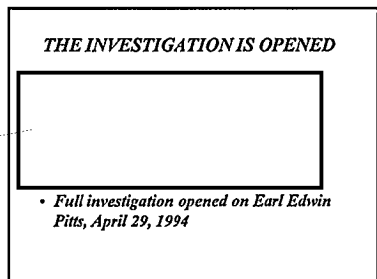
~~SECRET~~

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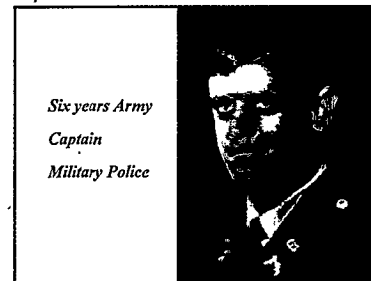
(S)



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b1
b7E



b6
b7C

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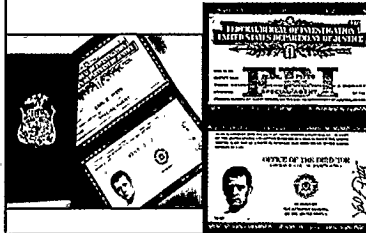
7/20/2011

GI Bill to Attend Kansas State Law School

Received Law Degree

Passed Bar Exam

FBI Academy...September 18, 1983

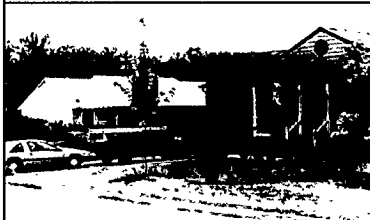


Earl's Bureau Postings

- Alexandria Division.....1/84 - 3/85
- Fredericksburg RA.....3/85 - 12/86
- New York Division.....1/87 - 8/89
- FBIHQ (three positions)...8/89 - 1/95
- FBI Academy.....1/95 - 12/18/96

Federal Prison System...12/18/96 - 6/26/2020

*Small three bedroom home in Fredericksburg
Two older model cars*



Life is Sweet!

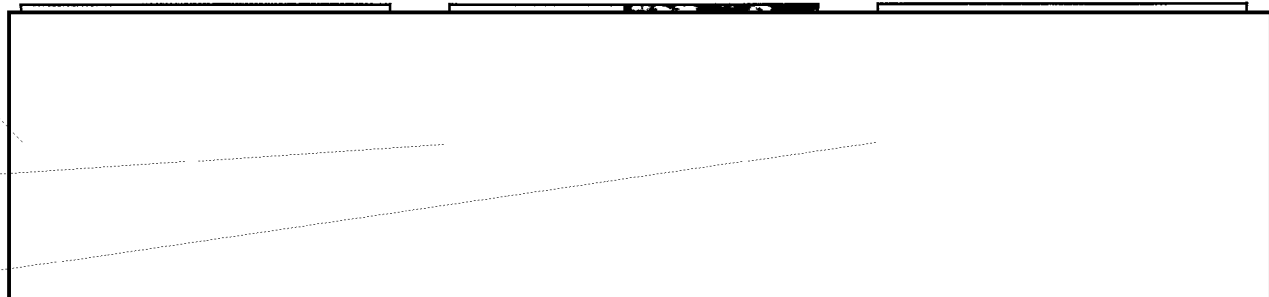
For Now!!



18 U.S.C. s794(a)

- > Transmittal...of
- > National Defense Information (NDI)...to
- > A Foreign Power, or Agent thereof with
- > The Intent to injure the U.S. or aid the FP

(All elements of the statute must be met)



(S)

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b1
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~~SECRET~~
ACLURM043685

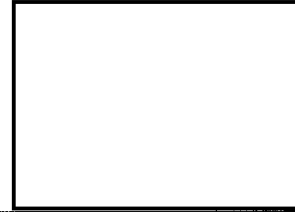
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7/20/2011

(S)



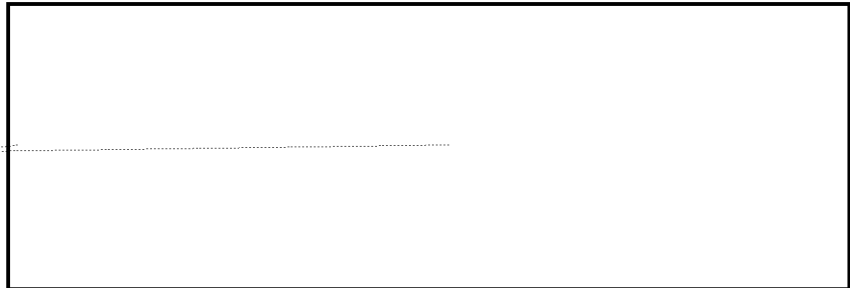
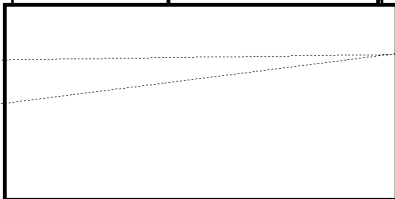
INVESTIGATION



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b7C
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(S)

Pitts Sent a Letter



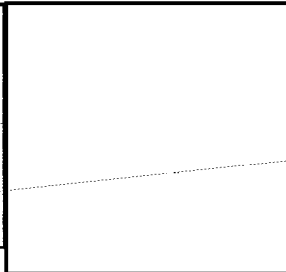
b1
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*First meet
New York
Public
Library
ca. 8/1987*



*Pitts was
from 1987-1989*



(S)



b1
b6
b7C
b7E

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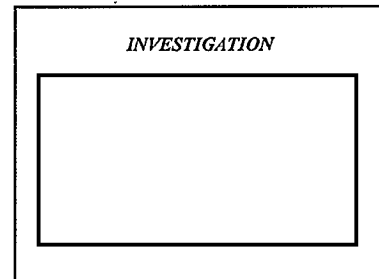
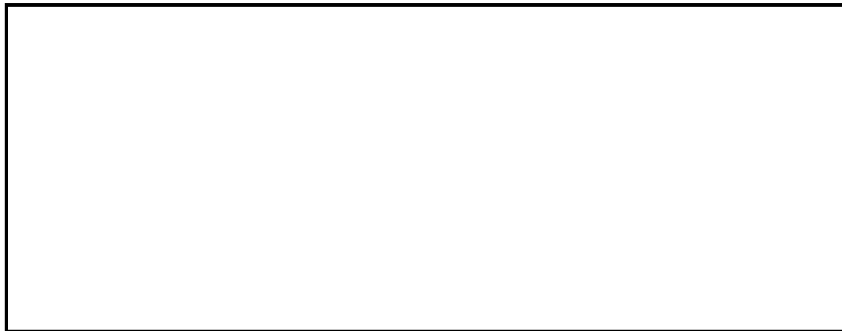
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7/20/2011

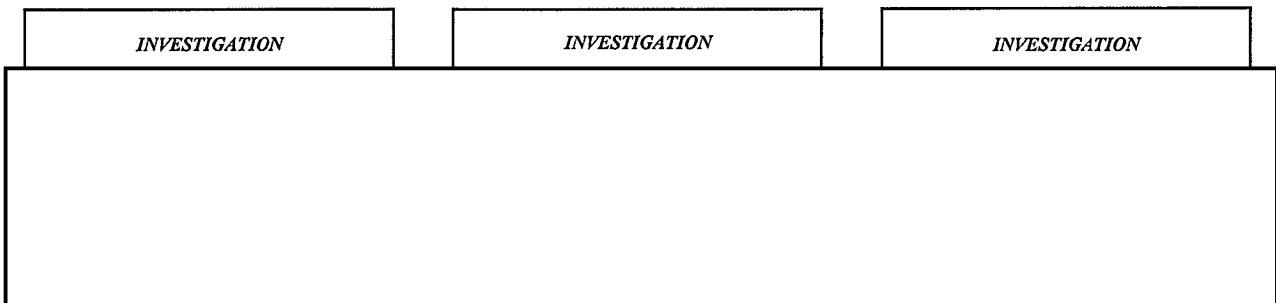
(S)



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b7C
b7E



b6
b7C
b7E



b6
b7C
b7E

ACLURM043687

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7/20/2011

INVESTIGATION

SO NOW WHAT?

DO WE INTERVIEW PITTS?

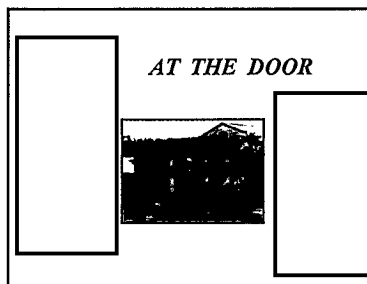
b7E

NOW WHAT DO WE DO?

b1
b7E

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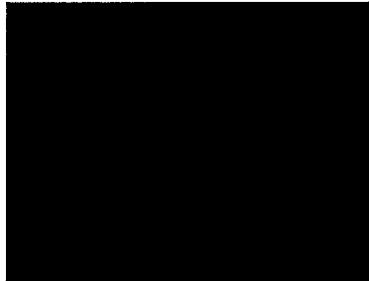
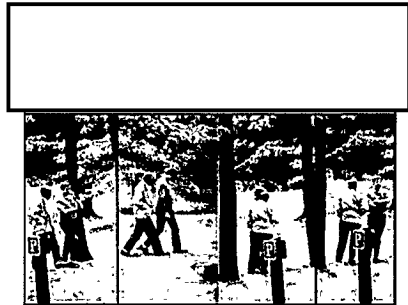


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ACLURM043638

~~SECRET~~

7/20/2011



AT THE BATTLEFIELD

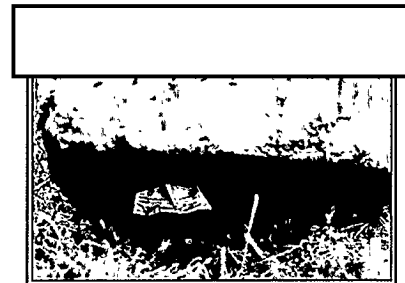
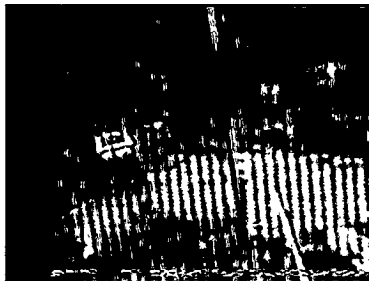
Pitts agrees to work

Given an envelope with a letter

\$15,000 cash

Instructions for the next drop

b6
b7C
b7E



b7E

PITTS' LETTER TO THE SVR

7/4/11

NO BAIL FOR EARL!



b6
b7C
b7E

~~SECRET~~

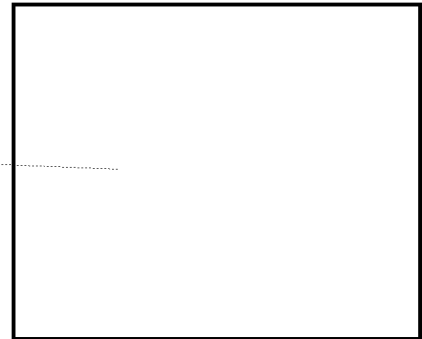
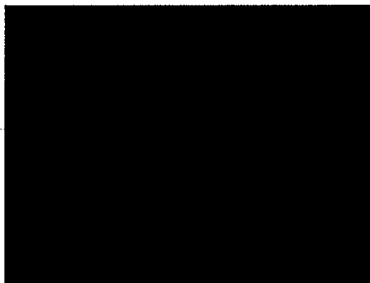
7/20/2011



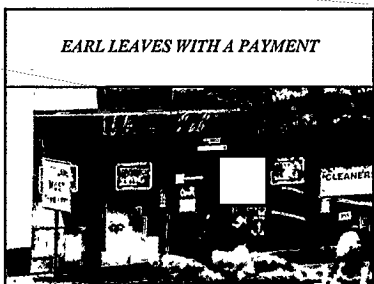
WHAT WOULD YOU DO?

OK, NOW WHAT?

b7E



b1
b6
b7C
b7E



EARL LEAVES WITH A PAYMENT

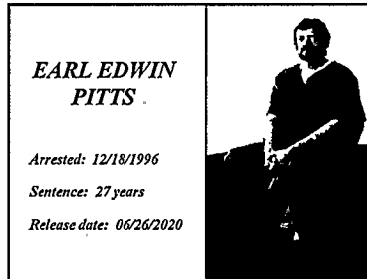
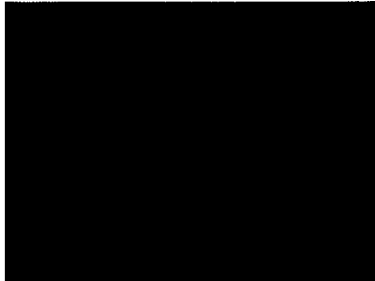
b1
b7E

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7/20/2011



~~SECRET~~
ACU 10042591

Lesson Plan

Title of Presentation: Statement Analysis in Espionage Cases

Goal:

b7E

Objectives:

Content	Notes
Definition	b7E

DATE: 01-30-2012
CLASSIFIED BY 65179/DMH/BAW/STP/bls
REASON: 1.4 (c)
DECLASSIFY ON: 01-30-2037

~~SECRET~~

7/20/2011

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WHERE SHOWN OTHERWISE

***ESPIONAGE
SUBJECT
INTERVIEWS***

*"Whatever is only almost true is quite false,
and among the most dangerous of errors,
because being so near truth, it is the more
likely to lead astray."*

Henry Ward Beecher

Goals of the Interview

b7E

b7E

Conducting the interview...

What hasn't been done yet?

b7E

~~SECRET~~

ACLURM043694

b7E

<i>Interview Preparation</i> ➤ <i>Who and When?</i>	<i>Interview Preparation</i> ➤ <i>Planning the interview</i>	

(S)

*THE
INTERVIEW
PROCESS*

b1
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b7E

	➤ <i>Truisms</i>	

~~SECRET~~

7/20/2011



And now, similar but different...

*THE
INTERROGATION
PROCESS*

b7E



b7E



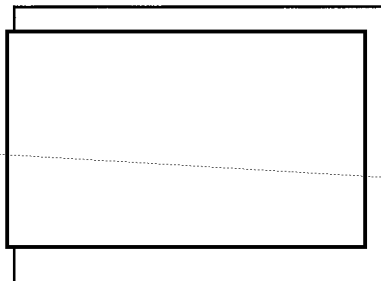
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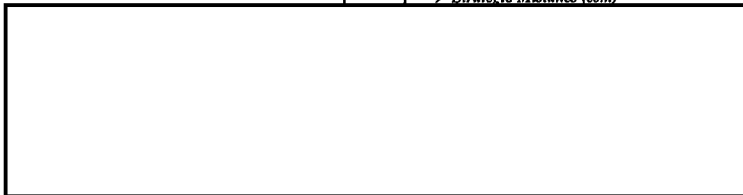
*STRATEGIC MISTAKES
IN
ESPIONAGE INTERVIEWS*

> Strategic Mistakes



b1
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> Strategic Mistakes (cont)



> Strategic Mistakes (cont)

*TACTICAL MISTAKES
IN
ESPIONAGE INTERVIEWS*

b7E

> Tactical Mistakes



> Tactical Mistakes (cont)

> Tactical Mistakes (cont)

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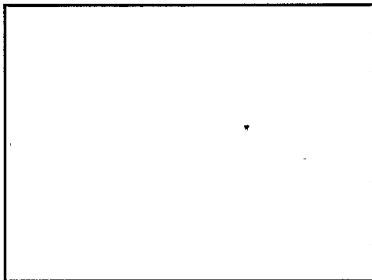
7/20/2011

➤ *Tactical Mistakes (cont)*

➤ *Tactical Mistakes (cont)*

➤ *Tactical Mistakes (cont)*

b7E

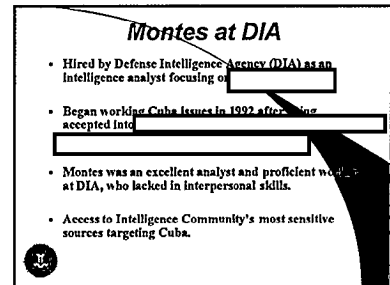
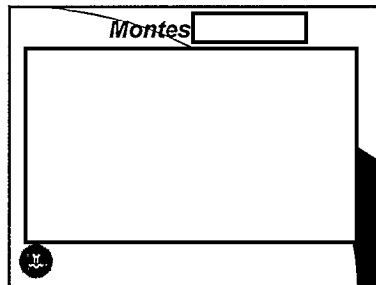
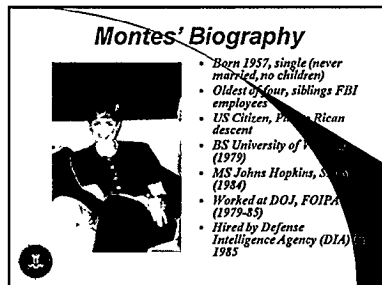
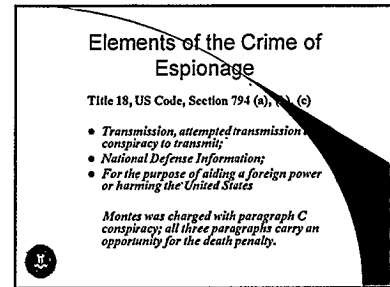
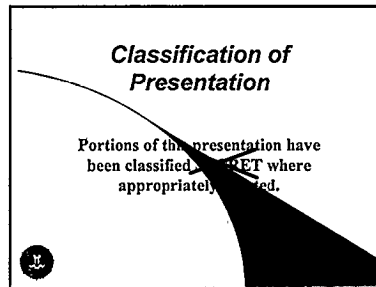
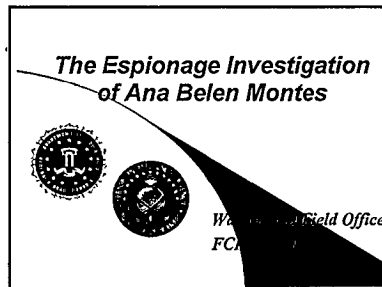


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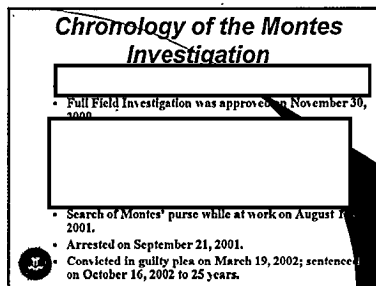
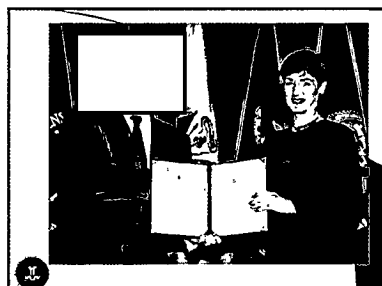
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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE



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b7C
b7D
b7E



b6
b7C
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(S) Identifying
Montes as an agent of a foreign
power

~~SECRET~~
Predication for investigation:

determined the following:

FBI

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~~SECRET~~

~~SECRET~~

b1
b7E

(S) "The Break"

~~SECRET~~
Radio Shack

- (U) During search of Montes' work space in February 2001, the FBI located Montes' notation to "call Radio Shack" on her December 1999 work calendar (specifically December 6, 2001).

X

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(S) X

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• (U)

~~SECRET~~

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The Toshiba

- (U) After identifying Montes as a suspect, the FBI identified Montes' credit history.

• (U)

~~SECRET~~

The Toshiba

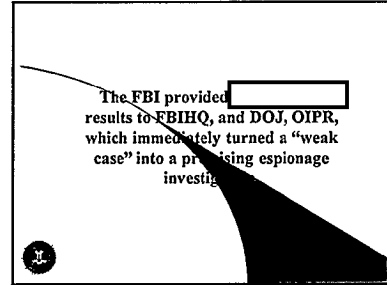
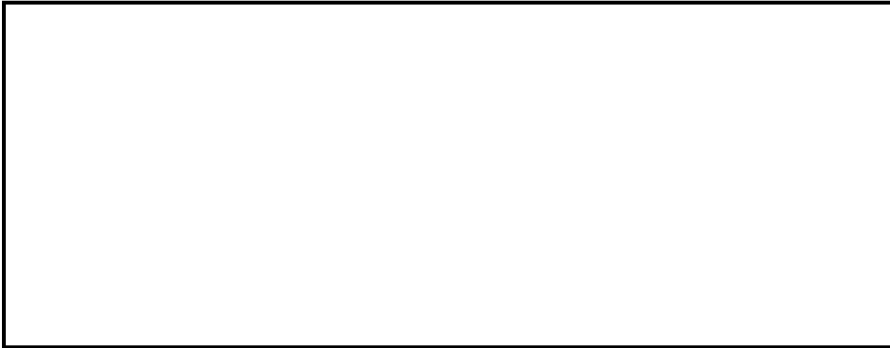
- As a result of investigation, the FBI identified a COMP USA store in Alexandria, Va.

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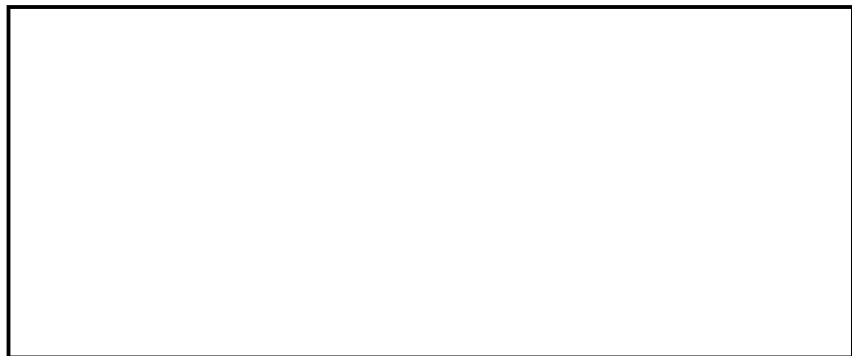
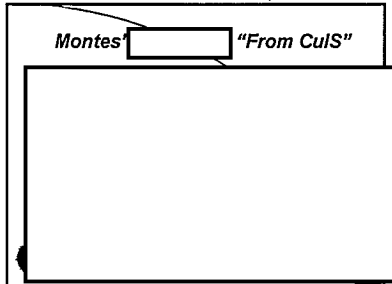
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b7E



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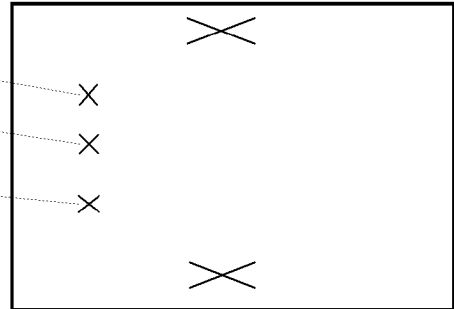
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(U)

(U)

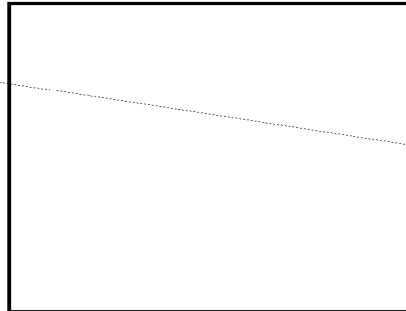
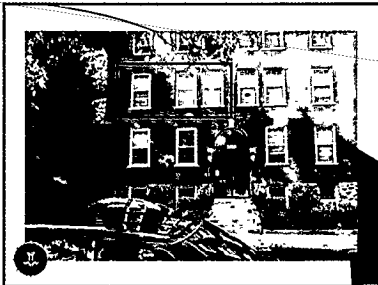
(U)

Communication Plan

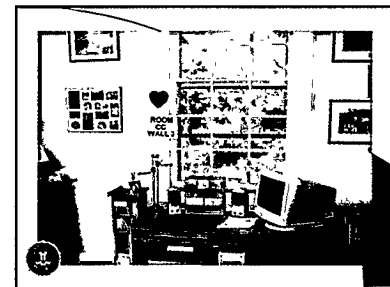
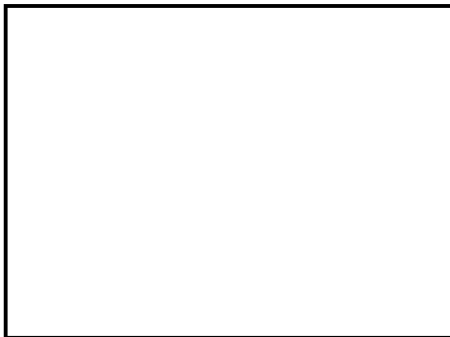


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(S)



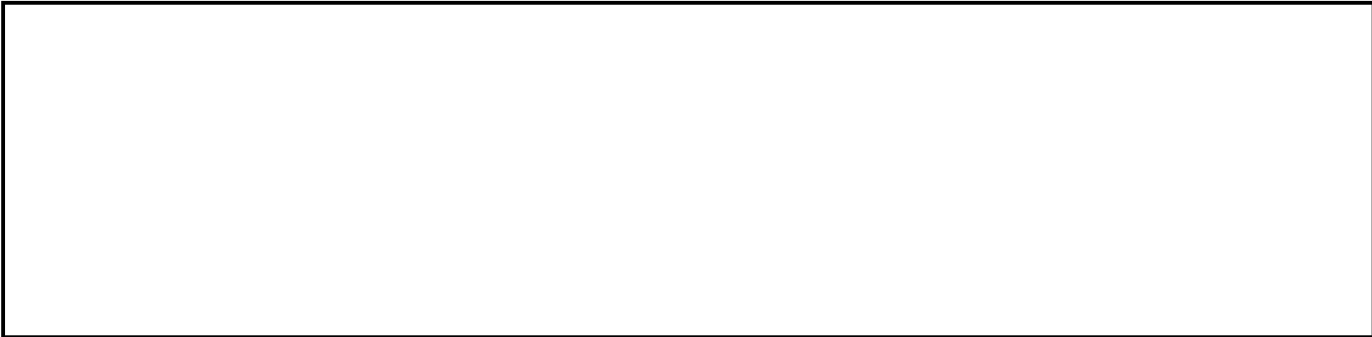
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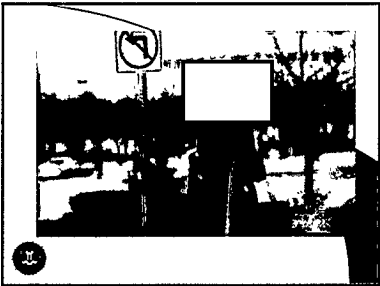
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ACLURMO ~~SECRET~~

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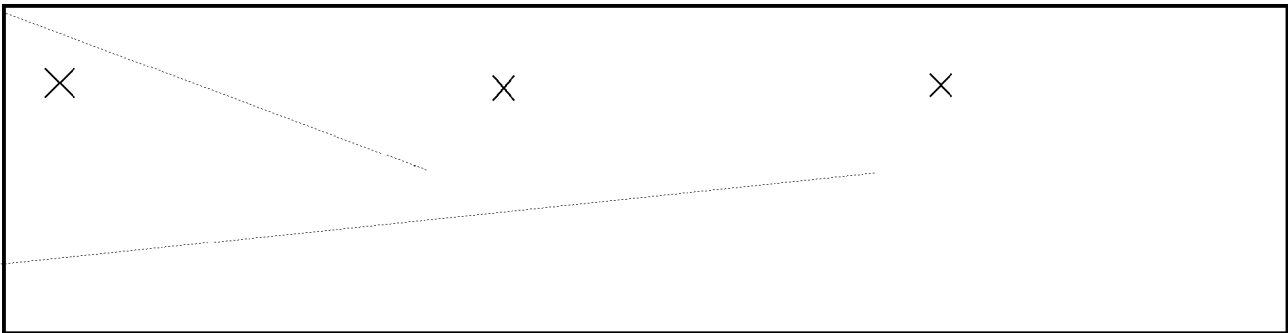


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(S)

(S)

(S)



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Search of Montes' Purse

FBI searched Montes' purse and wallet at DIA on August 16, 2001



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Montes' Motivation

Montes' Other Motivation?

b7E

(S)

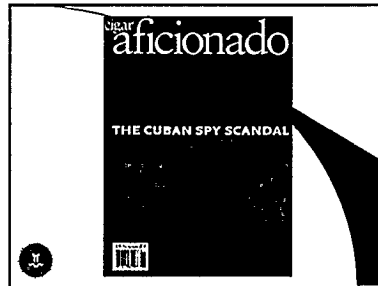
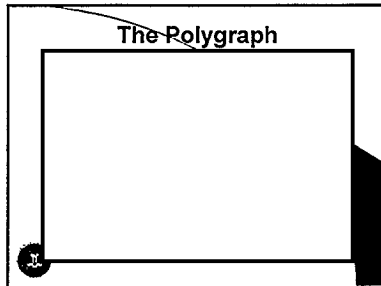
(S)

Montes' Recruitment

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**Ana Belen Montes Arrested
September 21, 2001**

- After 9/11, Montes was to be placed on a Battle Damage Assessment Team (BDAT)
- DIA, Director advised FBI "arrest her or she is forced"
- Failed Interview Strategy
- Although agreed with US invasion of Afghanistan in "self-defense", she would have continued to help the Cubans with information from war.



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*Psychology
Of
Espionage*

*Motivational Factors
(2002 Study)*

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b7E

b7E

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1
FBI042606

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

***ESPIONAGE
SUBJECT
INTERVIEWS***

Hausen

SUBJECT INTERVIEW

Goals of the Interview

what are the goals

b7E

Regan

SUBJECT INTERVIEWS

b7E

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~~SECRET~~

Ans

SUBJECT INTERVIEWS



b7E

Pollard

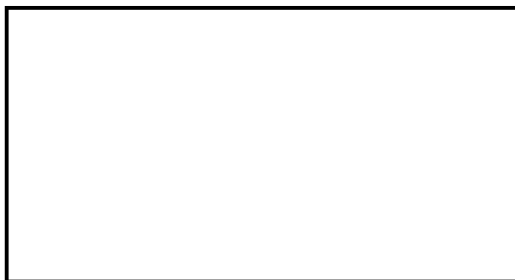
SUBJECT INTERVIEWS



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(S)

SUBJECT INTERVIEWS



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SUBJECT INTERVIEWS

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SUBJECT INTERVIEWS

b7E

SUBJECT INTERVIEWS

☐ Interview Preparation

 > Who and When?

b6
b7C
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~~SECRET~~

Pills

SUBJECT INTERVIEWS

➤ Planning the interview

b7E

SUBJECT INTERVIEWS

☐ The Interview Process

b7E

SUBJECT INTERVIEWS

b7E

out

~~SECRET~~

SUBJECT INTERVIEWS

b7E

And now, similar but different...

*THE
INTERROGATION
PROCESS*

SUBJECT INTERVIEWS

b7E

ACLURM049741
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[Redacted]

SUBJECT INTERVIEWS

☐ The Interrogation Process

[Redacted]

[Redacted]

b7E

SUBJECT INTERVIEWS

[Redacted]

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SUBJECT INTERVIEWS

[Redacted]

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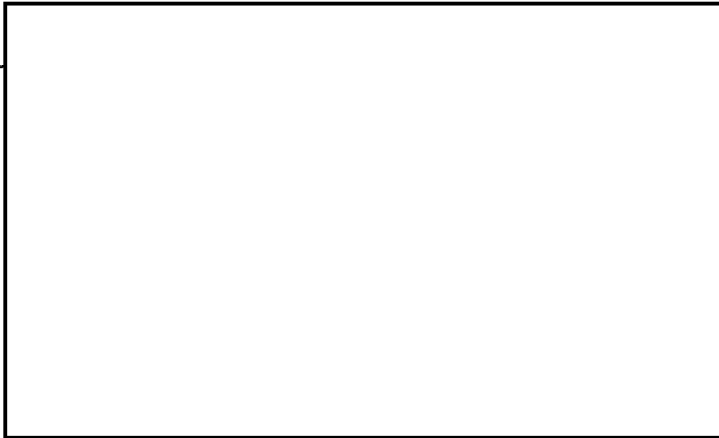
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ACLJRM 103712
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Handwritten notes:
[Illegible]

Handwritten notes:
[Illegible]



b7E

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ACLURM 43713

FBI042613

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↑
SUBJECT INTERVIEWS

remove
←

SUBJECT INTERVIEWS

SUBJECT INTERVIEWS

b7E

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b7E

~~SECRET~~

*STRATEGIC MISTAKES
IN
ESPIONAGE INTERVIEWS*

Handout 3

SUBJECT INTERVIEWS

(S)

Regan

Pitt

Boone

(S)

b1
b6
b7C
b7E

SUBJECT INTERVIEWS

b7E

~~SECRET~~

ACLURM043715

~~SECRET~~

*TACTICAL MISTAKES
IN
ESPIONAGE INTERVIEWS*

SUBJECT INTERVIEWS

b7E

SUBJECT INTERVIEWS

b7E

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ACLURM043716

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SUBJECT INTERVIEWS



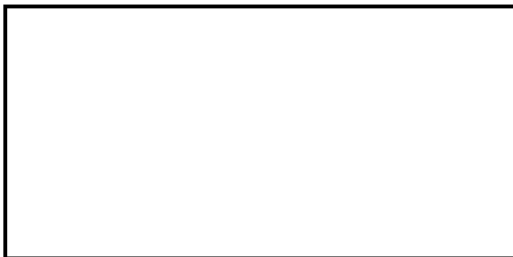
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SUBJECT INTERVIEWS



b7E

SUBJECT INTERVIEWS



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Questions?

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DA -

BACK OF LAST PAGE OF DOCUMENT

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ACLURM043719

FBI042619



DATE: 01-31-2012
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REASON: 1.4 (c)
DECLASSIFY ON: 01-31-2037

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WHERE SHOWN OTHERWISE

Statement Analysis

Statement Analysis

b7E

Statement Analysis

b7E

~~SECRET~~

Statement Analysis

b7E

WILLIAM P. KAMPILES



WILLIAM P. KAMPILES

DOB: December 21, 1951

MARITAL STATUS: Single (never married)

EDUCATION: University of Indiana, BS

RESIDENCE: Chicago, IL

b7E

8-11-77

~~SECRET~~

WILLIAM P. KAMPILES



OPERATIONS
CENTER

GS-7 Watch Officer/Night Duty Clerk

"Every clearance government gives."

Not recommended for Case Officer

b7E

WILLIAM P. KAMPILES



TERMINATION: Nov 5, 1977

"Failed to perform duties,
follow orders,
and correct deficiencies"

WILLIAM P. KAMPILES



Unemployed Nov 1977

Vacationed in Greece

February - March 1978

R-11

~~SECRET~~

May 1978



b7E

b7E



August 11, 1978

• contacts FBI;

b7E

~~SECRET~~

Analysis of Envelope

b6
b7C
b7E

Piece of paper stapled to Letter

Actual size = 2.5" x 3"

b6
b7C
b7E

Letter from
William Kampiles
to

May 23, 1978

Source:
Copy of
William Kampiles

b6
b7C
b7E

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ACLURM043724

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b7E

Analysis

b7E

Analysis

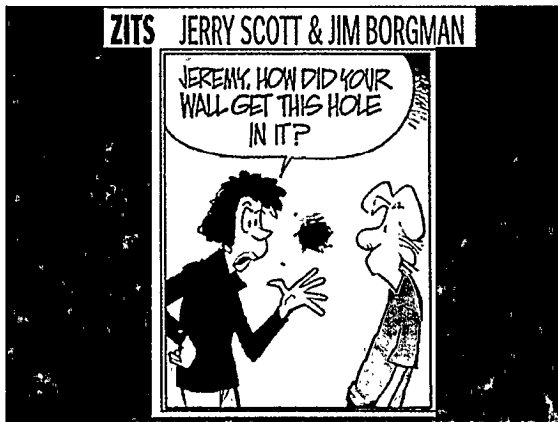
b7E

Analysis

b7E

Analysis

b7E









Analysis

11
12
13
14

b7E

Analysis

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b7E

Analysis

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~~SECRET~~

Analysis

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Analysis

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Assault Report

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Assault Report

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Assault Report

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Analysis



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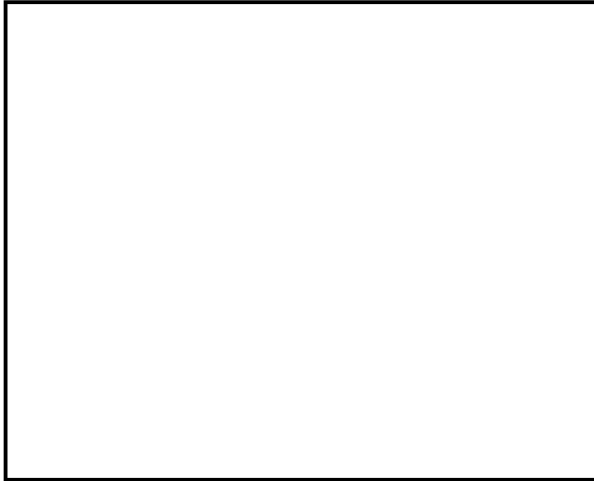
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Statement Analysis

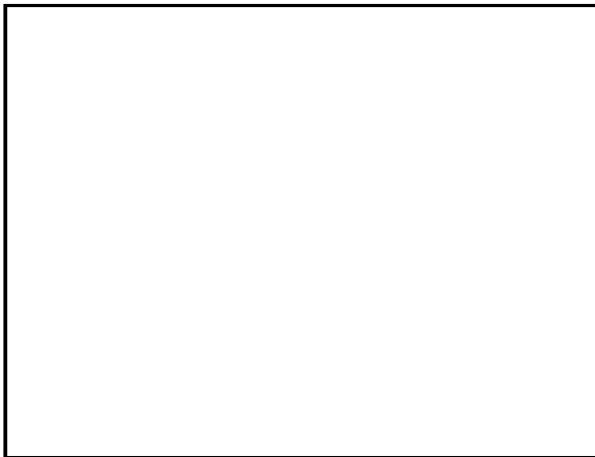


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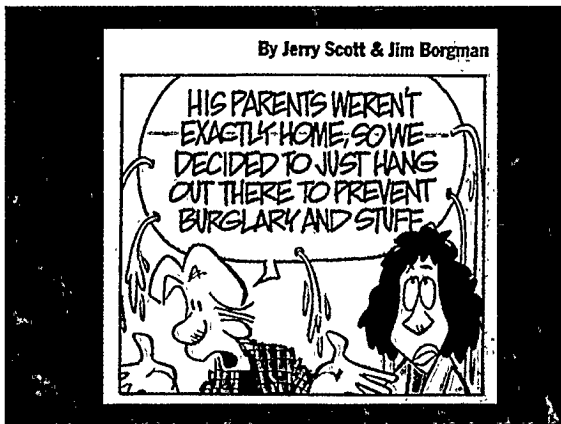
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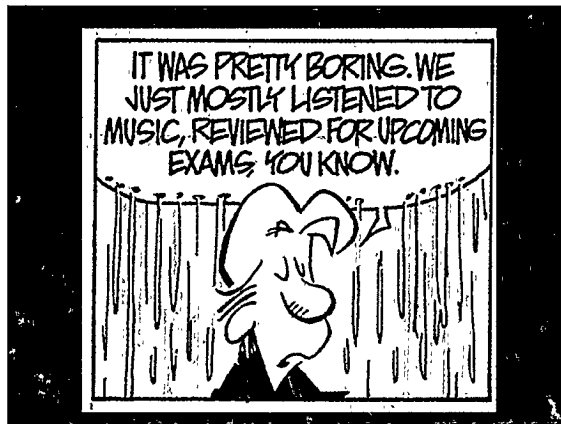


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Analysis

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18
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20

b7E

Analysis

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b7E

~~SECRET~~

~~SECRET~~

Analysis

b7E

Analysis

b1
b7E

(S)

(S)

b1
b7E

~~SECRET~~

~~SECRET~~

In groups of three look at the letter again...

- Rows 1 & 2 do a

- Rows 3 & 4 do a

- And everyone

b7E

b7E

b7E

~~SECRET~~

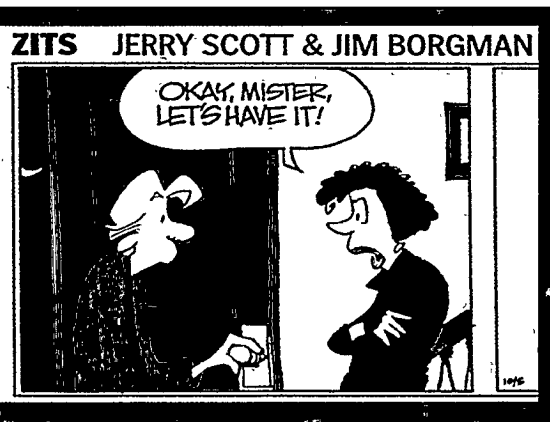
Keys to Assessing Statements

(S)

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Suggestions for Assessing Statements

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~~SECRET~~





So Now What?

What Happened to Kampiles?

b6
b7C
b7D
b7E

UNSUB
Espionage
Investigation

b7E

Initial Investigation

b7E

~~SECRET~~

- What agencies are involved?

b7E

b7E

In groups of five...

~~SECRET~~

Planning the Interview

b7E

Counterintelligence Issues

b7E

~~SECRET~~

Motivation

b7E



**William P. Kampiles
Espionage Case**



Chronology

August 11 - [] provided Kampiles' letter to FBI
August 14 - Kampiles interviewed by FBI []
August 15 - Kampiles interviewed/polygraphed by FBI
August 17 - Kampiles arrested

b7E

Interview #1 8/14/78

b6
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b7E

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ACLURM043743

Interview #2 8/15/78



Kampiles Confesses

Case Summary: Original Contact

February 22, 1978 – evening

b7E

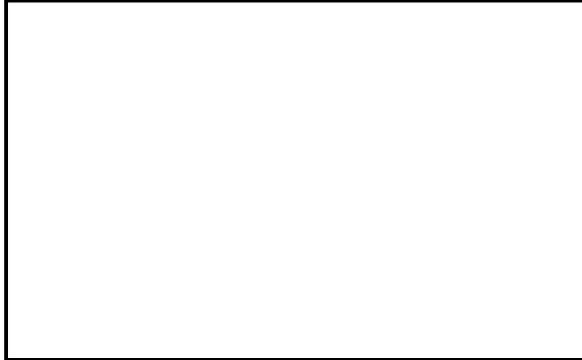
Case Summary: Second Contact

February 27, 1978

b6
b7C
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Case Summary: March 4, 1978 Contact

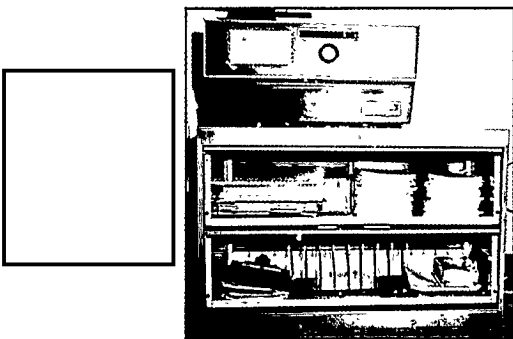


b6
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b7E

Theft of Document



Theft of Document



b7E

ACLU 7/13/75 ~~SECRET~~



Confession Recanted

First Plea Bargain Offer: 15 yrs
Counter Offer: 6 yrs



Second Plea Bargain Offer: 6-13 yrs
Trial



November 17, 1978 - Kampiles convicted of ESP/TGP
December 22, 1978 - Sentenced to 40 years
Released December, 1996

~~SECRET~~

“The Fish Dies
Because It Opens Its Mouth.”

-Spanish Proverb

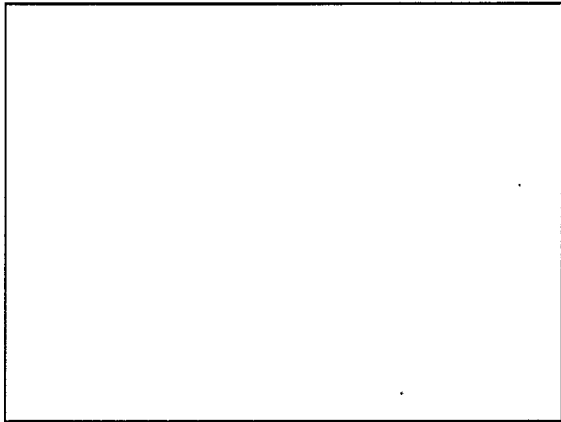
Truth

Truth is that which conforms to fact or reality;
that which is or is characterized
as being in accord with
what is, has been, or must be.

Truth

b7E

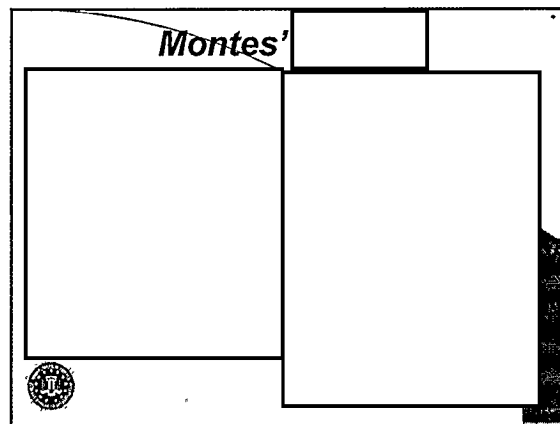
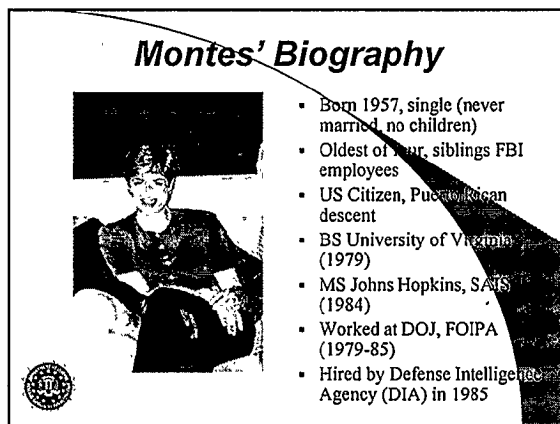
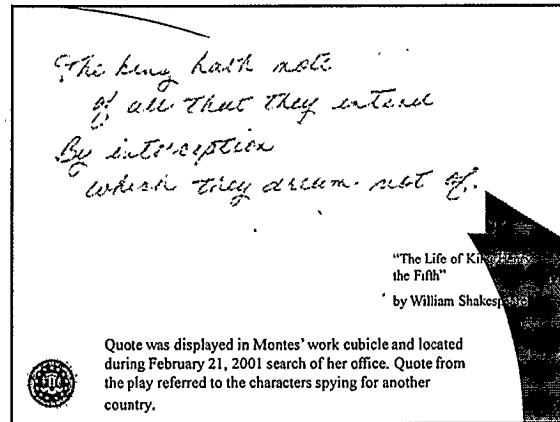
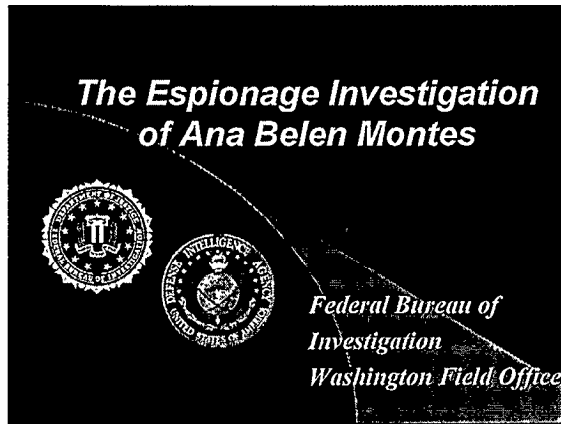
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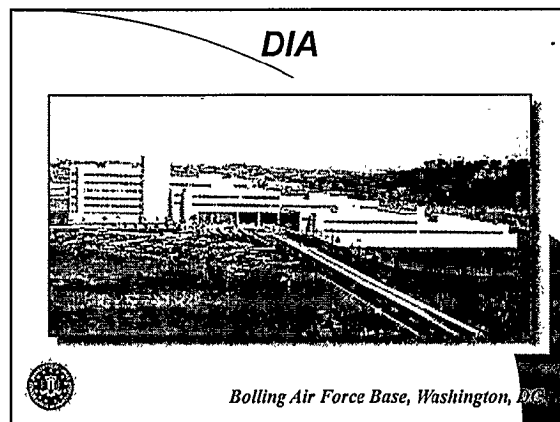
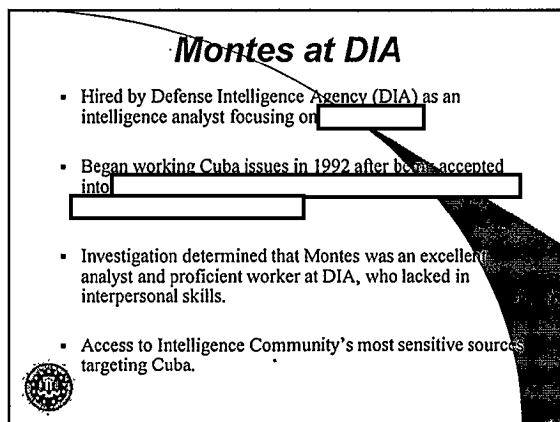
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7/14/2011



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Chronology of the Montes Investigation

- [REDACTED]
- Full Field Investigation was approved on November 30, 2000.
- [REDACTED]
- Search of Montes' purse while at work on August 16, 2001.
- Montes arrested on September 21, 2001 and charged with conspiracy to commit espionage.
- Montes convicted in guilty plea on March 19, 2002; sentenced on October 16, 2002; 25 year sentence.



Fidel Castro's Reaction to Montes' Arrest....



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Montes' [REDACTED] "From CuIS"



b7E



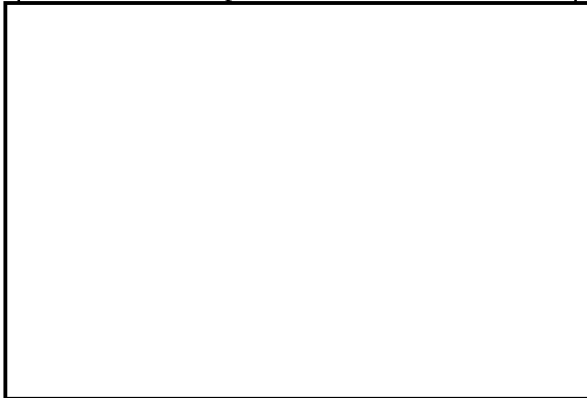
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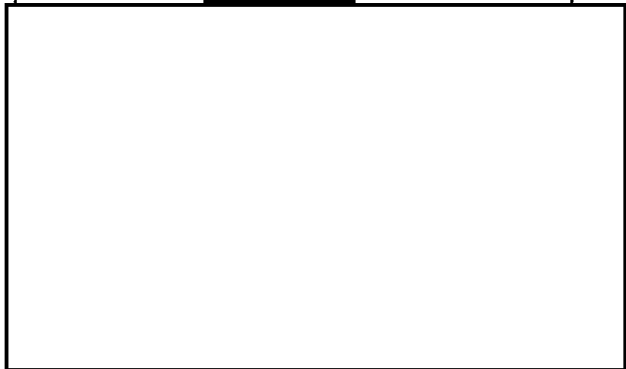
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Communication Plan



Montes'

"To CuIS"



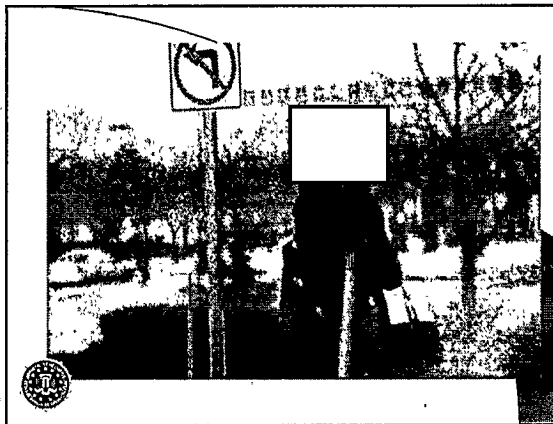
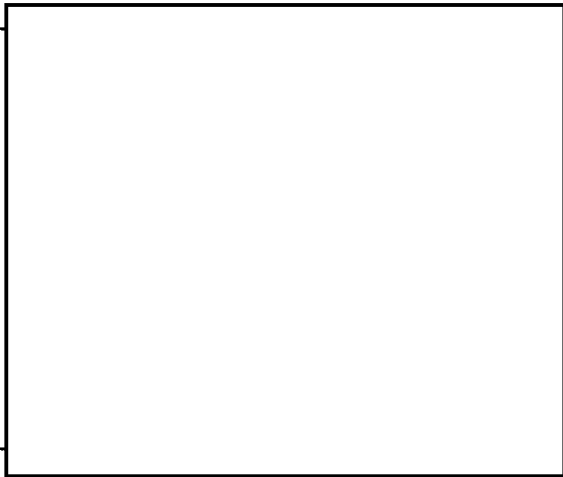
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DATE: 01-31-2012
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REASON: 1.4 (c)
DECLASSIFY ON: 01-31-2037

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7/14/2011

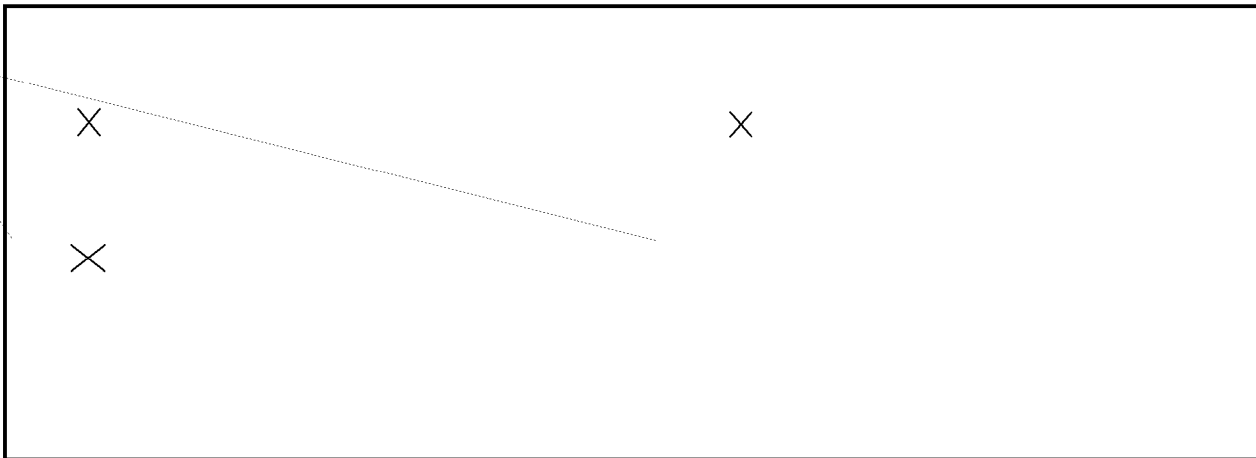
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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE



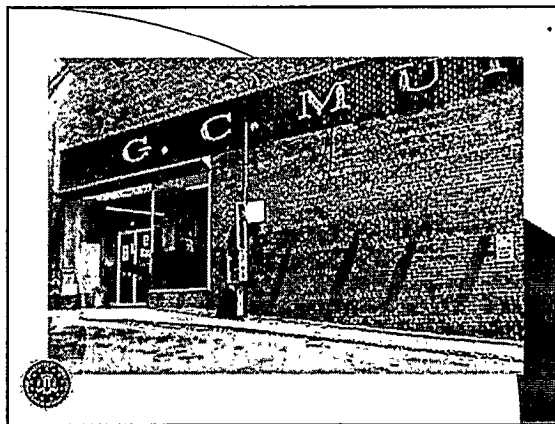
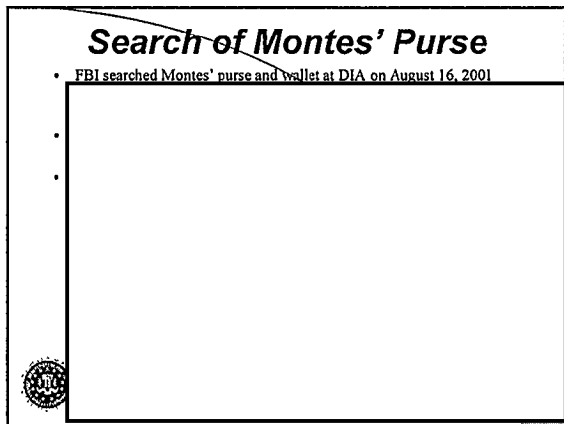
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(S)

(S)



b1
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b7E

7/14/2011

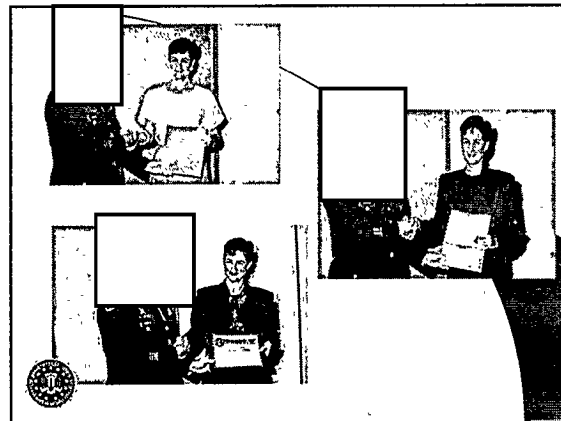
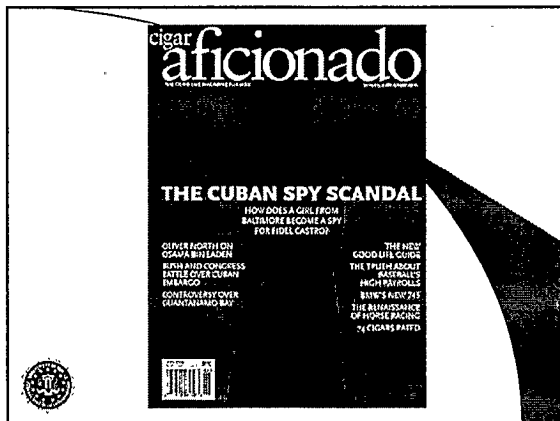
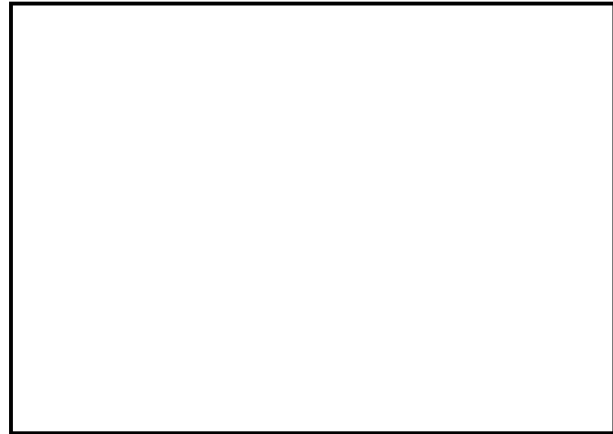
Montes' Motivation

Montes' True Motivation?

b7E



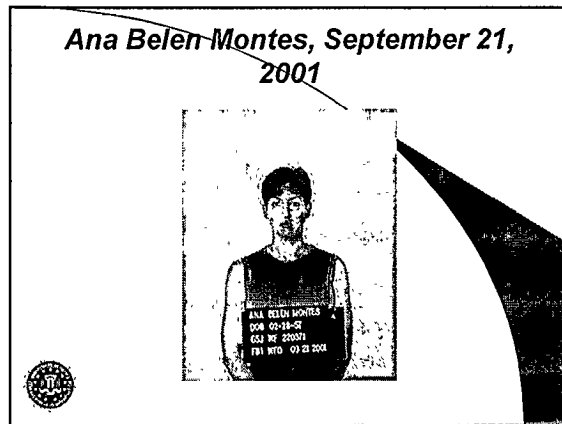
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b6
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7/14/2011



ACLURM043754

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~~SECRET~~ WORKING PAPERS

SUMMARY OF EVALUATIONS

Introduction to Espionage Investigations (02-01)

(06/10/2002 - 06/14/2002)

(Note: Copies of course evaluations can be obtained by contacting NSP/OTU IOS [redacted])

b6
b7C

Overall Average of Scores (based on 1-5 scale, with 5 being the highest rating): 4.60

Overview:

The very high overall average score for this course reflects that it was well-received by attendees. Agents advised that the course presentations were extremely comprehensive in content, well-organized, and presented in an effective manner. Many indicated they received valuable information concerning investigative tools that they could employ in espionage cases.

Review of Attendee Feedback: (Each *Feedback* entry is followed by related student comments.)

- The Pitts segment was very well-received by attendees. Students advised that the presentation enhanced their understanding of how to conduct an espionage investigation. Agents added that [redacted]

[redacted] Some suggested that additional time be allocated to this presentation at future Espionage courses.

b7E

"Well done. Allowed class [redacted]
[redacted]

"Would have liked (instructor) to have more time to go into case and what worked and didn't work."

"...the most valuable and well-done presentation of the course. (Segment) was hurried due to lack of time."

- The Building an Espionage Case segment included valuable information that Agents

~~SECRET~~ WORKING PAPERS

~~SECRET~~ WORKING PAPERS

could use in their own investigations.

"Great nuts and bolts! Truly the heart of the course that I was anticipating."

"The FBIHQ perspective was extremely helpful...now I have a better understanding of...why certain reporting is time sensitive to FBIHQ."

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ON 02-01-2012



Phases of the Investigation
1. Investigation of Unknown Subject (Unsub)
2. Investigation of Brian Regan
3. Prosecution & Sentencing
4. Debriefings & Document Recover

UNCLASFOUO

A Spy in Our Midst...
In late November 2000, the FBI received information indicating that a person of unknown identity (UNSUB) sought to establish a clandestine relationship with a Hostile Intelligence Service

UNCLASFOUO

b6
b7C

UNSUB Investigation:

UNCLASFOUO

Based on Reliable Source Information
FALL 2000:
• UNSUB provided a number of Classified U.S. Government documents to a foreign country.
• Majority of documents are [redacted]
• A current [redacted]
• Pages from [redacted]

UNCLASFOUO

Based on Reliable Source Information
• A document relating to [redacted]
• Cover page and individual pages from other ~~Top Secret~~ documents and table of contents from the ~~Top Secret~~ [redacted]
• Two photographs classified ~~Secret~~ and ~~Confidential~~ [redacted]

UNCLASFOUO

b7D
b7E

[redacted]
• You've studied the letter provided by the UNSUB...
[redacted]

UNCLASFOUO

Decoded Message	Decoded Message
[redacted]	

UNCLASFOUO

b7E

~~SECRET~~

ACLURM043757

Decoded Message	UNSUB's Stated Goal
UNCLASFOUO	UNCLASFOUO

What can you do with this information?

Top Secret Teasers
• • Purpose:
UNCLASFOUO

b7E

Joint Investigative Effort

UNSUB Profile Analysis of Reliable Source Information:
UNCLASFOUO

UNSUB Profile Analysis of Reliable Source Information:
UNCLASFOUO

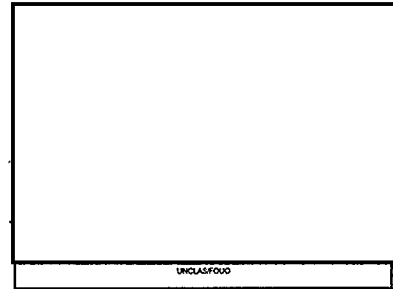
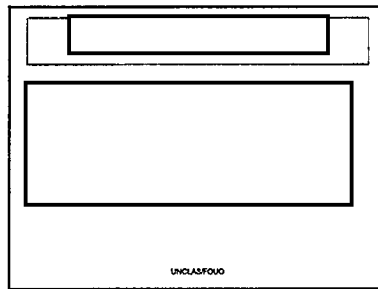
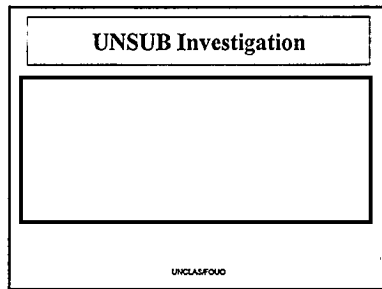
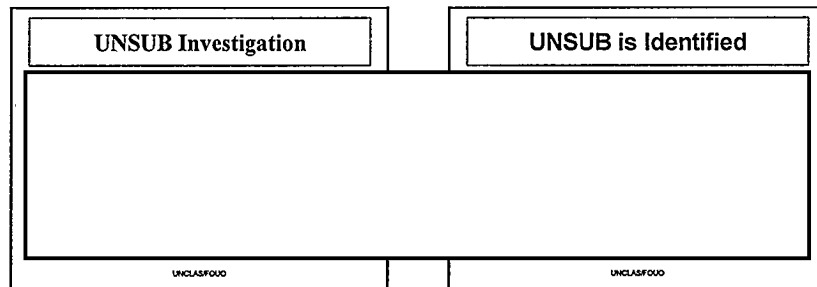
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UNSUB Investigation
• Various investigative techniques used to identify UNSUB:
UNCLASFOUO

UNSUB Investigation
UNCLASFOUO

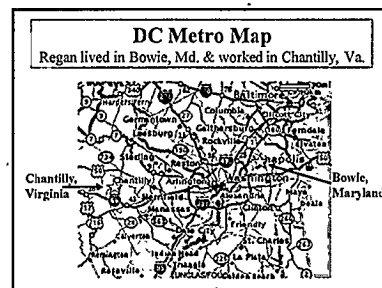
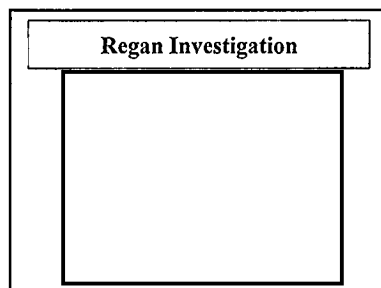
Contact Email account
UNCLASFOUO

b7E

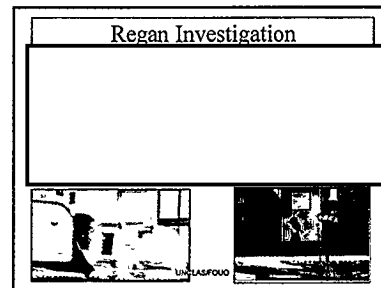
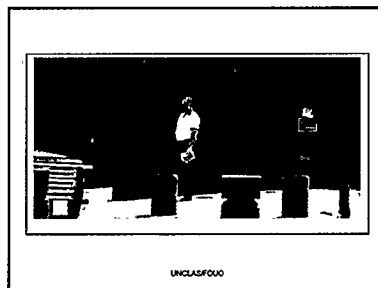
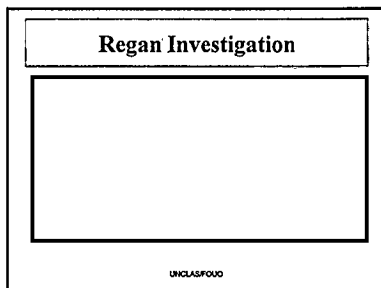
[illegible]

Brian Patrick Regan

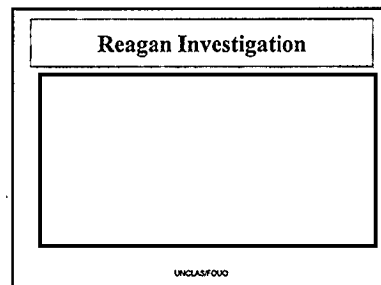
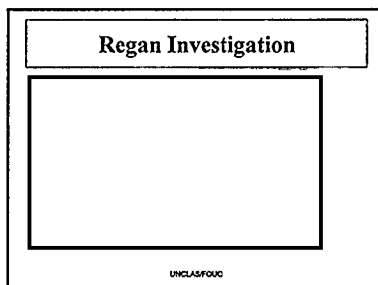
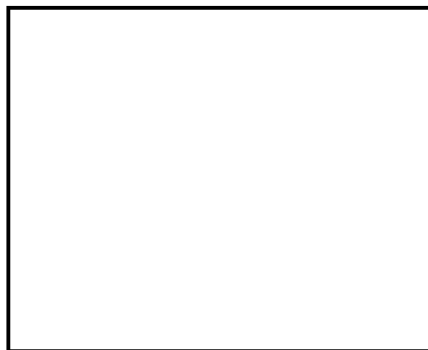
- Son of Irish immigrants, born in 1962
- Entered USAF in 1980, retired in 2000
- Detailed to NRO from 1995 to 2000
- A SAGINT specialist with broad access
 - Cryptography training
- Lived in Bowie
- Father of four
- Commutes to Chantilly
- Working for TRW, pending clearances to renewed access to NRO

A black and white portrait of Brian Patrick Regan, a man with dark hair, wearing a light-colored shirt and a dark tie, looking directly at the camera. The photo is framed by a thick black border.

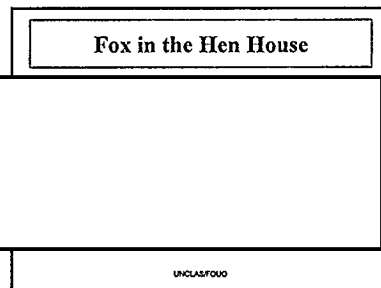
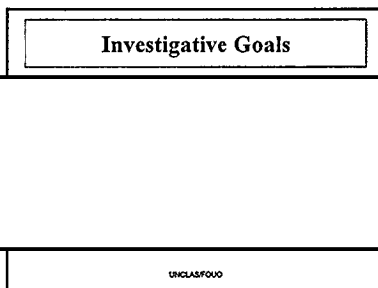
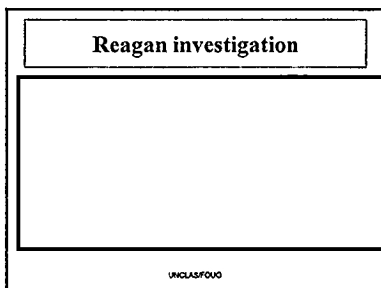
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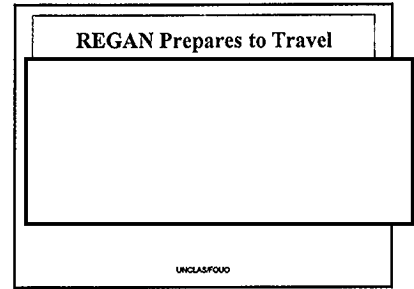
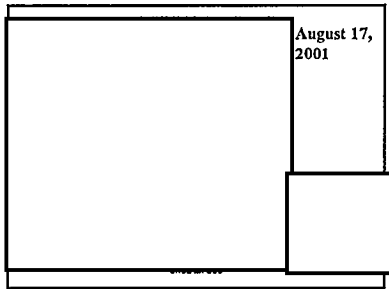
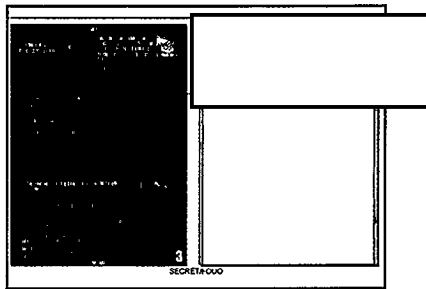
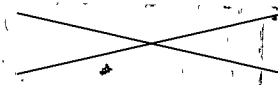
b7E



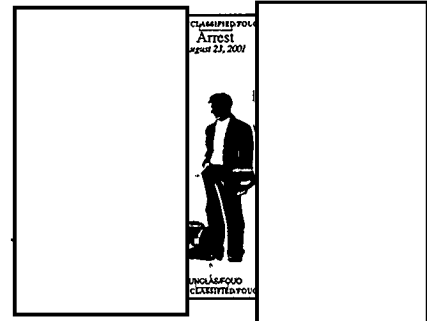
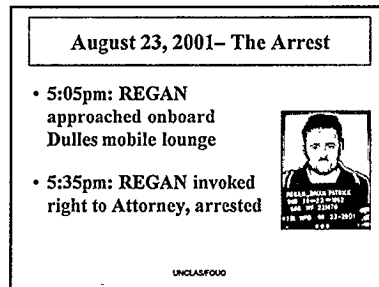
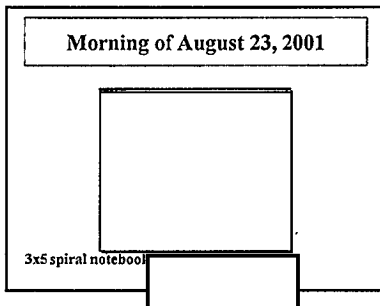
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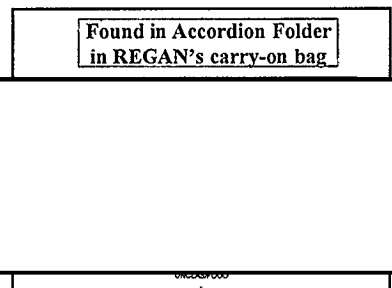
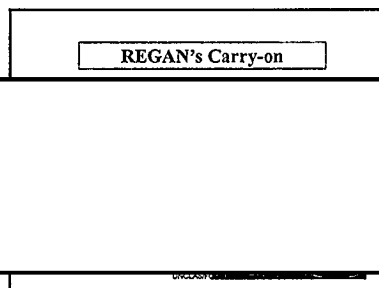
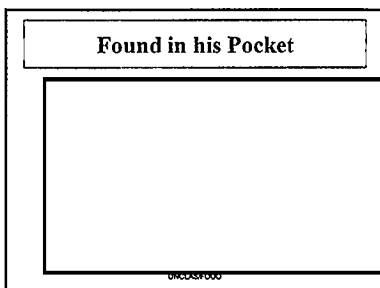
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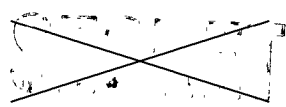
b7E



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Also found in the
Accordion Folder



Breaking the Code

b7E

August 23, 2001– The Arrest

- 5:05pm: REGAN approached onboard Dulles mobile lounge
- 5:35pm: REGAN invoked right to Attorney, arrested



UNCLAS/FOUO

The Prosecution of Regan



Regan Prosecution

- Indicted on October 23, 2001
- Attempted Espionage
- Country A – B – C
- Investigation continued

UNCLAS/FOUO



—Letters from Brian Regan to Foreign Heads of State
UNCLAS/FOUO

REGAN's Gateway Computer



Superseding Indictment

February 14, 2002: A Grand Jury, Alexandria, Virginia returned a true bill charging Regan as follows:

- Count 1: Attempted Espionage (Iraq)
18 U.S.C. S 794(a)
- Count 2: Attempted Espionage (Libya)
18 U.S.C. S 794(a)
- Count 3: Attempted Espionage (China)
18 U.S.C. S 794(a)
- Count 4: Gathering National Defense Information
18 U.S.C. S 793(b)

April 30, 2002: The Attorney General decides to seek the death penalty.
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b7E

Trial

- Court proceedings began on January 13, 2003 with Jury selection
- Extensive use of classified information
 - 200 classified exhibits for jury only
 - MC [redacted] USAF
 - [redacted] Partner Microsoft
 - Numerous experts on [redacted] collection

UNCLASFOUO

Verdict and Sentence

- REGAN found guilty--February 20, 2003
 - 2 counts attempted espionage
 - One count gathering
- Accepts a life sentence-- March 20, 2003
 - Agrees to give full cooperation
 - Gov't won't prosecute spouse
 - Gov't to limit [redacted]

UNCLASFOUO

Debriefings and Document Recovery

UNCLASFOUO

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b7E

Debriefings

[redacted]

UNCLASFOUO

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b7E

[redacted]

Discussion

- If you're called to assist on a case where do you start?

[redacted]

UNCLASFOUO

b7E

Analysis in the Reagan Case

UNCLAS/FOUO

Calendars

August 2001

			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		



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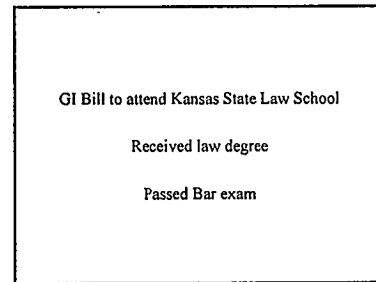
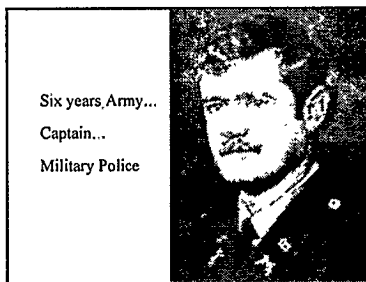
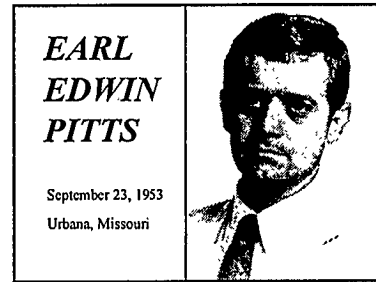
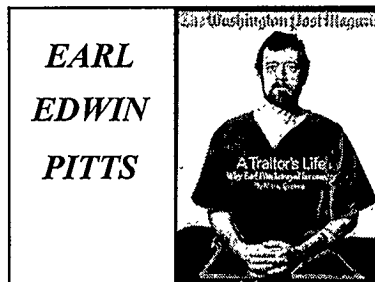
Analysis in the Reagan Case

UNCLAS/FOUO

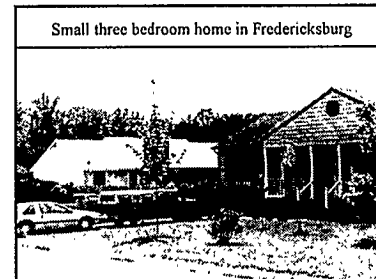
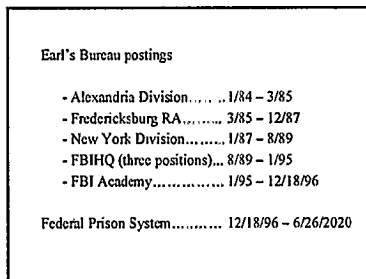
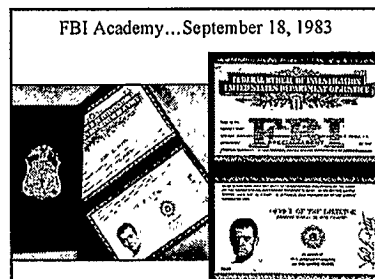
b7E

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ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE



b6
 b7C



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(S)	PREDICATION FOR INVESTIGATION...	ALDRICH HAZEN AMES Born: June 26, 1941 Arrested: Feb. 21, 1994 Sentence: Life 	INFORMATION OBTAINED (1993/1994)...	b1 b6 b7C b7E
(S)				
(S)			... Earl Pitts	

(S)		b1 b7E
(S)		
(S)		

(S)		Pitts sent letter		b1 b6 b7C b7E
(S)				

ACLURMO 1766 ~~SECRET~~

~~SECRET~~

(S)

(S)

First meet
New York
Public
Library
ca. 8/1987

Pitts was handled by [redacted]
from 1987-1989...

b1
b6
b7C
b7E



b6
b7C
b7E



INVESTIGATION...



INVESTIGATION...

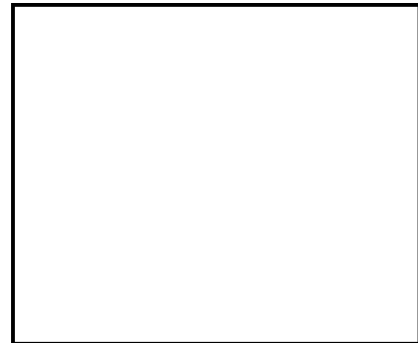
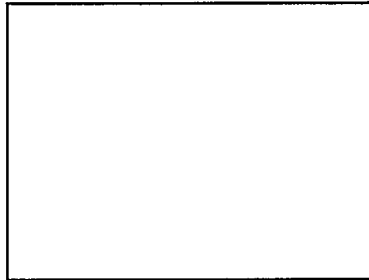


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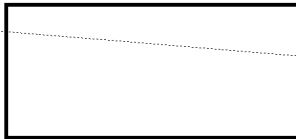
SO NOW WHAT?

We have...



b7E

NOW WHAT DO WE DO?

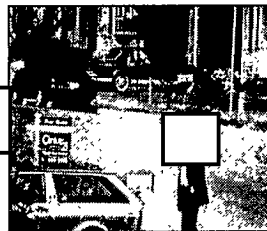


(S)

TO THE DOOR...

Front door

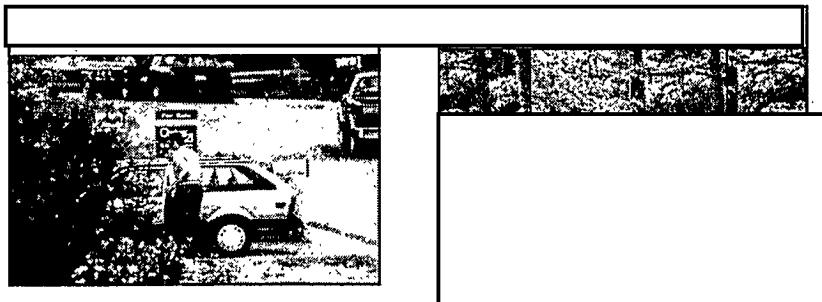
Pitts off guard



AT THE DOOR...



b1
b6
b7C
b7E



AT THE BATTLEFIELD...

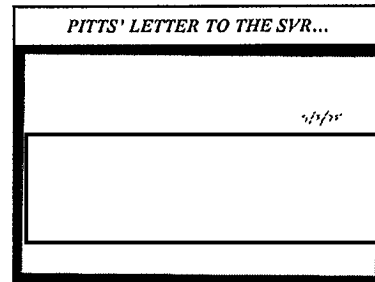


b6
b7C
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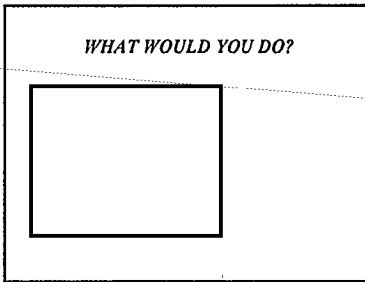
ACLURM043768

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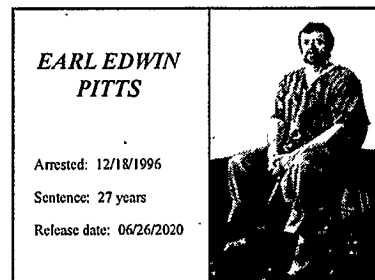
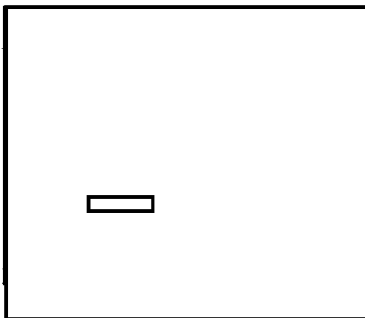
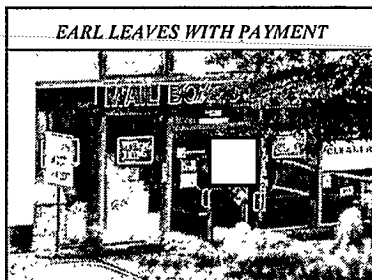
b6
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b1
b7E

(S)



b1
b6
b7C
b7E

~~SECRET~~
ACLURM 048769

DATE: 02-01-2012
CLASSIFIED BY 65179/DMH/BAW/STP/bls
REASON: 1.4 (c)
DECLASSIFY ON: 02-01-2037

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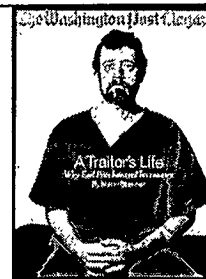
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

*"There is nothing so
powerful as the truth, and
often nothing so strange!"*

Daniel Webster
"Argument on the Murder of Captain White"



**EARL
EDWIN
PITTS**



**EARL
EDWIN
PITTS**

September 23, 1953
Urbana, Missouri



Graduated from Central Missouri State University...
BA in Criminal Justice... Masters in Law Enforcement



Six years Army...
Captain...
Military Police



GI Bill to attend Kansas State Law School

Received law degree

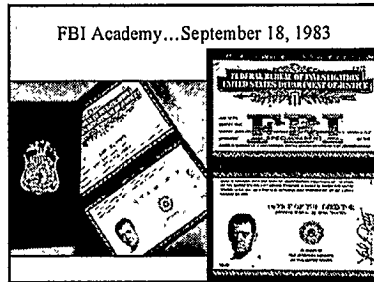
Passed Bar exam

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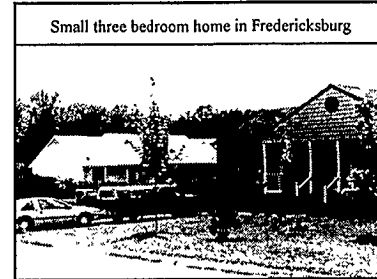
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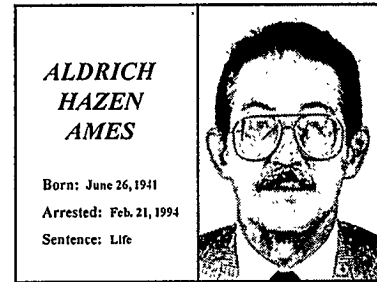
Earl's Bureau postings

- Alexandria Division..... 1/84 - 3/85
- Fredericksburg RA..... 3/85 - 12/86
- New York Division..... 1/87 - 8/89
- FBIHQ (three positions)... 8/89 - 1/95
- FBI Academy..... 1/95 - 12/18/96

Federal Prison System... 12/18/96 - 6/26/2020



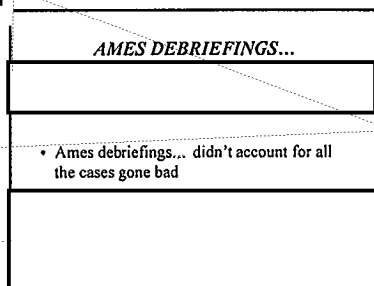
PREDICATION FOR INVESTIGATION...

A large empty rectangular box, likely a placeholder for a predication for investigation.

b7E

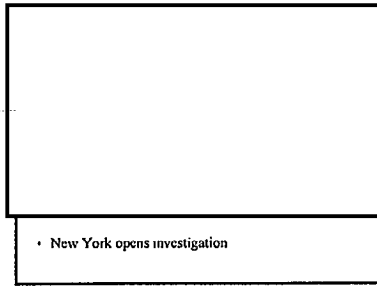
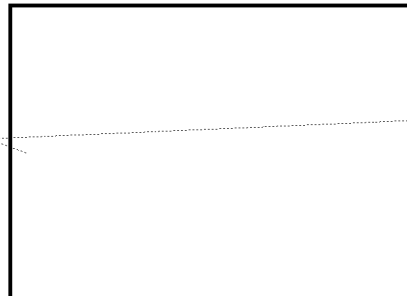
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• New York opens investigation

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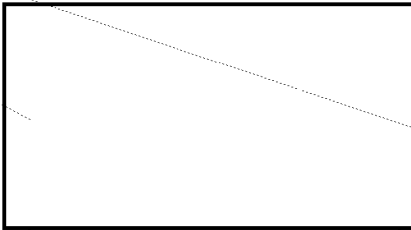
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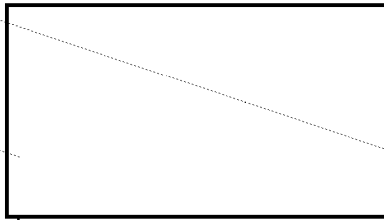
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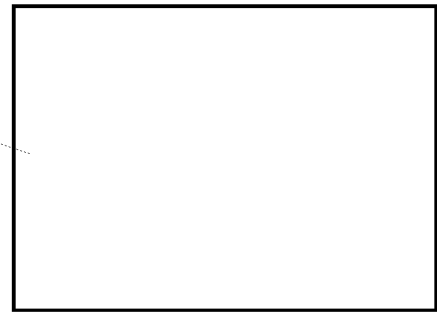
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EARL PITTS



• Full investigation opened on Earl Edwin Pitts,
April 29, 1994

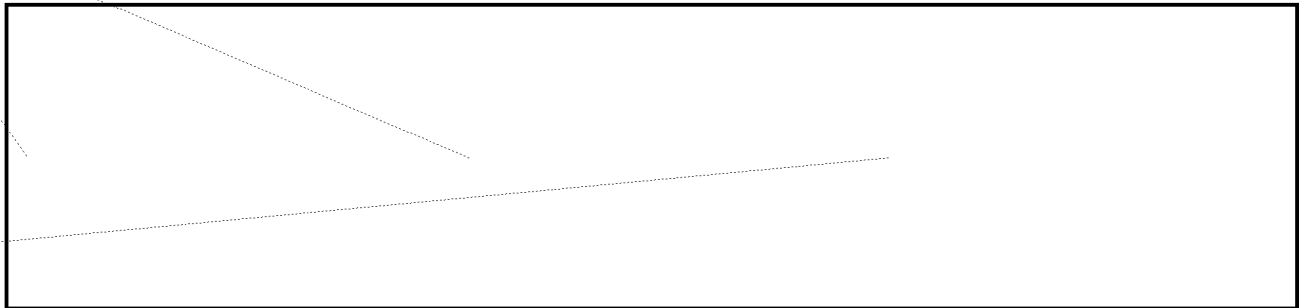


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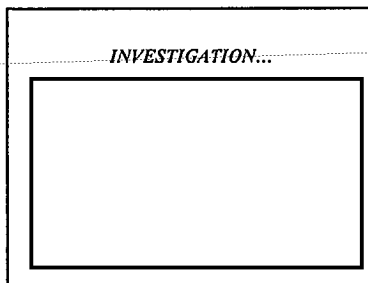
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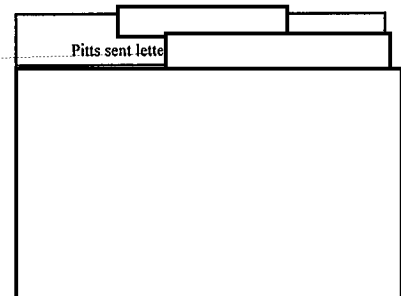


b1
b7E

(S)



INVESTIGATION...



Pitts sent letter

b1
b6
b7C
b7E

~~SECRET~~

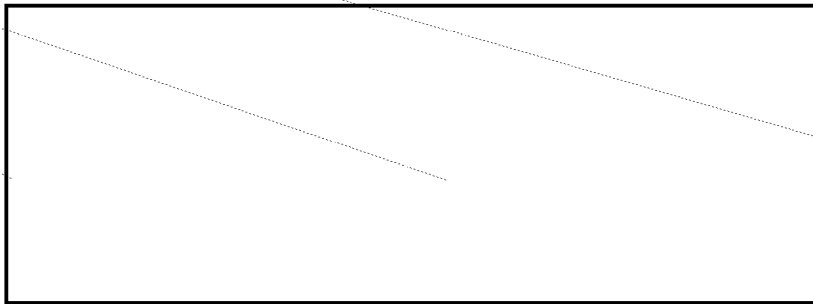
ACLURM043772

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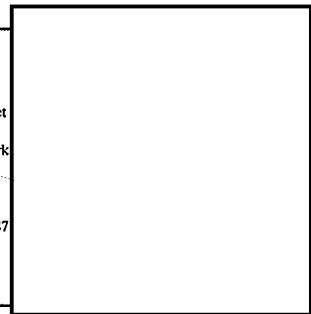
(S)

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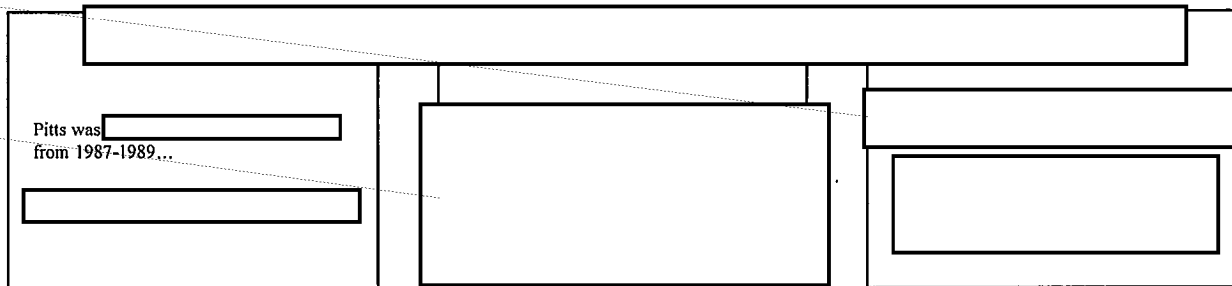
First meet
New York
Public
Library
ca. 8/1987



b1
b7E

(S)

(S)



b1
b6
b7C
b7E



b7E

~~SECRET~~

ACLURM043773

	INVESTIGATION...	INVESTIGATION...

b7E

INVESTIGATION... 	INVESTIGATION... What did we learn? Where do we go from here?	INVESTIGATION...
---------------------------------	---	---------------------------------

b7E

INVESTIGATION...	INVESTIGATION...	INVESTIGATION...

b7E

~~SECRET~~

SO NOW WHAT?

DO WE INTERVIEW PITTS?

We have...

(S)

b1
b7E

INITIAL CONTACT...

(S)

b1
b6
b7C
b7E

NOW WHAT DO WE DO?

(S)

TO THE DOOR...

Front door

Pitts
off guard



AT THE DOOR...

b1
b7E

~~SECRET~~
ACLU RM 10775

~~SECRET~~

CHRONOLOGY...

Y	bad!
Y	good!
Y	bad!
Y	very good!!
Y	very bad!!
Y	excellent!!!
Y	horrendous!!!



b6
b7C
b7E



AT THE BATTLEFIELD...

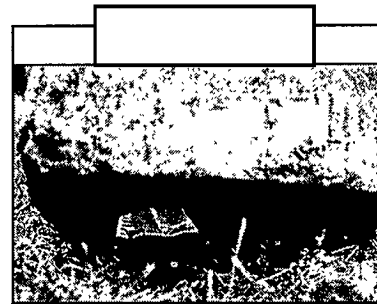
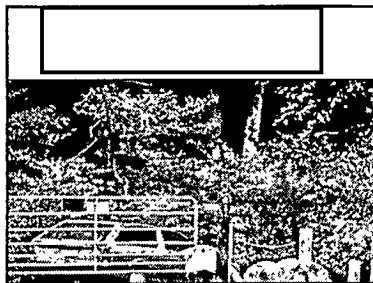
--

REMEMBER

--

b6
b7C
b7E

audio/video Pitts and "Russian" at
Battlefield



b7E

video of Pitts at

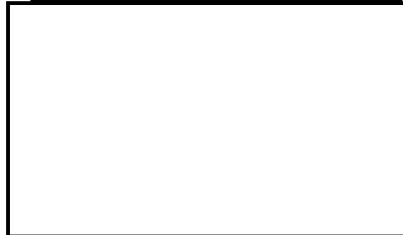


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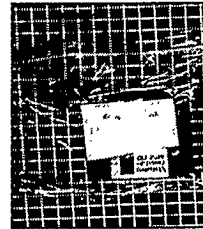


video of Pitts mark's
signal site

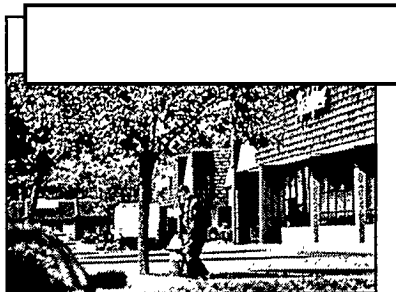
PITTS' LETTER TO THE SVR...



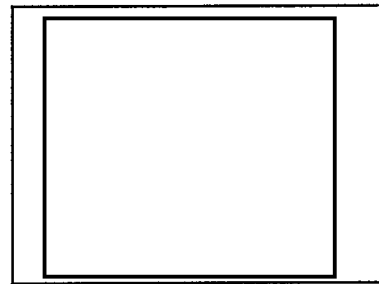
NO BAIL FOR EARL!



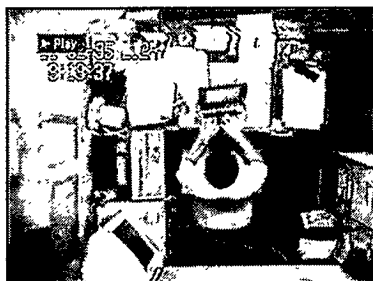
b6
b7C
b7E



video of Pitts mark's
signal



b7E

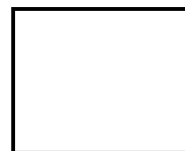


video of Pitts in his office
at Quantico

WHAT WOULD YOU DO?

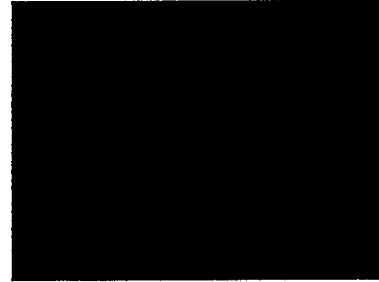
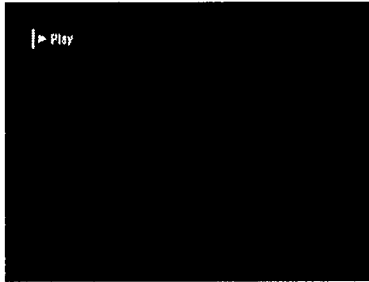
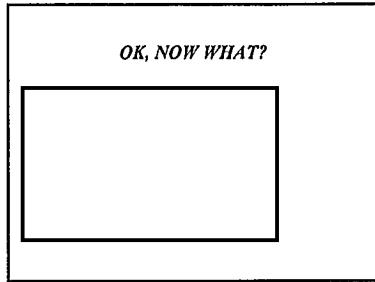


WHAT WE DID...



b7E

~~SECRET~~

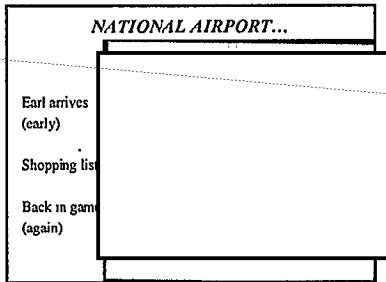
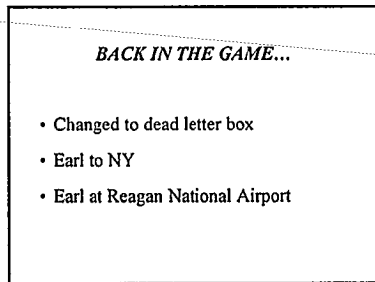


b7E

audio/video of Pitts at
payphones at Fastmart

video of Pitts at
mailbox Etc.

(S)

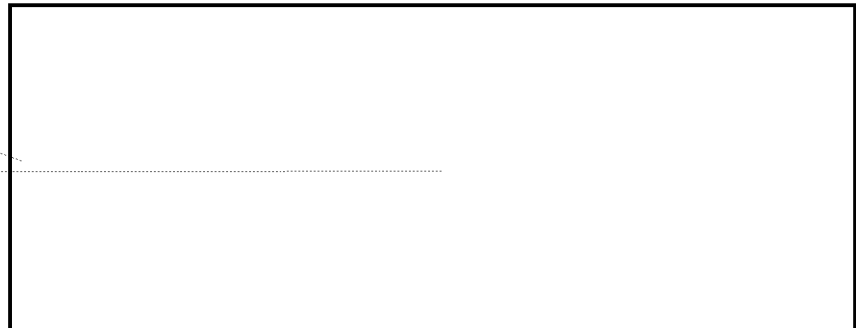


b1
b7E

(S)



(S)



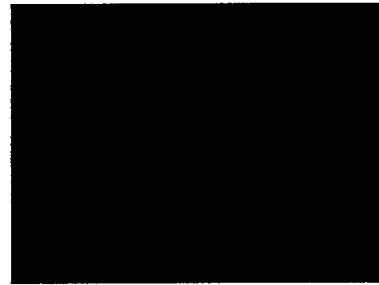
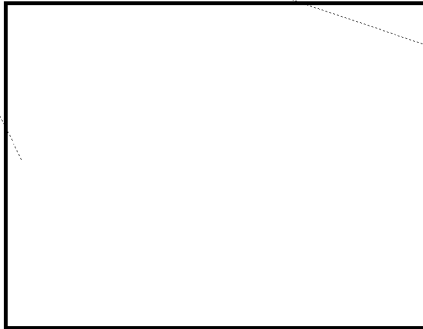
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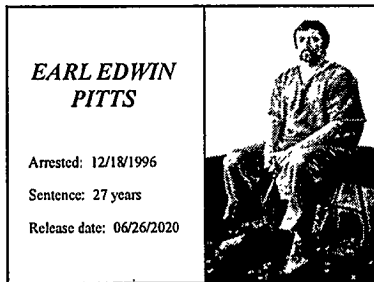
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(S)



b1
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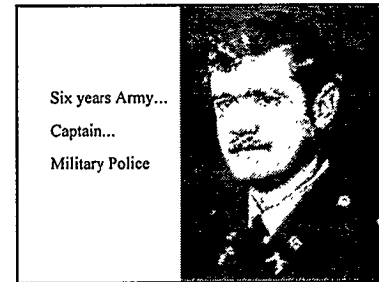
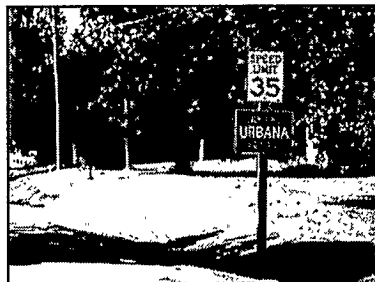
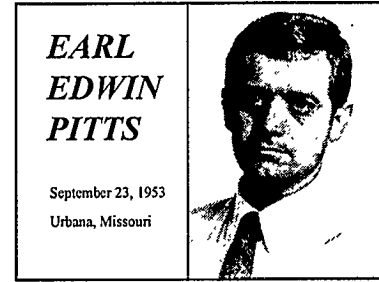
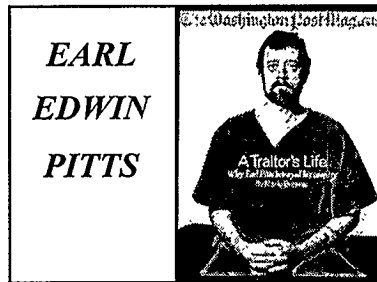
audio/video of "russian"
confessing to FBI



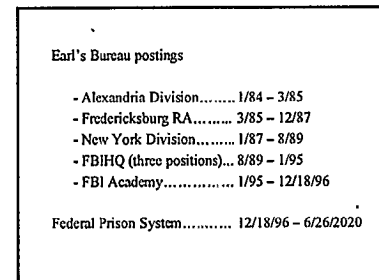
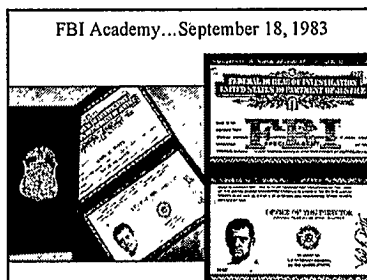
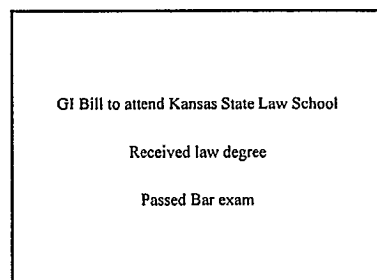
~~SECRET~~
ACLU/MO43779

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE



b6
b7C



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Small three bedroom home in Fredericksburg



PREDICATION FOR INVESTIGATION...



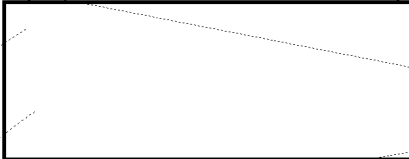
**ALDRICH
HAZEN
AMES**

Born: June 26, 1941
Arrested: Feb. 21, 1994
Sentence: Life

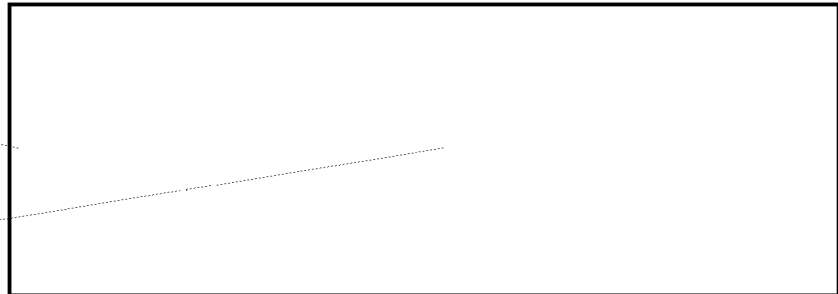


b1
b7D
b7E

INFORMATION OBTAINED
(1993/1994)...



... Earl Pitts



b1
b6
b7C
b7E

Pitts sent letter



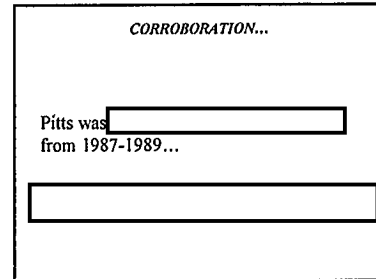
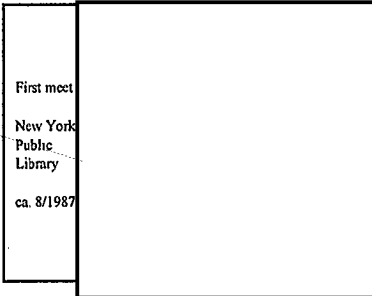
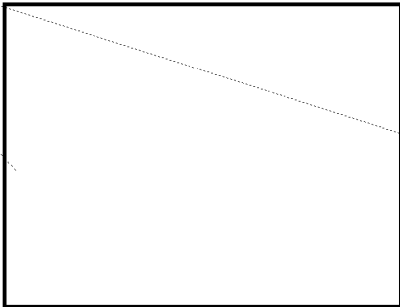
b1
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ACLU RM 043781

~~SECRET~~

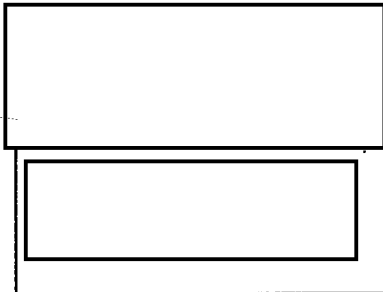
(S)

(S)



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b7E

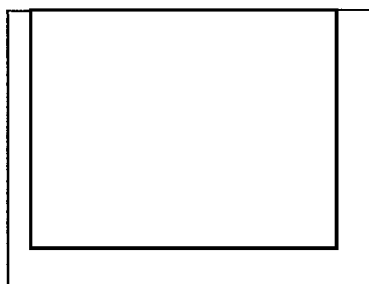
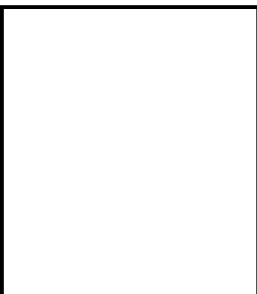
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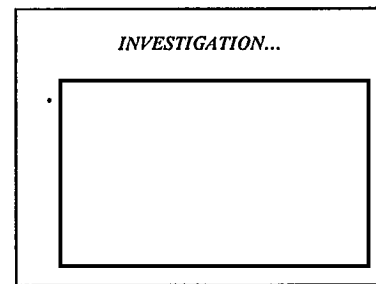
b1
b7E

CORROBORATION

Evidence
of
travel...



INVESTIGATION...



b7E

ACLURM ~~SECRET~~

~~SECRET~~

INVESTIGATION...

SO NOW WHAT?

b7E

NOW WHAT DO WE DO?

TO THE DOOR...

Front door

Pitts off guard

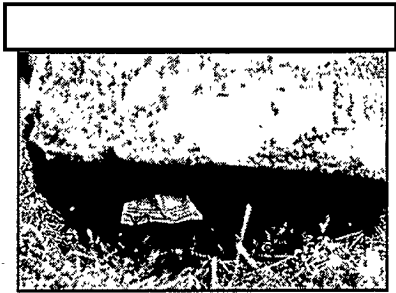
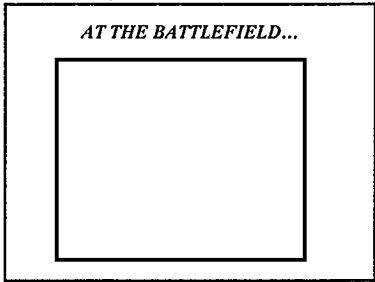
b1
b6
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AT THE DOOR...

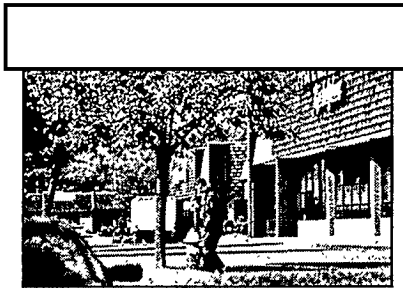
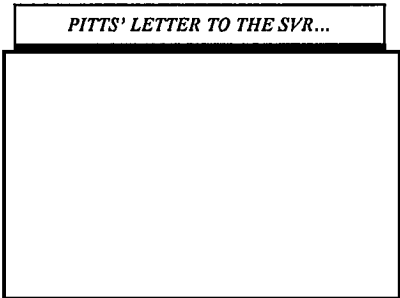
b6
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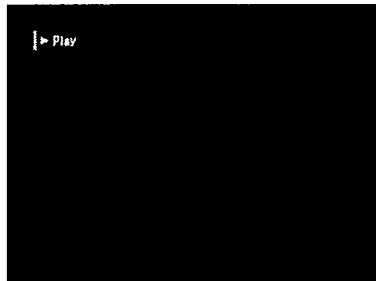
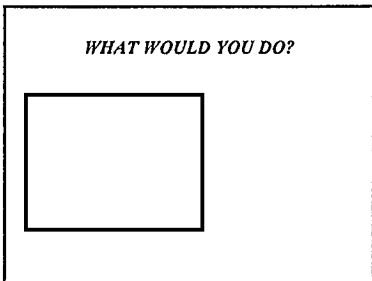
ACLURM043783



b7E



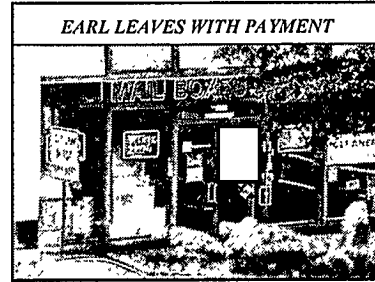
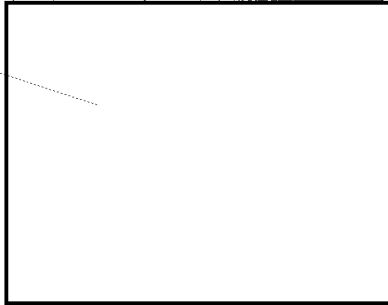
b7E



b7E

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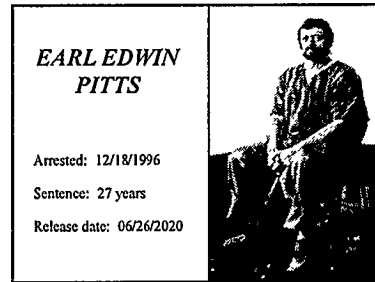
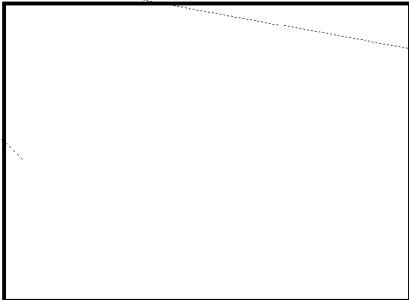
(S)



b1
b6
b7C
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(S)

(S)



b1
b7E

~~SECRET~~

ACLURM043785

DATE: 02-01-2012
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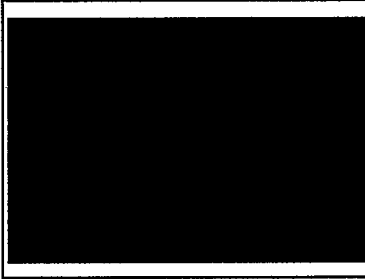
~~SECRET~~

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WHERE SHOWN OTHERWISE

(S)

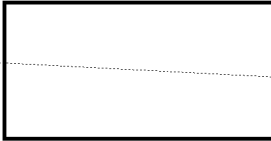
(S)

b1
b7E



audio/video of clip from
Capt. Blood movie

What Do We Wish To Accomplish?



(S)

Blank slide

What we need to do?

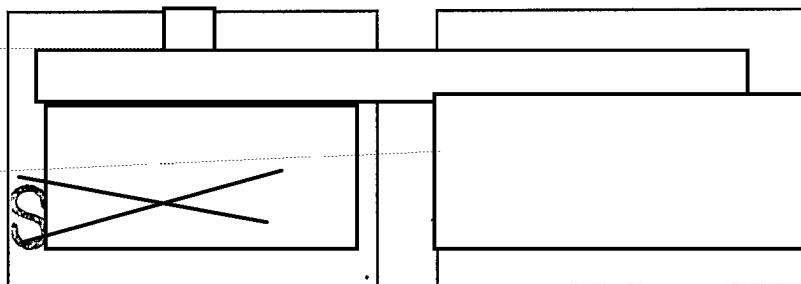
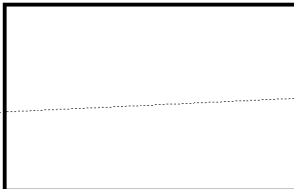
> Understand the case facts

b1
b7E

(S)

(S)

> Understand the subject



b1
b7E

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(S)

(S)

> Prepare an Operational Plan

(S)

b1
b7E

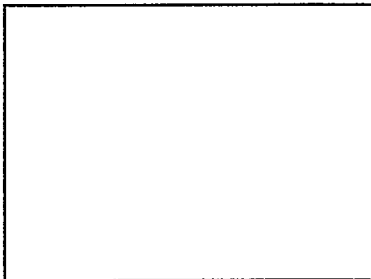
(S)

> Legal Issues

> Legal Issues (Cont)

(S)

b1
b7E



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ACLURM043787

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Espionage A-Z

Day 1:

1)

Start by showing spy composite tape [do not intro myself or say good morning...just start tape]

2)

At end of tape say..."Good morning. And if by chance anyone was wondering why we are here this week...that is it. We are going to talk about how to...prevent...investigate...and prosecute... those people [point to screen] and the ones that will inevitably come after them."

"Combating espionage is serious business...it is the essence of what the FBI is about. It is not just a job, it has repercussions for the stability and survival of the United States, for the world...but far more important...it has a direct influence for the future of your family and love ones. Your kids and mine."

[Shown mushroom cloud poster]..."This is not just a poster...it is reality...it is what we're about!"

3)

"This week we will look at the espionage statute(s), the psychology of espionage (why people commit espionage), we'll discuss investigative tools, rules and procedures, give you [redacted] the works! [redacted] than we did in [redacted]"

[redacted] We will revisit statement analysis and look at espionage subject interviews. At the end of each day we will have an espionage case presentation, presented by the case agents, so you can hear from the horses mouth how things worked, and didn't work, during the investigations."

4)

"This is an advanced course...you've all had [redacted] so you know the basics of espionage. I want to take this course to a higher level and when you leave here I want you to be able to go back to your office Monday and have the confidence and knowledge to work an espionage case. I expect each of you to participate in the course, especially in sharing your knowledge and experience with the class. If I, or some other instructor stands up here and says this is how something works and you have had the same thing fail...I want you to bring it up. THERE IS NO RIGHT OR WRONG WAY TO CONDUCT AN INVESTIGATION. There is legal and illegal, but not right and wrong. If at anytime you have something you think would contribute to the class I want you to bring it up...in class!"

"Also, let's have some fun! We can joke and play around as we learn. Otherwise it is no fun for you, or for me...and if I don't have fun I get cranky...and you don't want that!"

5)

"Before we get started let's take a quick look at the class book. Please turn to the back of the book in the folder section. In there you will find the following information:"

ACLUM043788

~~SECRET~~

FBI042688

~~SECRET~~

- "**Course Agenda**...you can see looking at the agenda that it simply says that, this morning for instance, that we will cover the introduction, elements of the crime, and satisfying the elements of the crime from 8-12p. Each morning and afternoon are like that. This means that if we are on a topic, and there is lively discussion about it and we are not finished, we will continue and make up the time somewhere else. I will not limit what you want to talk about by an artificial time constraint. We **will** go off on tangents as they come up...if that is the appropriate time to discuss a topic...so someone must be designated to recall where I was when we deviate...and that would be...volunteers, volunteers, Buehler, Buehler, anyone? OK, _____, since you chose to sit in front you are it."

- "**Next is the Roster and seating chart** so you know who everyone is and where they are from...we won't go around the room and introduce ourselves...unless you just want to...no, I thought not! It is important however to know who is in the class...maybe not right now, but networking in the Bureau will become important as your careers progress...it helps to know someone who has already done a FISA if you are starting your first one...ask for advice. It will also help when people you know start going to HQ...you will have an in for getting what you need. And don't even think that doesn't happen."

- "**And now the infamous critique form.** You can see it is not a grade by numbers form, it just lists each block of instruction and gives you a space to write a critique if you would like. What I am looking for is any constructive criticism that would help me make the course better for the next class. If there is something you would have liked to have covered (in an espionage class) please list that, or if there is something you would like covered more in depth...however this you should ask for while you're here and maybe we can do it now. Then there is a place at the end for an overall course critique and a number grading for the overall course. If you would try to keep up with the critique at least at the end of each day that would be helpful as you will forget if you wait until the last day. Just turn the whole critique in at the end. Thanks.

- "**Then we come to the Registration Form.** I know you sent your info to ☐ already but this will be our official record of who attended the course. So please pull that out now, and not now, but before you go to the first break, please fill that out and put it in the box on the end of the back table near the door. Thank you."

6)

"Now if you would turn to the front of the book...you will see the first page is entitled "Helpful Hints." These are the rules to follow so you don't get your butt in trouble. You have all heard them before so unless there is something specific you would like to discuss it is on you to read and follow the rules...There are just a couple however:"

- "1) The speed limit...strictly enforced...don't speed!"
- "2) CITC Space...classified in room only...if you want to study the materials in your room or view tapes from our tape library while you are here...it's ok...do not take them, or talk about classified information outside our space."

ACLURM043789

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~~SECRET~~



- "4) Friday...Out of the rooms by 7:45, luggage in lobby, don't go back in because they start cleaning."

b7E

- "Bus list...for anyone who needs the bus to the airport, please sign up for the bus you need...either 10am or 12noon. We will be done by 9:30am Friday."

7)

"Continuing through the book you will see the tab for  the latest off their website."

8)

"Next is Elements/Objectives: You have a power point which is there as information for you...I may or may not follow it totally but it is there as an outline for you to refer to later...I will not read from power points.

Then there is a salmon colored sheet separating the next item in this section (this holds for all the sections). Next is a circular chart we will be discussing.

Then you will find two sections on espionage and espionage related statutes. You may not be able to convict someone of espionage per say (Title 18 USC 794(a)) , but there are many related crimes, so many of those are listed."

9)

"

~~SECRET~~

(S)

2 Counterintelligence Espionage

(S) The [] course will provide a hands on, in depth approach to conducting espionage investigations. A selectee to this course will be required to complete four blocks of instruction within a designated time period. An IMIS course (prior to formal instruction), a one week intensive block of classroom instruction on the nuts and bolts of espionage investigations, (S) [] and one month after that with a course on espionage subject interviews. All blocks will include practical exercises and are designed to instruct the attendees on what they need to do in their investigations as well as how to do it. Upon successful completion of this course attendees will possess a thorough knowledge of all aspects of espionage investigations.

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b7E

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FBI042691

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Espionage Training

(S) The Counterintelligence Training Center (CITC), formally the Operational Training Center, has two espionage investigation courses scheduled for the remainder of FY'04. The courses, entitled "Espionage A-Z," provide a hands on approach to espionage investigations. Blocks of instruction include; the objectives of espionage investigations, elements of the crime, how espionage cases are generated [redacted] subject interviews, economic espionage, legal ramifications and case presentations. The course also details an espionage case from start to finish thus providing a comprehensive understanding of how espionage investigations are conducted.

b1
b7E

"Espionage A-Z" will be offered to the field on the following dates: March 8 -12, 2004 and September 13-17, 2004. Class slot allocations are based on office need (agent experience) and current espionage investigations within the field division. Prerequisites for attending these courses are: [redacted]

[redacted] The CITC coordinator for these classes is SSA [redacted]

b6
b7C
b7E

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Federal Bureau of Investigation

(U) ~~(S)~~ **Espionage Investigations**

(U) **Course Objectives:** This course provides knowledge in the following areas of espionage investigations:

- 1) Objectives of espionage investigations
- 2) Elements of the crime, espionage statutes and legal issues
- (S) 3) Satisfying the elements of the crime
- 4)
- 5) How to conduct an espionage investigation from start to finish (investigative tools and case management)
- (S) 6) Economic espionage
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- 8) Espionage subject interviews

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(U) ~~(S)~~ **Course Description:** This in-service provides a hands on, how to, approach to espionage investigations. All aspects of espionage investigations are covered in this course. They include, but are not limited to, distinctive objectives and problems which arise in espionage investigations such as issues with evidence, interview/interrogation, other agency equities and coordination with the Counter Espionage Section (DOJ), OIPR and local U.S. Attorney's offices.

(U) **Who Should Attend?:** FBI personnel currently assigned to CI matters who have completed

(U) **Course Activities and Faculty:** Classroom instruction and practical exercises presented by instructors from the FBI's CI Division's Counterintelligence Training Center (CITC) as well as FBIHQ and DOJ personnel involved in the oversight of espionage investigations.

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(U) **Course Length and Location:** Currently one week, held in the CITC secure training facility, FBI Academy, Quantico, Virginia, and regionally. This course will be expanded to ten days in FY'05.

(U) **Class Size:** students

(U) **Open to Other Agencies:** Not at this time.

(U) **Security Clearance Required:** Top Secret.

(U) **Point of Contact and Registration Information:** CITC, FBI Academy (703) 632-1732.

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National Foreign Intelligence Program Manual (NFIPM)

DATE: 02-01-2012
CLASSIFIED BY 65179/DMH/BAW/STP/bls
REASON: 1.4 (c)
DECLASSIFY ON: 02-01-2037

Section 20: (U) Espionage Investigations

Section 20-01: (U) Espionage Investigations

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A. (U) Preamble:

(U) Investigations within this section fall into two general categories - espionage and unauthorized disclosures. Espionage is defined in the NFIPM Glossary (No. 88) as, *"Intelligence activity directed toward the acquisition of intelligence through clandestine means."*

(U) Espionage investigations cover a range of conduct and activity generally associated with the clandestine collection and transmittal of National Security or National Defense information by individuals with access to such information acting on behalf of or to aid a foreign power. Unauthorized disclosure investigations cover a range of conduct and activity generally associated with the misuse or mishandling of National Security or National Defense information that may rise to the level of criminal conduct. Espionage cases can go to trial; therefore, careful documentation and collection of information which may be used as evidence must be considered from the very beginning of the case.

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(U) As part of the FBI's strategic objective to protect U.S. National Security, investigations falling within the espionage classification are among the most important matters for which the FBI has jurisdictional responsibilities. Espionage investigations

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involve the development of facts, the collection of foreign intelligence and counterintelligence information, the acquisition of evidence [REDACTED]

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[REDACTED] Compromises of such information can seriously degrade U.S. military, diplomatic, intelligence, economic and technological capabilities and advantage. Compromises of such information may also endanger the lives of individuals.

(U) Foreign intelligence services and other foreign entities conduct activities to identify, contact, assess, develop and clandestinely recruit those with access to classified and/or sensitive information that is generally protected and not available in the public domain. Some individuals with access to such information also continue to volunteer to provide information to foreign entities based upon a variety of motives.

(U) [REDACTED]

[REDACTED] Because of the serious consequences of compromises of classified and/or sensitive U.S. information and the direct impact such compromises have on the personnel and capabilities of the U.S. Government, the FBI considers it to be of paramount importance that all matters initiated within the espionage classification receive timely and thorough investigation.

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B. (U) Governing Authorities

- (U) 1. ~~(S)~~ Espionage and unauthorized disclosure investigations are generally considered to be National Security investigations as defined in the October 31, 2003, *Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG)* and as such are governed by and conducted within those guidelines. In espionage investigations there is usually a substantial foreign intelligence and/or counterintelligence information collection objective, in addition to a determination of whether any espionage-related statutes may have been violated [REDACTED]

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2. (U) Espionage and unauthorized disclosure investigations are conducted under the policies, procedures and requirements of the National Foreign Intelligence Program as set forth in this manual (NFIPM). Espionage and unauthorized disclosure investigations have some unique requirements that are set forth throughout this section of the NFIPM.

3. (U) Espionage investigations are considered "counterintelligence" activities for definitional purposes pursuant to Executive Order (EO) 12333 and are governed by that order and all related interagency agreements in terms of FBI coordination requirements in counterintelligence matters.

4. (U) Espionage investigations should also comply with general investigative requirements, *see: Sections 2 through 4, supra*; general and specific country threat investigative requirements, *see: Sections 5 through 17, supra*; and general Issue Threat investigative requirements, *see: Section 18, supra*; as appropriate. .

Section 20-02: (U) Initiating Espionage Investigations

A. (U) Espionage Classification

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[redacted] In the *Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG)*, Introduction-Part A., it states that threats to the National Security, including espionage, "almost invariably involve possible violations of criminal statutes." It further states, "Detecting, solving, and preventing these crimes – and in many cases, arresting and prosecuting the perpetrators – are crucial objectives of National Security investigations under these Guidelines." [redacted]

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2. ~~(S)~~ Prior to the issuance of the *NSIG* on October 31, 2003, FBI policy

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[redacted] Careful consideration should be made for what techniques should be used during the course of the investigation;

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5. (X) Because espionage and espionage-related investigations are considered to be National Security investigation [redacted] investigations within the espionage classification are initiated and conducted under the NSIG. [redacted]

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C. (U) Espionage Case Predication and Referrals

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3. (U) If an investigation is predicated on a referral from another agency indicating that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power, the referral and coordination requirements of Section 811 of the Intelligence Authorization Act for 1995 (codified at 50 USC 402a) apply. [Refer to NFIPM, Appendix A-28 and to Section 20-24]. Section 811 requires agencies to immediately report to the FBI if classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power. Section 811 resulted in an increase in referrals of information to the FBI [REDACTED]

[REDACTED] The FBI encourages agencies to report information if it is at all questionable if it meets the 811 reporting threshold or may warrant FBI investigation. [REDACTED]

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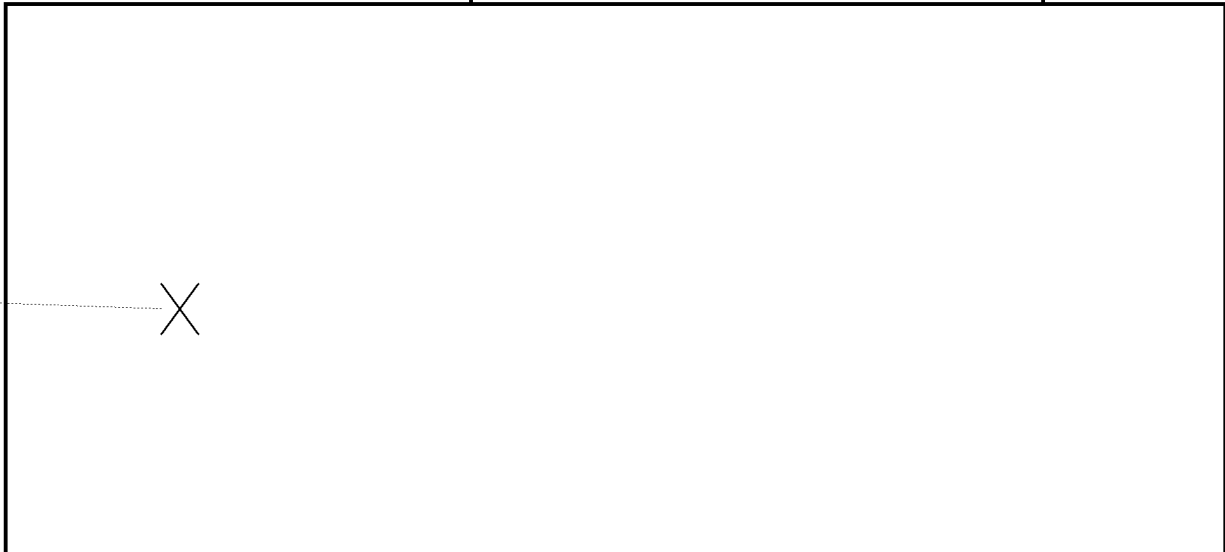
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D. (U) Threat Assessments, Preliminary Investigations and Full Investigations

1. (U) The NSIG's case predication standards, authorized techniques, and reporting requirements for these three levels of investigation apply to espionage and espionage-related investigations and are addressed in the NSIG Introduction, Sub-Part A and in Part II (National Security Investigations) of those guidelines. Authorization levels for opening preliminary and full investigations within the espionage classification are the same as those set forth in *NFIPM, Sections 2-04 and 2-05*.

2. (U) Threat Assessments:

(U) (a) ~~(S)~~ Threat Assessments may be used in espionage and espionage-related matters consistent with the NSIG.



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(U) (c) ~~(S)~~ The NSIG state that "The FBI may, without opening a preliminary or full investigation, engage in the following activities to investigate or collect information relating to threats to the National Security, including information on individuals, groups and organizations of possible investigative interest and information concerning possible targets of international terrorism, espionage, foreign computer intrusion, or other threats to the National Security:

(1) Obtain publicly available information.

(U) (2) Access and examine FBI and other Department of Justice records and obtain information from any FBI or other Department of Justice personnel. *Note: If the individual is an FBI employee, no action should be taken without prior coordination with FBIHQ.* ~~(S)~~

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- (U) (3) Check records maintained by and request information from, other federal, state, and local government entities. ~~(S)~~
- (U) (4) Use online services and resources (whether non-profit or commercial). ~~(S)~~
- (U) (5) Interview previously established assets, informants, and cooperating witnesses (not including new tasking of such persons). ~~(S)~~
- (U) (6) Interview or request information from members of the public and private entities (other than pretext interviews or requests). ~~(S)~~
- (U) (7) Accept information voluntarily provided by government or private citizens. ~~(S)~~
- (U) (d) ~~(S)~~ Pursuant to the NSIG, the foregoing methods may also be used, without opening a preliminary or full investigation, to identify potential assets, or to collect information to maintain the cover or credibility of an asset or employee, in connection with activities related to a threat to the National Security.

3. (U) **Preliminary and Full Investigations:**

- (U) (a) ~~(S)~~ The NSIG (Part II.B.1) set forth seven circumstances on which the initiation of a PI or full investigation may be based, and refer to these as "common provisions" for preliminary and full investigations. Five of these predicated circumstances relate directly to espionage or espionage-related matters. These are:
 - (U) (1) An individual is or may be an international terrorist or an agent of a foreign power. ~~(S)~~
 - (U) (2) An individual, group, or organization is or may be engaging, or has or may have engaged, in activities constituting a threat to the National Security (or related preparatory or support activities) for or on behalf of a foreign power. ~~(S)~~
 - (U) (3) A crime involved in or related to a threat to the National Security has or may have occurred, is or may be occurring, or will or may occur. ~~(S)~~
 - (U) (4) An individual, group, or organization is, or may be, the target of a recruitment or infiltration effort by an international terrorist, foreign power, or agent of a foreign power under circumstances related to a threat to the National Security. ~~(S)~~
 - (U) (5) An individual, group, organization, entity, information, property, or activity is, or may be, a target of international terrorism, espionage, foreign computer intrusion, or other threat to the National Security. ~~(S)~~

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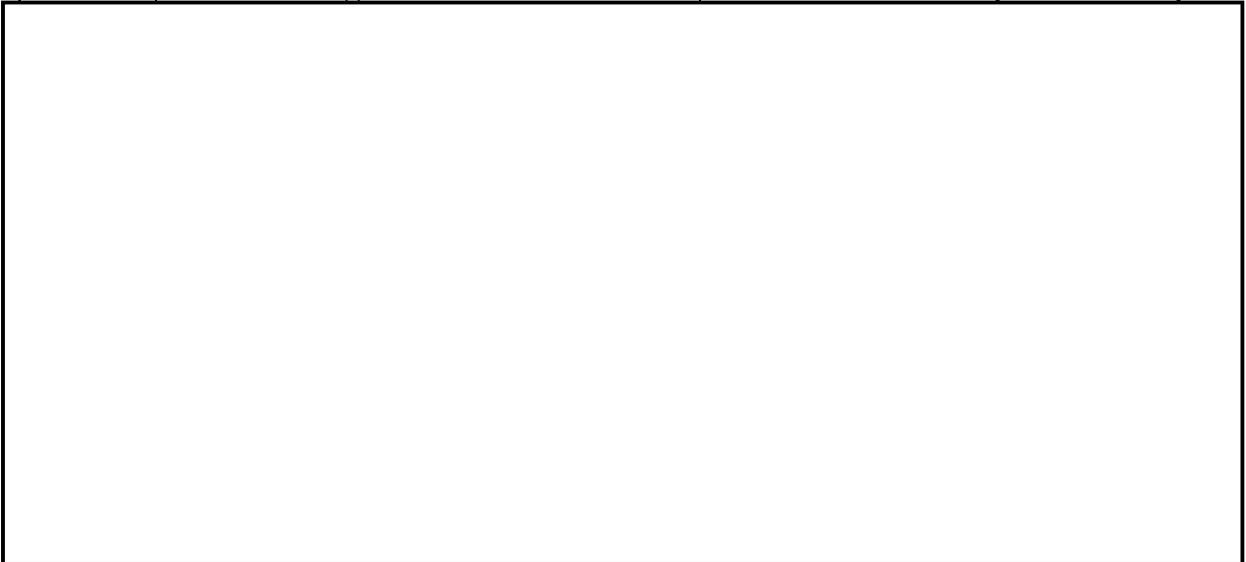
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(U) (b) ~~(S)~~ The NSIG distinguishes between a PI and a full investigation by stating that a PI is authorized "when there is information or an allegation indicating that a threat to the National Security may exist" and a full investigation is authorized "when there are specific and articulable facts giving reason to believe that a threat to the National Security may exist."

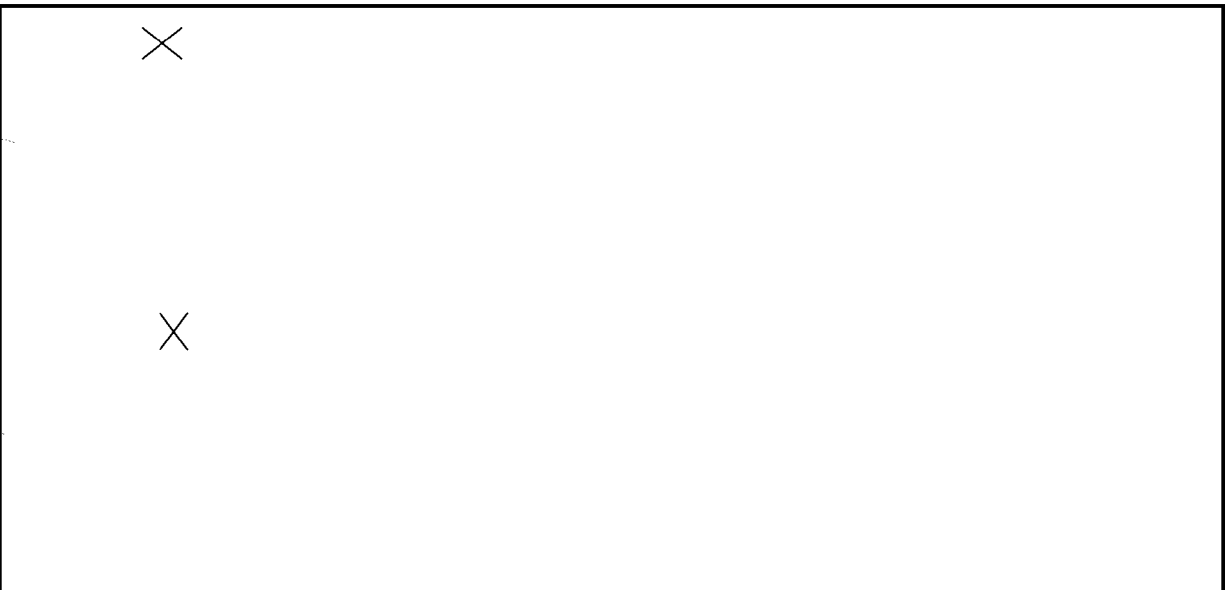
(U) (c) ~~(S)~~ In addition to this distinction, the NSIG states that nonconsensual mail opening, physical searches, and electronic surveillance that require judicial orders or warrants are only authorized in full investigations.

(U) (d) ~~(S)~~ Whether an espionage or espionage-related investigation is conducted as a preliminary or full investigation will be determined by the facts of each case.



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E. (U) Case Opening Notification Requirements

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1. ~~(S)~~ Pursuant to the NSIG, when an authorized investigation under the guidelines is initiated the field office will "notify" FBIHQ within ten (10) working days of the initiation. The NSIG state that such notification "shall identify the grounds for the investigation and describe any pertinent sensitive National Security matter."

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F. (U) FBI Internal Investigations

1. (U) Espionage cases involving FBI personnel are unique and present special concerns.

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6. (U) When conducting subject interviews and/or subject polygraphs of FBI employees or contractors, it is critical that attorneys for the field office's Chief Division Counsel's (CDC) office, FBIHQ National Security Law Branch (NSLB), and DOJ's Counterespionage Section (CES) be consulted prior to the interview to avoid any potential Garrity implications. *[Note: Garrity is a U.S. Supreme Court decision. The Supreme Court held in Garrity that when an employer gives an employee the choice of answering questions or losing their job, any statements the employee makes are compelled and, thus, inadmissible in a court of law during a prosecution. The employer does not have to expressly state that the employee would lose his/her job for failure to answer. The Garrity test has an objective component (from the employer's perspective) as well as a subjective component (based on how the employee felt and/or interpreted the interview). Because of this reason, it is imperative that the interviewer consult a lawyer prior to conducting the interview. Under most circumstances such statements may be used to take administrative sanctions against the employee.]*

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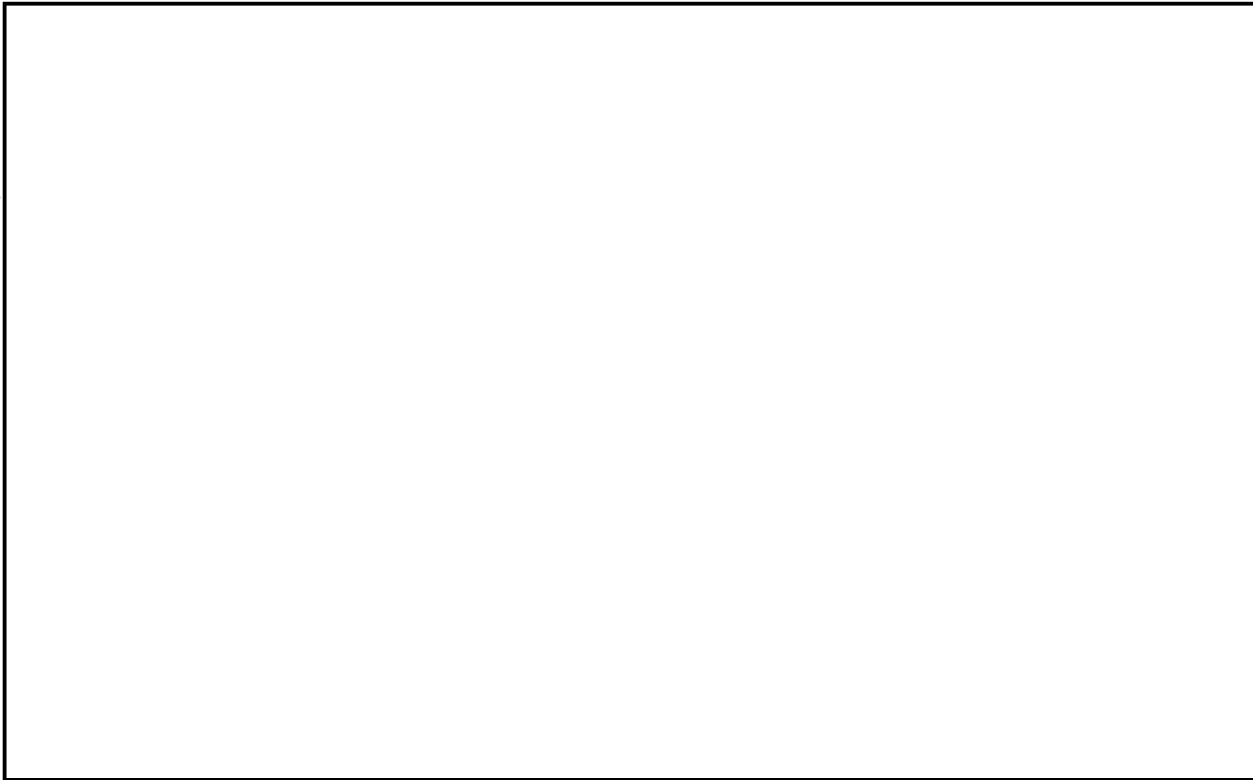
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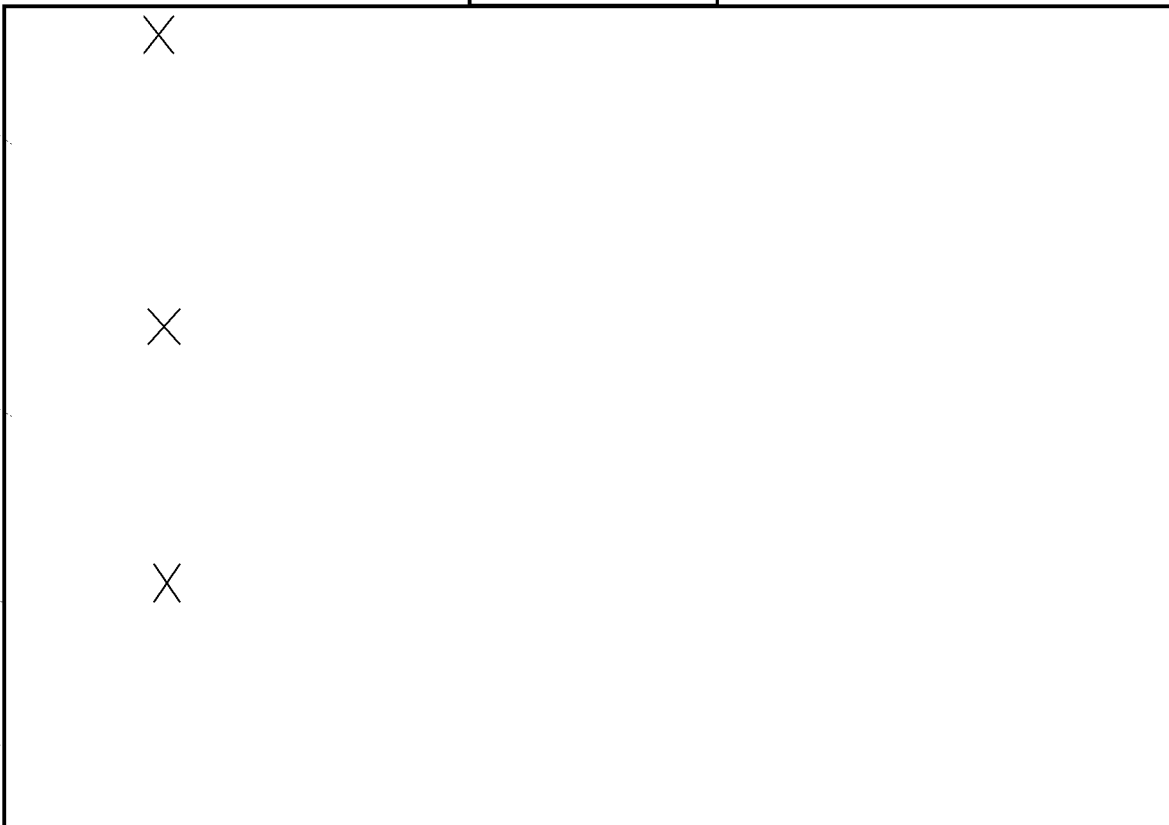
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~~H. (S) Unknown Subject (UNSUB~~

Espionage Investigations



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Section 20-03: (U) Espionage Investigation Goals and Objectives

A. (U) **Goals:** General goals for espionage and espionage-related investigations include the following:

- To prevent the loss or compromise of classified or sensitive information related to National Security, National Defense, or critical infrastructure.
- To detect espionage at the earliest possible stage, and to develop relevant facts and obtain evidence pertaining to such activity.
- To neutralize or mitigate espionage and espionage-related activity through criminal prosecutions, administrative actions, and other means.
- To identify espionage [redacted] for applying and/or adapting defensive measures, training, and awareness throughout the government, its contractors, and scientific research facilities.
- To effectively and expeditiously resolve allegations of espionage and espionage-related activity.

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B. (U) **Objectives:** Specific investigative objectives will depend on the allegations and facts of each case. There are certain general objectives that should be considered in espionage and espionage-related investigations. The following objectives are furnished for general reference and are not intended to be all-inclusive or equally applicable in all investigations:

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Section 20-04: (U) Investigative Techniques

A. (U) AG Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG)

1. (U) Techniques authorized for use in espionage and espionage-related investigations initiated pursuant to the NSIG are set forth in *NSIG, Part II and Part V*.
2. (U) The use of authorized techniques, and the use and dissemination of the information obtained from there, must comply with all NSIG requirements.

B. (U) AG Guidelines on General Crimes, Part II

1. (U) Criminal investigative techniques may be used in espionage and espionage-related investigations, but their use in these matters must also comply with the requirements set forth in this section of the NFIPM.
2. (U) Absent emergency circumstances, DOJ approval is required prior to consultations between field offices and U.S. Attorney's offices concerning espionage and espionage-related cases. [*Also refer to Section 20-02(B) and Section 20-12.*]

Section 20-05: (U) Interviews

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B. (U) Subject Interviews:

1. (U) FBIHQ approval is required for all interviews of the subjects of espionage and espionage-related investigations. In certain instances FBIHQ may have to notify and coordinate issues with other agencies, and coordination with DOJ may also be required. This also applies to pretext interviews or any contacts with a subject via email, telephone, or other operational means.
2. (U) To obtain FBIHQ approval for a subject interview, the field office will send an EC to the Counterespionage Section setting forth the request to interview and providing pertinent details concerning the planned interview. Details about the interview should include information about whether or not the interview will be custodial. Garrity

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issues may arise and should be reviewed with the field office's Division Counsel prior to a subject interview.

3. (U) FBIHQ approvals for subject interviews will be granted for a 90-day period. If the interview is not conducted during the authorized 90-day period, another EC must be sent in by the field office advising of the reasons the interview was not conducted and requesting another approval and authorization period.

4. (U) Subject interviews will always be documented on an FD-302. [*Refer to MAOP, 10-13.3, Recording Results of Information on Report Form (FD-302)*]. Consideration should also be given to obtaining signed statements from subjects when feasible, necessary, and beneficial.

5. (U)

[REDACTED]
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[REDACTED] are assigned to most major field offices. Program points of contact can also be secured through CD's Operational Training Unit at FBI Headquarters. [See NFIPM, Section 2-35, *supra*.]

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8. (U) After a subject interview is conducted, the field office should send a cover EC to the Counterespionage Section at FBIHQ with copy of the FD-302(s) of the interview enclosed. FD-302s can be classified, but must be appropriately portion marked. The inclusion of the subject's name in a paragraph is not reason alone to require classification of the paragraph. FBIHQ will consider the issue of further dissemination of the FD-302 outside of the FBI and DOJ on a case-by-case basis.

C. (U) Non-Subject Interviews:

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3. (U) Interviews of non-subjects in espionage investigations will be documented on an FD-302 if substantive information is reported. [redacted]

[redacted] [Refer to MAOP, 10-1.10 Insert]

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4. (U) Depending on the circumstances and sensitivity of the case, field offices should consider the use of a non-disclosure form in a non-subject interview. The primary purpose of such forms is to reinforce to the interviewee that he/she agrees not to discuss with anyone the fact that an investigation is ongoing or that they have been interviewed.

[redacted] Formats and contents of such forms vary and FBIHQ can assist in providing suggestions if necessary.

D. (U) In situations where classified information is to be divulged to an interviewee as a result of the interview, a formal non-disclosure *agreement* may be required, and depending on the nature of the information and/or the clearance level of the interviewee, additional authorizations for disclosure may be required. FBIHQ and DOJ will be consulted on these issues prior to the interview.

E. (U) In all cases, the interview of [redacted] requires [redacted] approval.

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F. (U) If classification of an FD-302, insert or signed statement is necessary, the document should be properly classified and portion-marked with the classification by paragraph. The inclusion of the subject's name in a paragraph is not reason alone to classify the paragraph. This will clearly indicate what portions of an interview report are classified and what portions may be unclassified.

Section 20-06: (U) Polygraph Examinations

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A. ~~(S)~~ Polygraph examinations are often used to substantiate admissions or denials of espionage or unauthorized disclosure activity. A polygraph examination may be an

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important aspect of a case referred to the FBI by another government agency where there may be indicators, but not proof, of espionage or unauthorized disclosure activity by an applicant, employee or contractor of the referring agency.

(U) B. ~~(S)~~ Polygraph examinations in espionage matters must comply with all FBI policies and procedures governing their use. [See *NFIPM, Section 2-12.*] Pursuant to the NSIG, Part V.11, polygraph examinations may be conducted in preliminary or full investigations.

(U) C. ~~(S)~~ Once FBIHQ approval has been obtained for an espionage subject interview, pursuant to *NFIPM Section 20-05*, the SAC may approve a polygraph examination of the subject. Once a polygraph examination has been approved by the SAC, the field office will advise FBIHQ of the approval and the office's plans for conducting the polygraph. (Note: A polygraph is an interview of a subject and therefore requires FBIHQ authorization before obtaining SAC approval for polygraph.)

D. (U) If a polygraph is being considered for use with a U.S. Government employee or U.S. Government contractor, this will raise certain legal issues that need to be considered. In coordination with the FBIHQ substantive desk, the field office must consult its Chief Division Counsel and/or the Office of the General Counsel/National Security Law Branch (NSLB), at FBIHQ prior to conducting the polygraph examination.

E. (U) After a polygraph examination has been conducted and the field office has received the final, approved polygraph report of the polygrapher (*reviewed and approved by the Polygraph Unit*), the field office will forward a copy of the polygraph report to the Counterespionage Section at FBIHQ.

Section 20-07: (U) Forensic Financial Examinations

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Section 20-10: (U) Mail Covers

(U) A. ~~(S)~~ Mail covers may be sought under the NSIG in either preliminary or full investigations. To request a mail cover in an espionage case, a field office should send

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the requesting EC to the Counterespionage Section at FBIHQ which will facilitate the necessary approvals. [See NFIPM, Section 2-21 for general policies and procedures. Also refer to National Security Law Branch website for additional information pertaining to mail covers.]

(U) B. ~~(S)~~ Mail covers should be considered when seeking lead information pertaining to an espionage subject's [redacted] This data may provide information pertaining to [redacted] or it may provide data that will facilitate the acquisition of [redacted]

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(U) C. ~~(S)~~ Mail covers do not need to be routinely sought in all espionage or espionage-related investigations. They are appropriate and useful in many investigations, but in some they may add little or no value. Requests for mail covers should be evaluated based on the facts, allegations and/or investigative objectives in each specific case. In many cases, mail covers once obtained do not need to be maintained on a subject for the duration of the investigation. Once sufficient lead information is obtained from the mail cover, field offices should evaluate whether additional coverage is likely to yield positive results.

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Section 20-11: (U) Reporting Requirements

A. (U) Espionage and espionage-related investigations conducted under the NSIG must comply with all NSIG reporting requirements for preliminary and full investigations.

B. (U) Because of the interagency coordination and notification requirements imposed on the FBI by statute and interagency agreements, and FBIHQ's need for timely information about ongoing espionage investigations, there are certain reporting requirements within this classification, set forth below, that exceed the basic reporting and notifications required by the NSIG.

C. (U) **Notification of Case Opening:**

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(U) 1. ~~(S)~~ Within 10 working days of the initiation of an investigation the field office should forward a cover EC with enclosed LHM (3 copies) to the pertinent unit in the of the Counterintelligence Division at FBIHQ. Field offices should refer to separate guidance or instruction from the Counterespionage Section pertaining to any prescribed format for an initial case-opening notification LHM. [See *NFIPM, Section 20-09, A.5.c., Notification Requirements*. Also refer to *NSIG, Part II.B.2a.*]

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(U) 2. ~~(S)~~ Pursuant to NSIG, Part II.B.2.b, FBIHQ will provide the LHM to DOJ's Office of Intelligence Policy and Review and to the DOJ National Security Division, Counterespionage Section, within 10 working days of receipt of the LHM.

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- (U) 7. ~~(S)~~ If any espionage or related matter is deemed to be of such a sensitive nature that a modified reporting and dissemination standard is necessary, FBIHQ will discuss this with the field office. Deviations from these general reporting and dissemination procedures must be approved at the Assistant Director level at FBIHQ.

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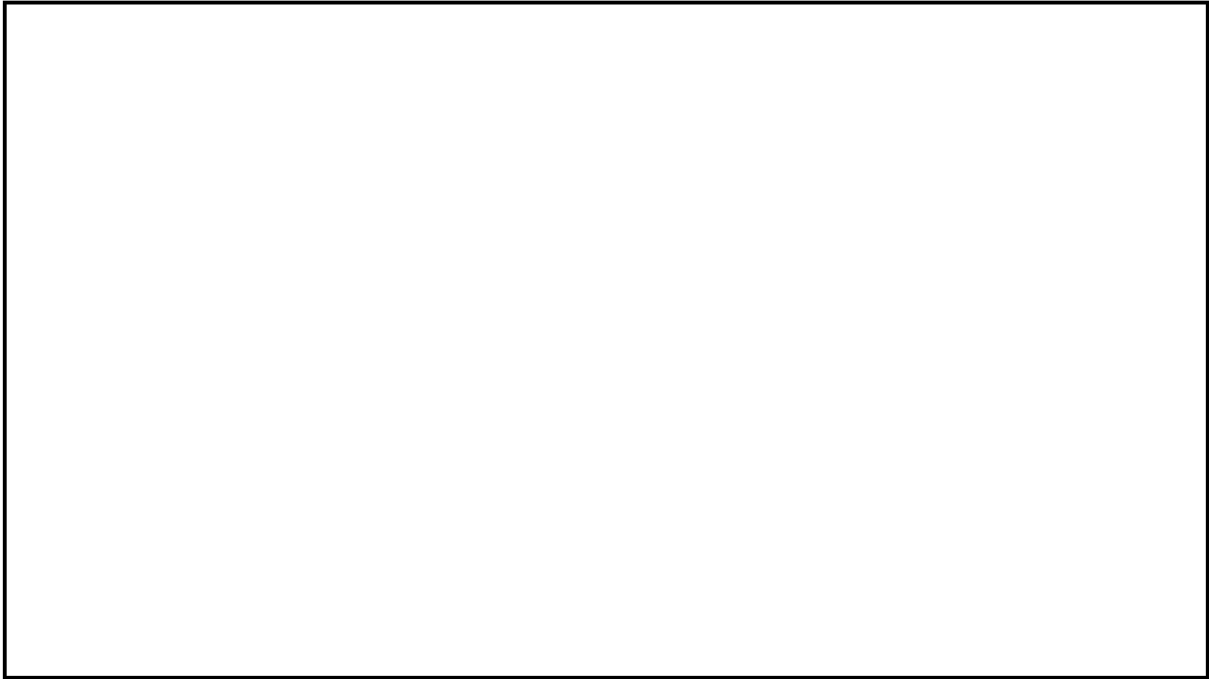
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F. (U) Annual Summaries of Investigation:

1. (U) The NSIG, Part II.D.4, requires the FBI to provide DOJ with a summary of a pending full investigation at the end of each year the full investigation continues. This summary LHM is due at FBIHQ on each annual anniversary date of the initiation of the investigation. The annual LHM should summarize the investigation conducted over the entire previous year [redacted]

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2. (U) Submission of this required annual summary of a full investigation eliminates the need for the field to provide FBIHQ [redacted] [redacted] that would otherwise be due on the same date. Dissemination of the annual summary outside of DOJ to another agency will be determined on a case-by-case basis by FBIHQ. If the annual summary LHM is suitable for further dissemination, FBIHQ may disseminate the LHM to another agency that has equity in the investigation, and the field office will be so advised.

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3. (U) The NSIG does not require that DOJ be provided an annual summary of investigation in preliminary investigations [redacted]

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[redacted] [See Section 20-11.D.]

4. (U) The format for the annual summary may change from time to time, and field offices should be familiar with the current format as prescribed by FBIHQ. If there are questions about format consult FBIHQ.

G. (U) Case Closing LHM:

1. (U) The closing LHMs for both preliminary and full investigations will be sent to FBIHQ for approval *prior* to closing a case. The cover EC will advise all logical investigation as been conducted and set a lead to FBIHQ requesting concurrence to close the case. FBIHQ will respond to the field as soon as possible, but no later than 30 days upon receipt of the LHM.

2. (U) The LHM will provide a detailed summary of the entire investigation. The closing LHM is one of the most important documents produced in espionage or espionage-related investigations, especially when the investigation does not result in criminal charges against the subject. The closing LHM should contain sufficient information about the investigation conducted and the results obtained. In particular, it should *address* the resolution or non-resolution of the pertinent issues that predicated the investigation.

3. (U) Closing LHMs will be routinely provided to DOJ; however, DOJ is not intended to be the only recipient of these reports. Closing LHMs will also be provided to other agencies that have equities in the investigation. Usually this will be the same agency or agencies that have been [redacted] during the course of the investigation. It is important to note that recipient agencies, especially those that employ or contract with the subjects of these investigations, will often use and rely on this product to take any appropriate action they deem necessary. Such actions may include personnel actions or administrative sanctions, changes in work assignments, security clearance actions, terminations, and so forth. These cases are often briefed at high levels within those agencies after the FBI has concluded its investigation and reported its findings. An FBI investigation of a government employee or contractor based on a referral or some type of espionage allegation is given a high degree of scrutiny within other government agencies. This is due to the overall seriousness of espionage and espionage-related allegations, the impact of such activity on these agencies, and the fact that the FBI is the primary agency within the U.S. Government that has the expertise and responsibility for these types of investigations.

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(U) 4. ~~(S)~~ If the subject of the investigation is *not* interviewed, an explanation concerning the decision/reason not to interview will be addressed in the cover EC.

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During an authorized subject interview [REDACTED]

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[REDACTED] If the subject is interviewed, but not furnished a polygraph examination, the cover EC should also address why the subject was not polygraphed. This information may or may not be suitable for inclusion in the closing LHM depending on the facts.

- (U) 5. ~~(S)~~ Closure of full espionage investigations will be reviewed by the Section Chief or designee. Closure of preliminary investigations will be reviewed by the Unit Chief or designee. Field offices can set leads for dissemination by FBIHQ if specific agencies request notification of closing in the cover EC. FBIHQ will disseminate closing LHMs to DOJ, the victim agency(s) and appropriate CI partners. FBIHQ will apprise the Office of Origin of any dissemination other than DOJ and employing agency.

Section 20-12: (U) Contacts with U.S. Attorney's Offices

A. (U) DOJ authority is required for the prosecution of espionage or espionage-related violations.

B. (U) The NSIG at Part VII.B.2.g., states as follows:

"In espionage cases, dissemination of information to United States Attorney's offices and consultations between the FBI and United States Attorney's offices are subject to authorization by the DOJ's National Security Division. In an emergency, the FBI may disseminate information to, and consult with, a United States Attorney's office concerning an espionage investigation without the approval of DOJ's National Security Division, but shall notify the DOJ National Security Division as soon as possible thereafter."

C. (U) In non-emergency situations a field office should not initiate contact with a U.S. Attorney's office concerning an espionage matter without first contacting the

[REDACTED] at FBIHQ. Pursuant to the NSIG requirement as set forth in paragraph (B) above, FBIHQ will contact the DOJ National Security Division's Counterespionage Section to obtain authorization.

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D. (U) If emergency circumstances exist involving a subject or the protection of National Security information, the field should consult with FBIHQ as soon as possible so that the matter can be coordinated with DOJ. If National Security interests are reasonably believed to require immediate FBI interdiction in a situation in order to protect information or for some other purpose, the situation should be handled pursuant to the orders of the SAC and FBIHQ should be promptly notified.

E. (U) National Security interests may sometimes require detention or arrest of individuals in order to prevent transmission or loss of National Security information or

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the escape of a subject. FBIHQ must be apprised as soon as possible of any detention and/or arrest of any diplomatic personnel or United Nations Security Council (UNSEC) employees, or before seizing any items in their possession. FBIHQ will make appropriate notification to the U.S. Department of State, et al.

Section 20-13: (U) Extraterritorial Espionage Investigations, Liaison and Coordination Issues

A. (U) Espionage and espionage-related investigations may require FBI personnel to travel outside the United States for investigative, operational and/or foreign liaison purposes. Pursuant to Public Law 101-193 (Section 603 of the Intelligence Authorization Act of 1990) the FBI has jurisdiction to supervise the conduct of all investigations of violations of the espionage laws of the United States by persons employed by or assigned to U.S. diplomatic missions abroad, including allegations involving foreign service nationals (FSNs) employed at U.S. diplomatic missions abroad. [Refer to Section 20-23.] In espionage investigations there may also be occasions when a subject resides or travels outside the United States, and these situations may also necessitate foreign travel by FBI personnel.

B. (U) The Office of International Operations (OIO) has established the general policies, approval procedures and coordination requirements for international travel by FBI employees that must be complied with whenever authority for such travel is requested. General policies governing international travel and extraterritorial investigation are set forth in MIOG, Part II, 23-4.10 (Extraterritorial Investigative Activity) and MIOG, Part II, 23-8.2 (Foreign Travel of FBI Personnel on Official Business), and in other policy documents that can be reviewed at the OIO website on the FBI intranet. [Also refer to *NFIPM, Sections 2-22 and 2-23*; and *MEMORANDUM TO ALL SACs dated July 11, 2002 captioned "CONDUCTING FBI INVESTIGATIONS OVERSEAS"*; and *MEMORANDUM OF UNDERSTANDING CONCERNING OVERSEAS AND DOMESTIC ACTIVITIES* [REDACTED] *AND THE FEDERAL BUREAU OF INVESTIGATION (2005)*]

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C. (U) There are specific procedures to be followed when requesting approval for international travel in connection with an espionage or espionage-related investigation. Strict adherence to these procedures is necessary due to the interagency coordination requirements.

1. (U) Espionage investigations meet the definition of "counterintelligence" in Executive Order (EO) 12333. As such, the FBI is authorized by the order to conduct these activities outside the United States, [REDACTED]

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[Refer to *MEMORANDUM OF UNDERSTANDING CONCERNING OVERSEAS AND DOMESTIC ACTIVITIES* [REDACTED] *AND THE FEDERAL BUREAU OF INVESTIGATION, PART II (OVERSEAS INTELLIGENCE ACTIVITIES)* (July 2005)]

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(S) D. ~~(S)~~ **Travel Authorities:** The authorities required prior to international travel in all matters, including espionage matters [REDACTED] and Attorney General authority. In matters involving FBI investigations of espionage of U.S.

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3. ~~(S)~~ **Attorney General Authority:** This will be obtained by FBIHQ [REDACTED]

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E. ~~(S)~~ A field office should anticipate the need for international travel in espionage matters. If international travel is anticipated, it is strongly recommended that the field office discuss this as early as possible with the [REDACTED] at [REDACTED] FBIHQ before sending a formal request [REDACTED]

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F. (U) Formal requests should reach FBIHQ with sufficient time for the necessary authorizations to be obtained. Routine requests should reach FBIHQ a minimum of 45 days before the anticipated travel dates. Emergency requests, based only on exigent operational circumstances, will be handled as expeditiously as possible given the requirements of the authorization process.

G. (S) To request approval for international travel in connection with an espionage investigation, a field office should send an EC to the [redacted] at FBIHQ setting forth the details of the travel request and a lead for FBIHQ [redacted] to [redacted] and AG authority for the travel. The requesting EC must be approved by the SAC. No copy of this EC should be designated for or sent to the Legat, and no lead should be set in this EC for the Legat to obtain [redacted] in connection with the travel. FBIHQ [redacted] will handle notification to the pertinent Legat, and [redacted]

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[redacted] Refer to Section 20-13.D above.]

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I. (S) Field offices should note that even in situations where an investigative lead is to be set for a Legat in an espionage matter, this likely requires [redacted] pursuant to EO 12333. If a field office needs to set an investigative or liaison lead for a Legat in connection with an espionage matter, the field office will first consult FBIHQ in order for FBIHQ to assess any interagency issues presented by the proposed activity. This consultation between the field office and FBIHQ should occur prior to any level of communication, e.g. telephone, email, etc., between the field office and the pertinent Legat's office pertaining to the proposed lead activity. Once FBIHQ approval has been obtained for espionage investigative leads to be set for a Legat via a formal EC from the field office, any subsequent communications about the lead activity between the Legat's office and the field office, including email, should include an informational copy to the pertinent FBIHQ supervisor.

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Section 20-15: (U) Missing Documents, Computers and Other Classified Data or Storage Media

A. (U) Other U.S. Government agencies occasionally report that items such as documents, computers, or other data storage media containing classified information are missing. If such a report is received, a field office should initially conduct a threat assessment pursuant to NSIG, Part II.A, in order to determine whether a preliminary or full investigation by the FBI is warranted. Initial steps undertaken should include the following:

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B. (U) Acquisition of the above information in paragraph (A) is permissible utilizing the techniques authorized under a threat assessment and does not require opening either a preliminary or full investigation. Refer to Section 20-02, D.2, of this manual for instruction on documenting threat assessments.

C. (U) FBIHQ must be immediately notified if a field office receives a report of this nature.

D. (U) These situations may require an FBI investigation if there is reason to believe that the items were taken in an unauthorized manner, may have been compromised, or may have been lost through gross negligence. [REDACTED]

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[REDACTED] may be a factor in determining whether an FBI investigation is warranted.

E. (U) It is important to note that the FBI is not responsible for locating the missing items, especially if the facts suggest the likelihood that the items were merely misplaced. The reporting agency should continue its efforts to locate the missing items, and the field office should maintain close contact with the agency to monitor the search activities for any indications of possible criminal or counterintelligence interests to the FBI.

Section 20-16: (U) Reports of Improper Storage or Possession of Classified Information and Other Security-Related Issues

A. (U) In addition to reports of missing classified documents or data, other government agencies may report that an employee has stored, transmitted or possesses classified information in an unauthorized manner. The most common scenario is that the employee has classified information at home or has placed it on an unclassified computer or network, although no information may yet be known that suggests the information has been otherwise compromised.

B. (U) As with reports of missing items, if such a report is received, a field office should initially conduct a threat assessment pursuant to NSIG, Part II.A, in order to determine whether a preliminary or full investigation by the FBI is warranted. Initial steps undertaken should include the following:

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C. (U) FBIHQ must be immediately notified if a field office receives a report of this nature.

D. (U) Acquisition of the above information in paragraph (B) is permissible utilizing the techniques authorized under a threat assessment and does not require opening either a preliminary or full investigation. Refer to Section 20-02, D.2, of this manual for instruction on documenting threat assessments.

E. (U) As with missing classified documents or storage media, these situations may require FBI investigation in order to determine if classified information has been compromised, is being unlawfully retained, has been or is being communicated in an unauthorized manner, or has been lost through gross negligence.

F. (U) In many of these situations the reporting agency may have already conducted some level of investigation under its personnel and information security authorities and procedures. U.S. Government agencies have the authority, as well as a duty, to protect classified information and to conduct related internal security investigations. In most cases, however, investigations or inquiries by other agencies are not conducted pursuant to any criminal law enforcement or counterintelligence investigative authority, but instead are conducted by the agency pursuant to their security or other administrative authorities.

G. (U) When an agency reports such a situation to the FBI, the FBI may initiate its own investigation, and any further actions by the reporting agency should be coordinated in advance with the FBI. The overriding goal should be protection of the classified information, although in some cases the conduct of the subject may rise to the level of criminal conduct.

H. (U) In these situations the field should be cognizant of any investigative activity that the reporting agency has already conducted or plans to conduct since actions undertaken by the subject's employer may preclude or hinder future prosecution of the subject. Once advised of the facts, FBIHQ will consult with the DOJ National Security Division in

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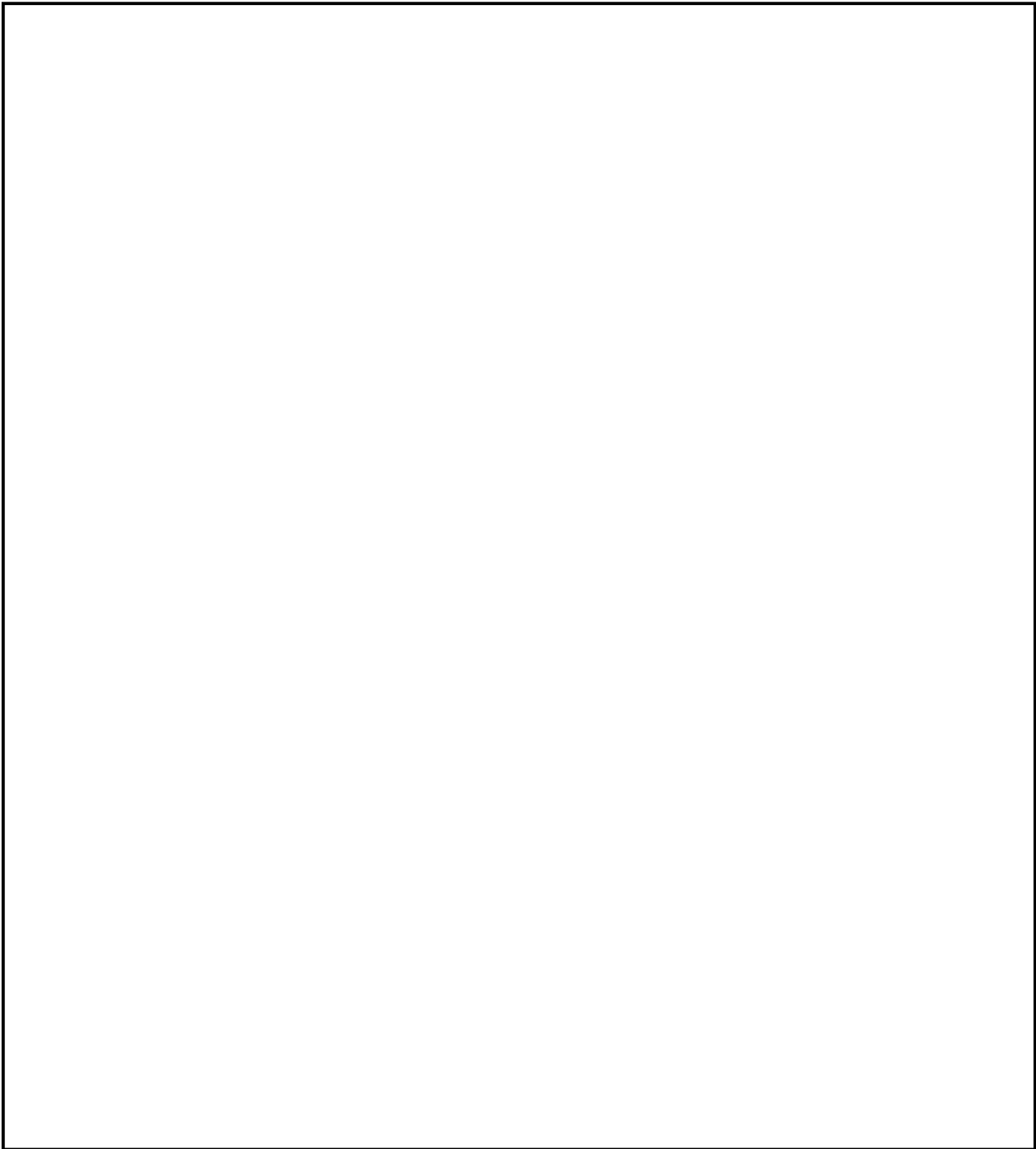
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these situations to ensure that actions taken do not infringe on the subject's rights or create unnecessary obstacles to a future prosecution. DOJ will be consulted with prior to a field office contacting an Assistant United States Attorney (AUSA).

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Section 20-18: (U) Espionage and Related Crimes

A. (U) Bribery, Graft, and Conflicts of Interest

1. (U) Title 18, U.S. Code, Section 219 and Section 951
Officers and Employees Acting as Agents of Foreign Principals: Illegal for a public official to act as an agent of a foreign principal in such a manner as to require his/her registration under the Foreign Agents Registration Act (FARA) – see Title 22, U.S. Code, Section 611 et seq. for FARA registration requirements.

B. (U) Conspiracy

1. (U) Title 18, U.S. Code, Section 793(g)
2. (U) Title 18, U.S. Code, Section 794(c)
3. (U) Title 18, U.S. Code, Section 371
Conspiracy to Commit Offense or Defraud United States. This offense may also be applied to all espionage related offenses.

C. (U) Embezzlement and Theft

1. (U) Title 18, U.S. Code, Section 641
Public money, property or records

D. (U) Espionage and Censorship

[Also see Section 20-20 for specific statutory elements and NFIPM, Appendix A-7]

1. (U) Title 18, U.S. Code, Section 792
Harboring or Concealing Persons involved in Violation of Title 18, U.S. Code, Section 793 and/or 794
2. (U) Title 18, U.S. Code, Section 793
Gathering, Transmitting, or Losing Defense Information
3. (U) Title 18, U.S. Code, Section 794
Gathering or Delivering Defense Information to Aid Foreign Government

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4. (U) Title 18, U.S. Code, Section 795
Photographing and Sketching Defense Installations
5. (U) Title 18, U.S. Code, Section 796
Use of Aircraft for Photographing Defense Installations
6. (U) Title 18, U.S. Code, Section 797
Publication and Sale of Photographs of Defense Installations
7. (U) Title 18, U.S. Code, Section 798
Disclosure of Classified Information Pertaining to Codes, Ciphers,
Cryptographic Systems, or Communications Intelligence Activities
8. (U) Title 18, U.S. Code, Section 799
Violation of Regulations of National Aeronautics and Space
Administration (NASA)
9. (U) Title 18, U.S. Code, Section 3239
Optional Venue for Espionage and Related Offenses

E. (U) **Fraud and False Statements**

[Also see NFIPM, Appendix A-10]

1. (U) Title 18, U.S. Code, Section 1030
Fraud and Related Activity in Connection with Computers
2. (U) Title 18, U.S. Code, Section 1001
Making False Statements

F. (U) **Protection of Trade Secrets (Economic Espionage Act)**

[Also see NFIPM, Appendix A-15]

1. (U) Title 18, U.S. Code, Section 1831
Economic Espionage
2. (U) Title 18, U.S. Code, Section 1832
Theft of Trade Secrets

G. (U) **Public Officers and Employees**

1. (U) Title 18, U.S. Code, Section 1924
Unauthorized Removal and Retention of Classified
Documents or Material

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H. (U) **Sabotage**

[Also see NFIPM, Appendix A-17]

1. (U) Title 18, U.S. Code, Section 2152
Fortifications, Harbor Defenses, or Defensive Sea Areas
2. (U) Title 18, U.S. Code, Section 2153
Destruction of War Material, War Premises, or War Utilities
3. (U) Title 18, U.S. Code, Section 2154
Production of Defective War Material, War Premises, or War Utilities
4. (U) Title 18, U.S. Code, Section 2155
Destruction of National Defense Materials, National Defense Premises, or
National Defense Utilities
5. (U) Title 18, U.S. Code, Section 2156
Production of Defective National Defense Material, National Defense
Premises, or National Defense Utilities

I. (U) **Treason, Sedition, and Subversive Activities**

1. (U) Title 18, U.S. Code, Section 2381
Treason
2. (U) Title 18, U.S. Code, Section 2382
Misprision of Treason
3. (U) Title 18, U.S. Code, Section 2383
Rebellion or Insurrection
4. (U) Title 18, U.S. Code, Section 2384
Seditious Conspiracy
5. (U) Title 18, U.S. Code, Section 2385
Advocating Overthrow of Government
6. (U) Title 18, U.S. Code, Section 2386
Registration of Certain Organizations
7. (U) Title 18, U.S. Code, Section 2387
Activities Affecting Armed Forces Generally
8. (U) Title 18, U.S. Code, Section 2388

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Activities Affecting Armed Forces During War

9. (U) Title 18, U.S. Code, Section 2389
Recruiting for Service Against the United States
10. (U) Title 18, U.S. Code, Section 2390
Enlistment to Serve Against the United States

J. (U) **Foreign Agents and Propaganda**

[Also see NFIPM, Appendix A-25]

1. (U) Title 22, U.S. Code, Sections 612, 613, 614, 615
Foreign Agents Registration Act (FARA) of 1938
2. (U) Title 22, U.S. Code, Section 618
Enforcement and Penalties under FARA
3. (U) Title 18, U.S. Code, Section 951
Agents of Foreign Governments

K. (U) **Development and Control of Atomic Energy (Atomic Energy Act)**

[Also see NFIPM, Appendix A-26]

1. (U) Title 42, U.S. Code, Section 2272
Violations of Specific Sections: 2077 (Unauthorized Dealings in Special Nuclear Material); 2122 (Prohibitions Governing Atomic Weapons); or 2131 (Atomic Energy Licenses)
2. (U) Title 42, U.S. Code, Section 2273
Violations of Chapter 23, Development and Control of Atomic Energy
3. (U) Title 42, U.S. Code, Section 2274
Communication of Restricted Data
4. (U) Title 42, U.S. Code, Section 2275
Receipt of Restricted Data
5. (U) Title 42, U.S. Code, Section 2276
Tampering with Restricted Data
6. (U) Title 42, U.S. Code, Section 2277
Disclosure of Restricted Data
7. (U) Title 42, U.S. Code, Section 2278a

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Trespass upon Commission Installations

8. (U) Title 42, U.S. Code, Section 2278b
Photographing, etc. of Commission Installations
9. (U) Title 42, U.S. Code, Section 2284
Sabotage of Nuclear Facilities, etc.

L. (U) **Protection of Certain National Security Information**

[Also see NFIPM, Appendix A-28]

1. (U) Title 50, U.S. Code, Section 421
Protection of Identities of Certain United States Undercover Intelligence Officers, Agents, Informants, and Sources (Intelligence Identities Protection Act of 1982)
2. (U) Title 18, U.S. Code, Section 952
Diplomatic Codes and Correspondence - Prohibition against U.S. Government employees publishing or furnishing official diplomatic code or matter prepared in such code, or matter obtained in the process of transmission between any foreign government and its diplomatic mission in the U.S. (U) Title 50, U.S. Code, Section 422, Defenses and Exceptions

M. (U) **Internal Security – Control of Subversive Activities**

[Also see NFIPM, Appendix A-29]

1. (U) Title 50, U.S. Code, Section 783
Offenses: (a)Communication of Classified Information by Government Officer or Employee; (b)Receipt of, or Attempt to Receive, Classified Information by Foreign Agent; (c)Penalties for Violation

N. (U) **Registration of Certain Persons Trained in Foreign Espionage Systems**

[Also see NFIPM, Appendix A-29]

1. (U) Title 50, U.S. Code, Section 851
Registration of Certain Persons; Filing Statement; Regulations
2. (U) Title 50, U.S. Code, Section 852
Exemption from Registration
3. (U) Title 50, U.S. Code, Section 853
Retention of Registration Statements; Public Examination; Withdrawal
4. (U) Title 50, U.S. Code, Section 854

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Rules, Regulations, and Forms

5. (U) Title 50, U.S. Code, Section 855
Violations; Penalties; Deportation
6. (U) Title 50, U.S. Code, Section 856
Continuing Offense
7. (U) Title 50, U.S. Code, Section 857
Compliance with other Registration Statutes

O. (U) **Rewards for Information Concerning Espionage**

1. (U) Title 18, U.S. Code, Section 3071, 3077
(Sec. 803 – Intelligence Authorization Act for 1995)

Section 20-19: (U) The Espionage and Censorship Statute

18 USC, Chapter 37 - Espionage and Censorship, Sections 792-799; National Defense Information, Vital Installations and Equipment, Codes and Intelligence Gathering Activities, Military Installations and Classified Arms Manufacturing Establishments, and Media Leak Cases.

A. (U) Federal law prohibits:

1. Any person from obtaining or attempting to obtain National Defense information with the intent or reason to believe that the information is to be used to the injury of the United States or to the advantage of a foreign power.

a) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than ten years. *See: Title 18, U.S. Code, Section 793(a).*

2. Any person from obtaining or attempting to obtain, copies, sketches, photographs, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing or note of National Defense information with the same intent.

a) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than ten years. *See: id. Section 793(b).*

3. Any person from receiving National Defense information with the same intent and with the knowledge or reason to believe that it will be used contrary to espionage laws.

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a) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than ten years. *See: id. Section 793(c).*

4. Any person having lawful possession of, access to or control over National Defense information willfully communicating or attempting to communicate such information to unauthorized persons with the same intent, or retaining same after a demand made by a person authorized to receive it.

a) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than ten years. *See: id. Section 793(d).*

5. Any person having unauthorized possession of, access to or control over National Defense information (or copies, sketches, photographs, etc. thereof) from willfully communicating or attempting to communicate such information with the reason to believe that the information could be used to the injury of the United States or to the advantage of a foreign power.

a) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than ten years. *See: id. Section 793(e).*

6. Any person, having lawful possession of or control over National Defense information, permitting its removal, loss, theft, abstraction, destruction through gross negligence, or having knowledge that such has taken place, failing to make a prompt report of that fact,

a) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than ten years. *See: id. at Section 793(f).*

7. Any person from communicating, delivering or transmitting to a foreign power or agent of a foreign power any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the National Security, with the intent that it be used to the injury of the United States or the benefit of a foreign power.

a) A person guilty of this offense may be sentenced to death, or imprisonment for any term of years up to life. *See: id. Section 794(a).*

8. Any person who, in time of war, collects, attempts to collect, records, publishes or communicates information respecting the movement, numbers, description, condition or disposition of U.S. Armed Forces, ships, aircraft or war materials; plans, conduct or supposed plans or conduct of naval or military operations; or works or measures relating to the fortification or defense of any place or the public defense with the intent of communicating same to the enemy.

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a) A person guilty of this offense may be sentenced to death, or imprisonment for any term of years up to life. See: id. Section 794(b).

9. Any person from photographing or making graphical representations of military installations, naval installations or equipment which the President has defined as vital and requiring protection against general dissemination.

a) "Vital" installations and equipment are military, naval and air force installations and equipment which are classified as Top Secret, Secret, Confidential or Restricted and which are located within:

- 1) Military, naval, or air force reservations, posts, arsenals, proving grounds, ranges, mine fields, camps, bases, airfields, forts, yards, stations, districts or areas,
- 2) Defensive areas,
- 3) Airspace reservations,
- 4) Naval harbors closed to foreign vessels,
- 5) Areas required for fleet purposes and
- 6) Commercial establishments engaged in the development or manufacture of classified military or naval arms, munitions, equipment, designs, ships, aircraft or vessels for the U.S. Army, Navy or Air Force. See: Executive Order 10104.

b) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than one year. See: Title 18, U.S. Code, Section 795.

10. Any person from harboring or concealing any other person who he knows or reasonably knows has committed or is about to commit one of the foregoing offenses.

a) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than ten years. See: id. Section 792.

11. Any person from using any contrivance which is used or designed for navigation or flight in the air in photographing or making graphical representations of military installations, naval installations or equipment which the President has defined as vital and requiring protection against general dissemination.

a) "Vital" installations and equipment are military, naval and air force installations and equipment which are classified as Top Secret, Secret, Confidential or Restricted and which are located within:

- 1) Military, naval, or air force reservations, posts, arsenals, proving grounds, ranges, mine fields, camps, bases, airfields, forts, yards, stations, districts or areas,

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- 2) Defensive areas,
- 3) Airspace reservations,
- 4) Naval harbors closed to foreign vessels,
- 5) Areas required for fleet purposes and
- 6) Commercial establishments engaged in the development or manufacture of classified military or naval arms, munitions, equipment, designs, ships, aircraft or vessels for the U.S. Army, Navy or Air Force. See: Executive Order 10104.

b) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than one year. See: Title 18, U.S. Code, Section 796;

12. Any person from reproducing, publishing, selling or giving away photographs or graphical representations of military installations, naval installations or equipment which the President has defined as vital and requiring protection against general dissemination, unless such items clearly indicate that they have been censored by proper military or naval authorities.

a) "Vital" installations and equipment are military, naval and air force installations and equipment which are classified as Top Secret, Secret, Confidential or Restricted and which are located within:

- 1) Military, naval, or air force reservations, posts, arsenals, proving grounds, ranges, mine fields, camps, bases, airfields, forts, yards, stations, districts or areas,
- 2) Defensive areas,
- 3) Airspace reservations,
- 4) Naval harbors closed to foreign vessels,
- 5) Areas required for fleet purposes and
- 6) Commercial establishments engaged in the development or manufacture of classified military or naval arms, munitions, equipment, designs, ships, aircraft or vessels for the U.S. Army, Navy or Air Force. See: Executive Order 10104.

b) A person guilty of this offense shall be fined and/or imprisoned for a term of not more than one year. See: Title 18, U.S. Code, Section 797.

13. Any person from knowingly and willfully obtaining and using classified information concerning U.S. or foreign code, cipher or cryptographic systems, and/or communication intelligence activities; in any manner which is prejudicial to the safety or interests of the United States, or for the benefit of any foreign government to the detriment of the United States.

a) A person guilty of this offense shall be fined and/or imprisoned for a

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term of not more than ten years. See: id. Section 798(a).

B. (U) The statute of limitations for Section 792 and 793 is ten years. The statute of limitations for Sections 795-798 is five years. If the individual is charged with passing the type of information that would make the case "death eligible" there is no statute of limitations for Section 794. For other types of National Security information the statute would probably be 10-years.

C. (U) Photographing and making graphical representations outside military installations, naval installations and commercial establishments engaged in the manufacture of classified arms and munitions for the U.S. Army, Navy or Air Force does not violate Title 18, U.S. Code, Section 795, 796 or 797, unless classified equipment or material appears in the photograph or graphical representation.

D. (U) Subjects who have taken suspect photographs, or made suspect graphical representations, should be requested to voluntarily relinquish them. A receipt should be given and a signed statement obtained documenting that the action taken was voluntary. Should they refuse to relinquish the materials, agents should immediately consult with their CDC. If film taken is unprocessed, it should be submitted to the FBI's Laboratory for processing. Photographs and graphical representations should be submitted to the commanding officer of the appropriate military post or other installation for censorship.

E. (U) Photographs and graphical representations considered to be violations of Sections 795, 796 or 797 may be provided to an AUSA either by the commanding officer or the FBI.

Section 20-20: (U) The Internal Security Act of 1950 – Disclosure of Classified Information to Foreign Powers and Agents of Foreign Powers

A. (U) Federal law also prohibits:

1. Any Federal officer or employee from communicating (unless appropriately authorized to do so) classified National Security information to a person known to be, or concerning whom there is reason to believe is, an agent or representative of a foreign power. See: Title 50, U.S. Code, Section 783(b).

2. Any agent or representative of a foreign power from obtaining, or attempting to obtain (unless appropriately authorized to do so), classified National Security information from any Federal officer or employee. See: id. Section 783(c).

3. Any persons found guilty of the foregoing offenses is liable to a fine of not more than \$10,000 and/or a term of imprisonment of not more than ten years. See: id. Section 783(d).

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Section 20-21: (U) The Counterfeit Access and Computer Fraud and Abuse Act – Unauthorized Activities Respecting Computers

A. (U) Federal law also prohibits:

1. Persons from accessing computers in an unauthorized manner; obtaining information that has been determined to require protection against unauthorized disclosure for reasons of National Defense or foreign relations by virtue of Executive Order or Federal statute; doing so with reason to believe that the information could be used to the injury of the United States or to the advantage of a foreign power; and delivering or attempting to deliver that information to another who is not entitled to receive it, or failing to deliver it to a U.S. Government officer or employee who is entitled to receive it; see: Title 18, U.S. Code, Section 1030(a)(1);

2. Persons from accessing computers in an unauthorized manner; and obtaining financial institution or card issuer financial records; U.S. Government department or agency information; or protected interstate or foreign communications information; see: id. Section 1030(a)(2);

3. Persons from accessing nonpublic U.S. Government department or agency computers which are exclusively for the use of the U.S. Government; or accessing U.S. Government computers in such ways that, though the computers are not exclusively for the use of the U.S. Government, affects their use; see: id. Section 1030(a)(3);

4. Persons from accessing protected computers without authorization; and with the intent to defraud, using the computer or obtaining things of value; see: id. Section 1030(a)(4)

5. Persons from damaging protected computers through the unauthorized transmission of programs, information, codes or commands; recklessly causing damage to protected computers through unauthorized access; or causing damage to protected computers through unauthorized access; see: id. Section 1030(a)(5);

6. Persons from trafficking in computer passwords or similar information, if such traffic affects interstate or foreign commerce or the affected computers are used by or for the U.S. Government; see: id. Section 1030(a)(6);

7. Persons from threatening to cause damage to protected computers with the intent to extort; see: id. Section 1030(a)(7).

8. Persons guilty of these offenses shall be, depending upon the specific nature of the offenses:

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- a) Fined and/or imprisoned for a period of not more than one year;
- b) Fined and/or imprisoned for a period of not more than five years;
- c) Fined and/or imprisoned for a period of not more than ten years;
- d) Fined and/or imprisoned for a period of twenty years; see: id. Section 1030(c);

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Section 20-22: (U) The Electronic Communications Privacy Act of 1986
– Unauthorized Access to Electronic Communications Services

A. (U) Federal law also prohibits:

1. Persons from accessing without authorization electronic communications services or accessing such facilities without authorization and thereby obtaining, altering or preventing authorized access to communications while in electronic storage. *See: Title 18, USC, Section 2701(a).*

a) Persons guilty of these offenses shall be, depending upon the specific nature of the offenses, fined and/or imprisoned for six months, fined and/or imprisoned for a period of not more than one year, or fined and/or imprisoned for a period of not more than two years. *See: id. Section 2701(b).*

Section 20-23: (U) The Intelligence Authorization Act of 1990 – FBI
Jurisdiction Over Espionage Investigations of U.S. Diplomatic Missions
Personnel Abroad

A. (U) Federal law also provides that, subject to the authority of the Attorney General, the FBI shall supervise the conduct of all investigations of violations of U.S. espionage laws by persons employed by or assigned to U.S. diplomatic missions abroad. All departments and agencies shall report immediately to the FBI any information concerning such violations. All departments and agencies shall provide appropriate assistance to the FBI in the conduct of such investigations. *See: Public Law 101-193, Section 603.*



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Section 20-24: (U) The National Security Act of 1947 – FBI Jurisdiction Regarding Unauthorized Disclosures of Classified Information

A. (U) Federal law also provides that the head of each department or agency within the Executive Branch shall ensure that:

1. The FBI is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;
2. Following a report, the FBI is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerning actions to determine the source of such loss or compromise; and
3. Where, after appropriate consultation with the department or agency concerned, the FBI undertakes investigative activities to determine the source of the loss or compromise, the FBI is to be given complete and timely access to the employees and records of the department or agency. Immediate access is to be given when information indicates that classified information is being, or may have been disclosed in an unauthorized manner to a foreign power or agent of a foreign power.

B. (U) The Director of the FBI shall ensure that espionage information obtained by the FBI pertaining to the personnel, operations, or information of departments or agencies of the Executive Branch, is provided through appropriate channels to the department or agency concerned, and such departments or agencies shall be consulted with respect to espionage investigations undertaken by the FBI which involve the personnel, operations, or information of such department or agency.

C. (U) The Director of the FBI shall submit to the head of the department or agency concerned a written assessment of the potential impact of the actions of the department or agency on a counterintelligence investigation. The head of the department or agency concerned shall use the assessment as an aid in determining whether, and under what circumstances, the subject of an investigation should be left in place for investigative purposes; and notify in writing the Director of the FBI of such determination.

D. (U) The Director of the FBI and the head of the department or agency concerned shall continue to consult, as appropriate, to review the status of an investigation and to reassess, as appropriate, a determination of the head of the department or agency concerned to leave a subject in place for investigative purposes.

E. (U) The FBI shall notify appropriate officials within the Executive Branch, including the head of the department or agency concerned, of the commencement of a full field espionage investigation with respect to an employee within the Executive Branch. A

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department or agency may not conduct a polygraph examination, interrogate, or otherwise take any action that is likely to alert an employee covered by such a notice of an investigation without prior coordination and consultation with the FBI.

F. (U) Where essential to meet extraordinary circumstances affecting vital National Security interests, the President may on a case-by-case basis waive the foregoing requirements as they apply to the head of a particular department or agency, or the Director of the FBI. Such a waiver shall be in writing, and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as National Security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

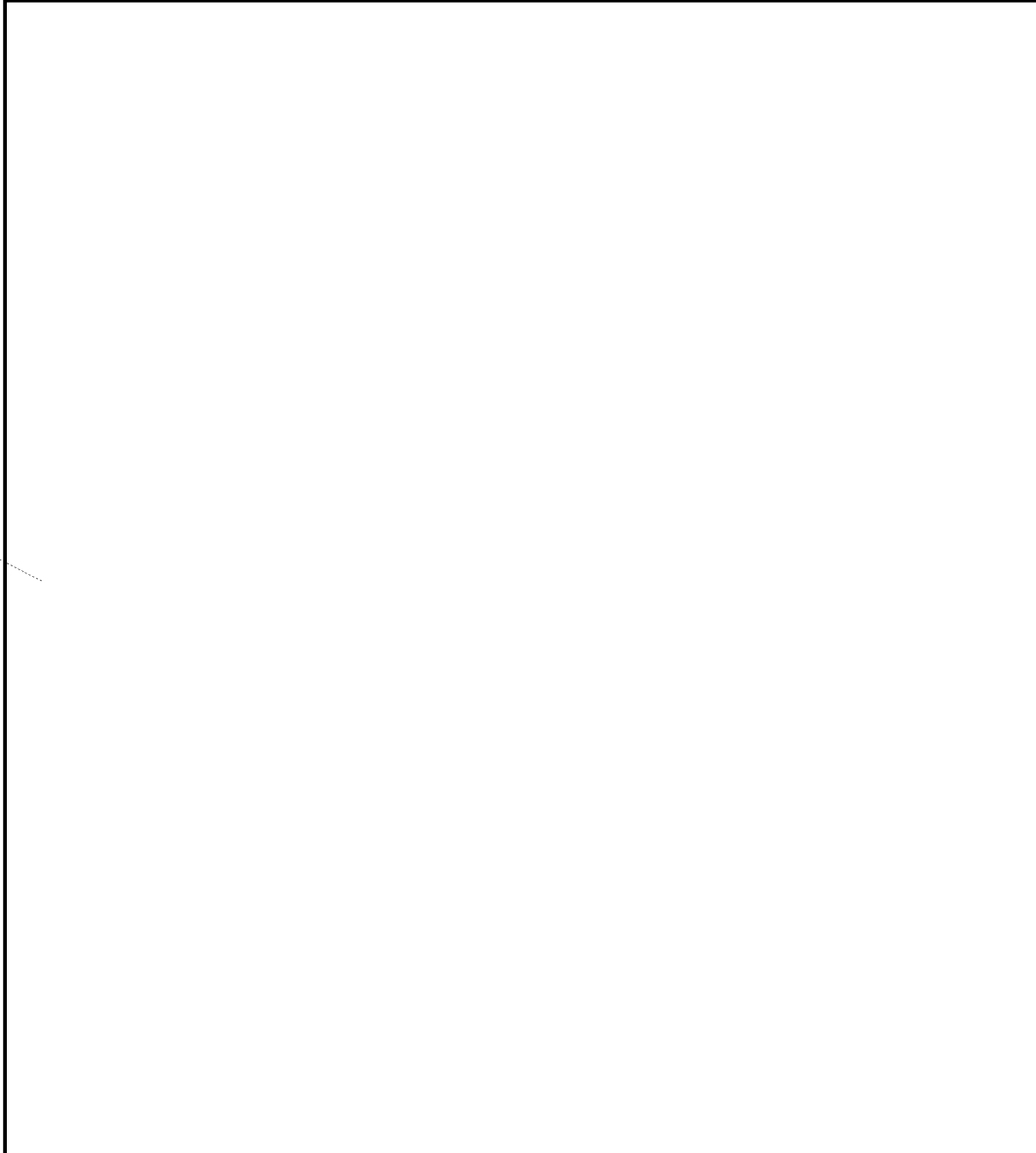
See: Title 50, U.S. Code, Section 402a(c)(1)-(3). Also refer to Sec. 811, Intelligence Authorization Act for 1995.

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Section 20-25: (S) ☐ Alpha Designations



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Espionage Subject Interviews - Lesson Outline

Pass Out: #1 Goals of the Interview sheet

1. Ask class what the goals of an espionage subject are:

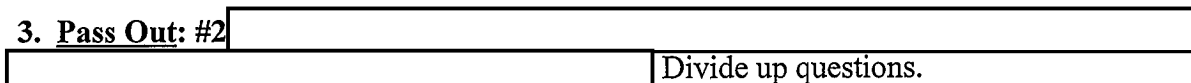


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2. Discuss elements of the crime



3. Pass Out: #2



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- Discuss with class

4. Pass Out: #3



sheet...discuss steps

- after [redacted] discuss [redacted]

- after [redacted] discuss [redacted]

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Pass Out: #4 and #5 [redacted] sheet

- finish with [redacted]

5. Pass Out: # [redacted] **sheet**

- discuss [redacted]

[redacted]

6. Pass Out: #7 Strategic and Tactical Mistakes sheets

- Discuss strategic mistakes sheet
- Discuss tactical mistakes sheet

7. Pass Out: #8 [redacted]

Pass Out: #9 Instruction Sheet for assignment

- Pitts [redacted] assignment
- Divide class into rows...give them approximately 60 min to meet
- [redacted] for Pitts to include...

[redacted]

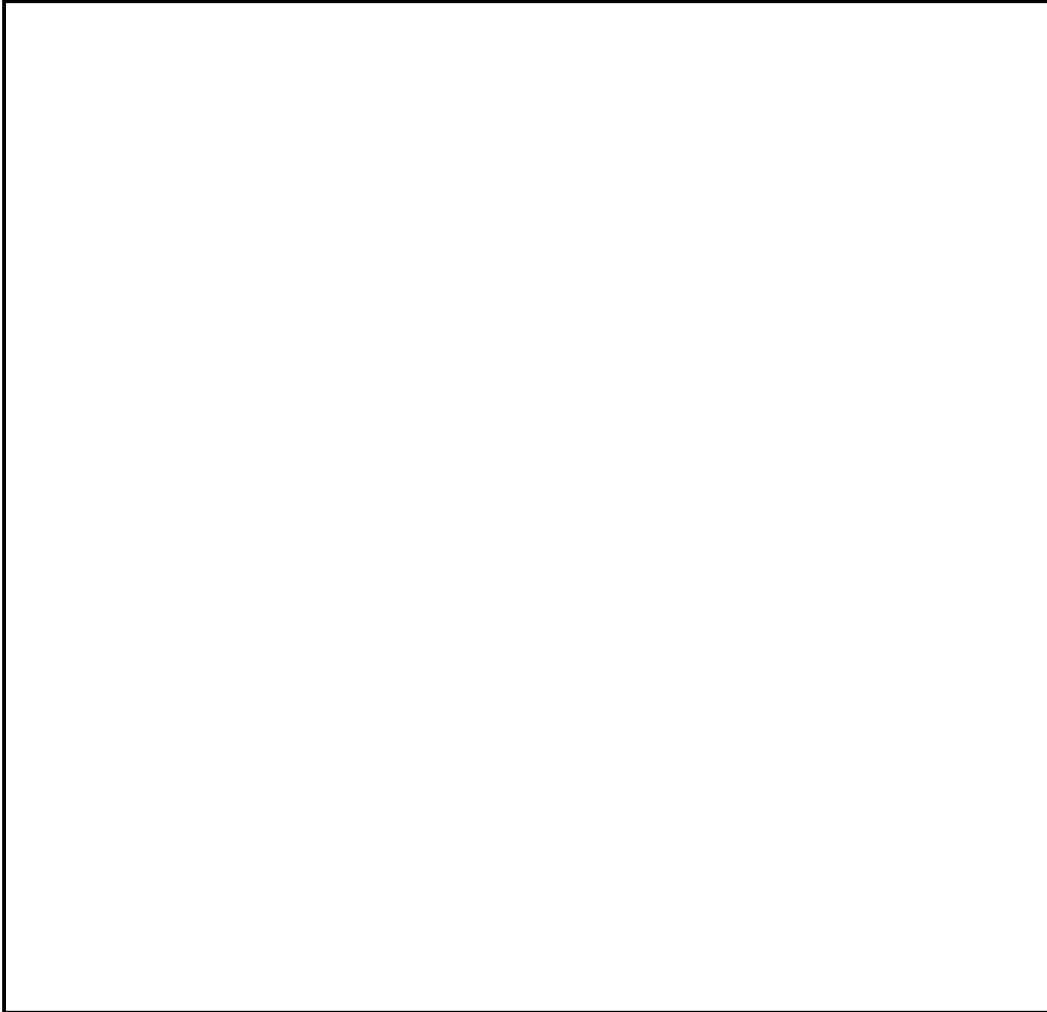
8. ??? Video of [redacted] **interview**

- Discuss [redacted] ...pause at each stage to discuss

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Goals of the Espionage Subject Interview

(and the elements of the espionage statute: Title 18 USC 794 (a)(c))



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Elements of the Crime: *(Title 18 USC 794 (a)(c))*

- Transmittal...of
- National Defense Information (NDI)...to
- A Foreign Power **OR** an Agent of a Foreign Power...with
- Intent to Harm the United States **OR** Aid the Foreign Power

Espionage Subject Interview Plan

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Name _____

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ON 02-02-2012

- 1 -

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Date of transcription 12/12/1994This document has been modified for training purposes.b6
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(X)

~~Classified By: XXXX, XXXXXXXX/XXXXXXX
Reason : XXX
Declassify On: XX~~~~SECRET~~Investigation on 12/8/94 at Quantico, VirginiaFile # XXXXXXXXXX
XXXXXXXXXX
by XXXXXXXXXXDate dictated 12/12/94

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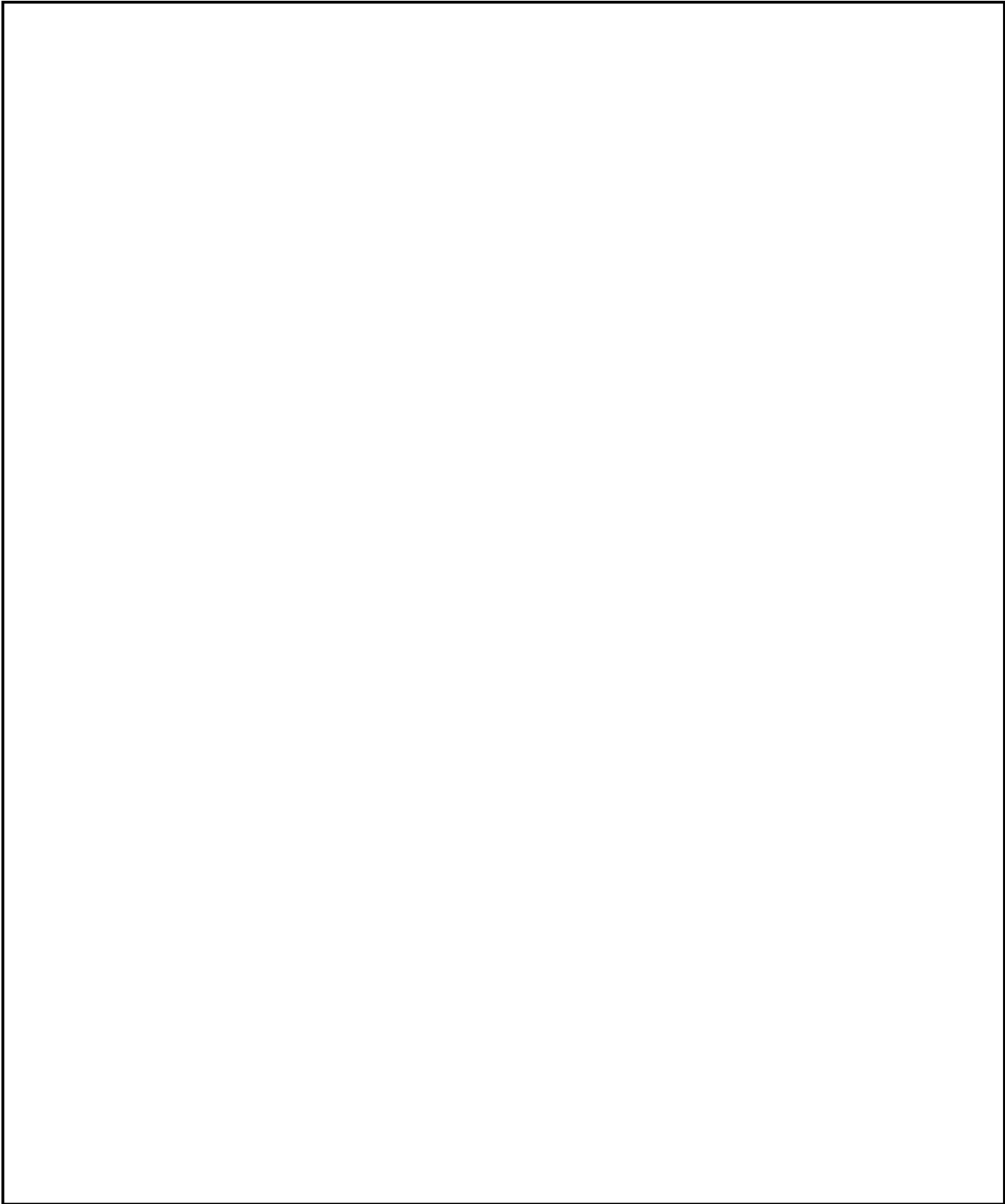
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Continuation of FD-302 of XXXXXXXXXXXXXXXX, On 12/8/94, Page 2

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Anticipated
For The Earl Pitts Espionage Subject Interview



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ON 02-02-2012

Pitts Interview Assignment

Based on the Pitts presentation and handouts you received, your group is to

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Topics to be addressed:

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Memorandum

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Informal Memo

To : [REDACTED]

Date 5/16/95

From : [REDACTED]

DATE: 02-02-2012
CLASSIFIED BY 65179/DMH/BAW/STP/bls
REASON: 1.4 (c)
DECLASSIFY ON: 02-02-2037

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(S) Subject: [REDACTED] (Pitts codename)

ESP-R
OO:WMFO

[REDACTED]

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The following information is being recorded for possible use in interview of subject:

On 5/10/95, Unit Chief [REDACTED] during discussions concerning captioned matter made the following observations:

[REDACTED]

[REDACTED]

(2) WMFO

TAR:arc
(2) *arc*

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for info

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 16 1995	
WASHINGTON METRO FIELD OFFICE	

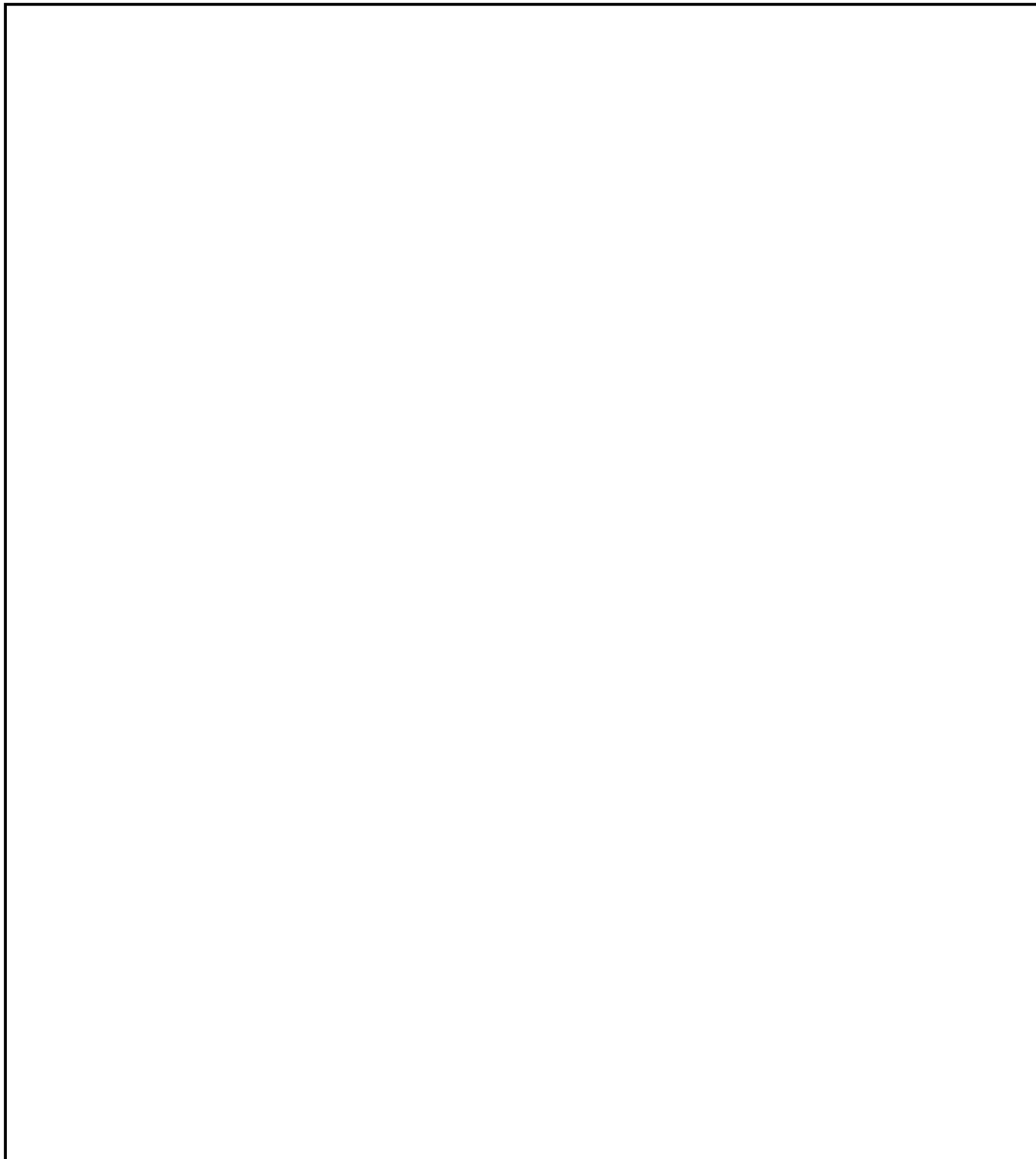
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DATE 02-02-2012 BY 65179/DMH/BAW/STP/bls

Subject Interview

Scenario #1

Case Predication:



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Subject Interview

Scenario #1- Instructor Notes

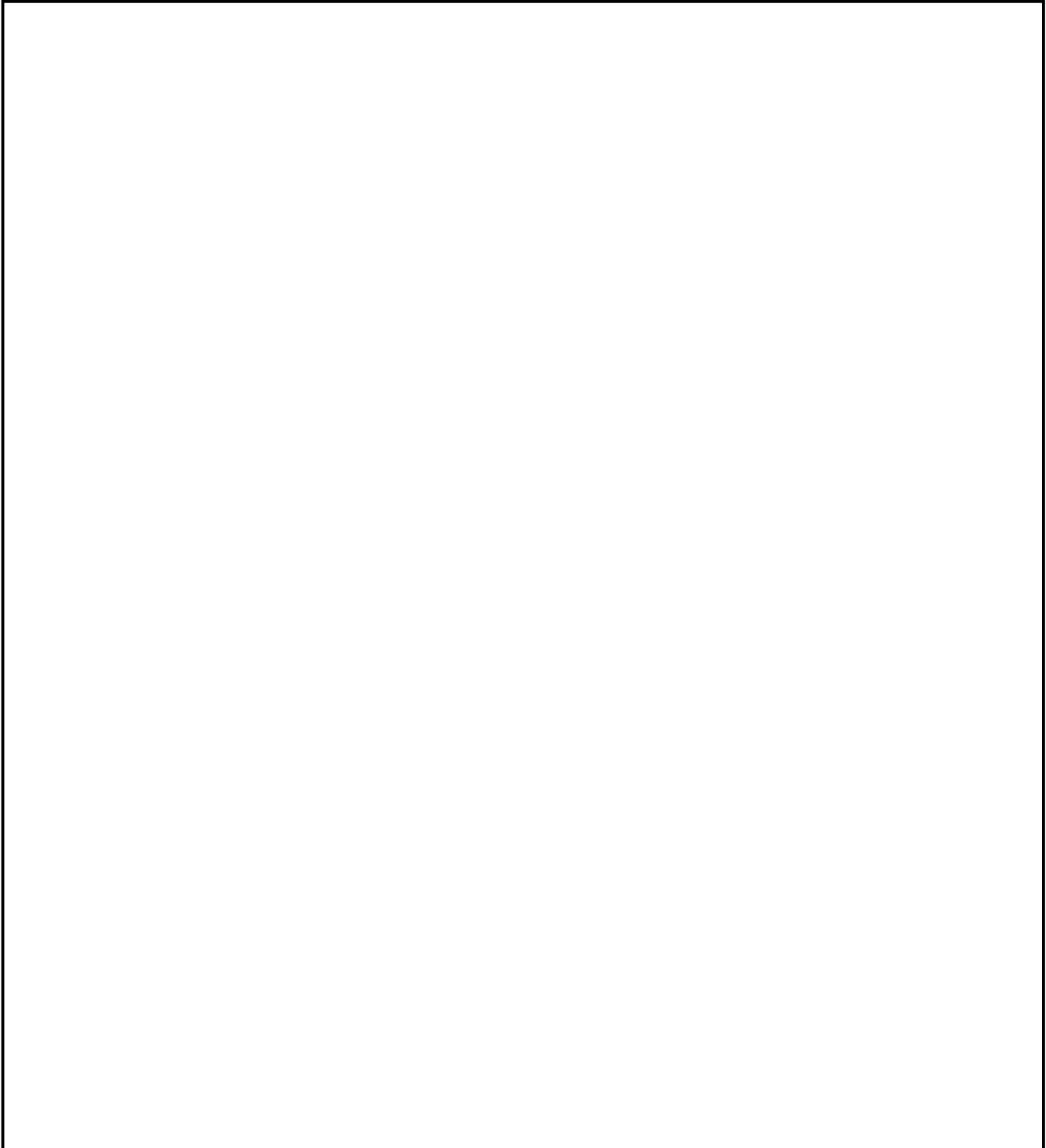


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Subject Interview

Scenario #2

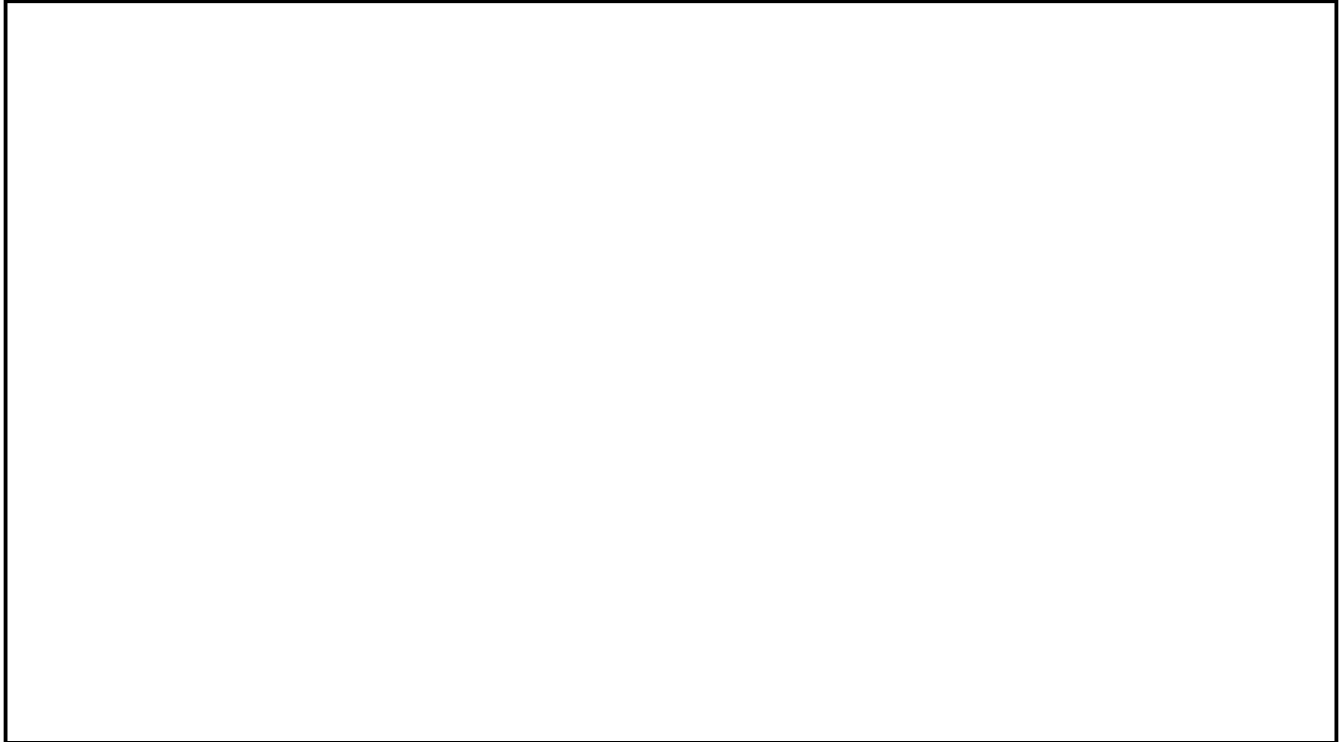
Case Predication:



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Subject Interview

Scenario #2- Instructor Notes

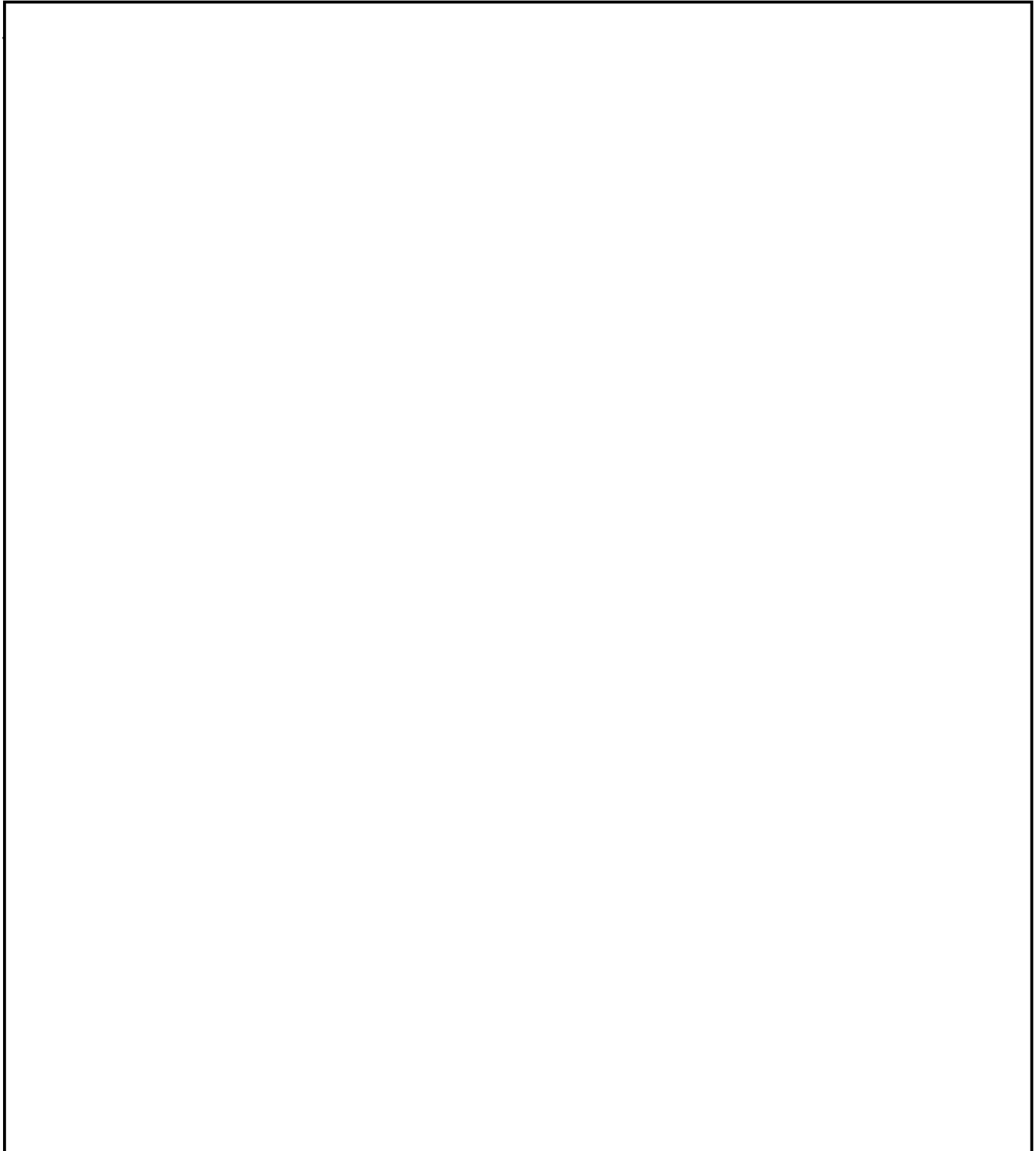


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Subject Interview

Scenario #3

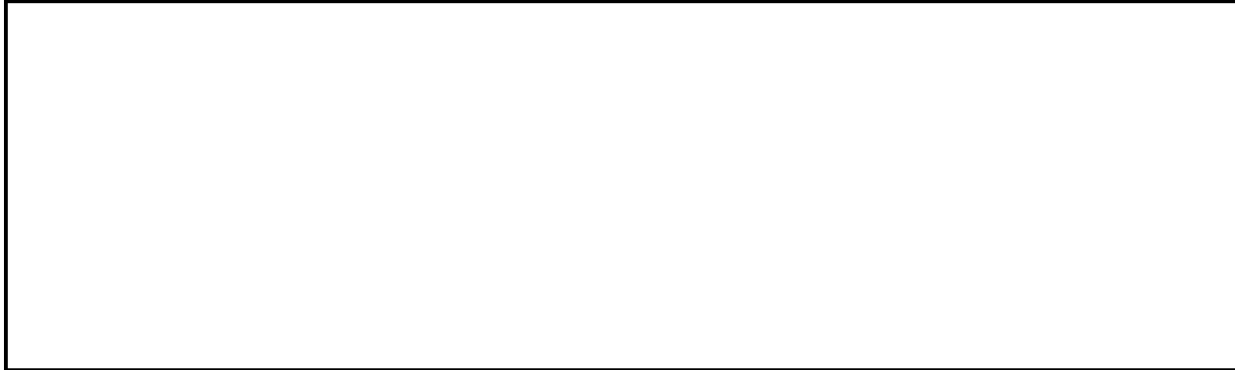
Case Predication:



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Subject Interview

Scenario #3- Instructor Notes



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8. Administrative vs. Criminal Investigations

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8.1. Administrative Investigations

An administrative investigation consists of an allegation the employee violated a Bureau policy, procedure, U.S. government rule or regulation, or a criminal offense investigated by IIS or DOJ OIG in which prosecution was declined. A criminal investigation may be opened, and then converted to an administrative investigation due to a declination of prosecution, or out of necessity to compel testimony from an employee.

An administrative investigation may also be opened in the event the employee is being criminally prosecuted by a local, state or other federal law enforcement entity for violations such as DWI/DUI, Assault, Theft, etc. The employee is notified of the opening of the internal administrative investigation; however, the administrative investigation is held in abeyance until the criminal matter is adjudicated. The employee may still incur an administrative disciplinary action regardless of the outcome of the criminal prosecution.

All administrative investigations are forwarded to OPR, AU I or AU II, for adjudication, or adjudication review in a DIA matter.

8.2. Legal Precedent that Guides Administrative Investigations

All Bureau supervisors, both agent and support, should be aware of the legal precedents established by Garrity v. New Jersey (1967), and Kalkines v. United States (1973), in regard to the FBI's internal administrative investigation process.

8.2.1. Garrity v. New Jersey (1967)

Garrity v. New Jersey (1967) and its progeny established these interrelated principles:

- Compelled testimony through the threat of the loss of livelihood **cannot be used in criminal proceedings** against the interviewee.
- Unless the interviewee is given at least "use immunity," the interviewee cannot be fired for invoking their Fifth Amendment privilege. *The execution of the FD-645 grants the limited use immunity.*
- The interviewee may be fired if they continue to invoke their Fifth Amendment privilege after being granted "use immunity."
- The interviewee may be criminally prosecuted for knowingly and willfully providing false statements during the interview.

- 9 -

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WHAT IS GARRITY? 385 U.S. 493 (1967)

- A compelled statement by a public official/officer – made to decide between forfeiting his job or self-incrimination
- Officer must have *subjective belief* that he was compelled to make the statement upon threat of job loss, and that belief is *objectively reasonable*
- Routine reports are generally not compelled
- A *Garrity* statement cannot be USED in any criminal proceeding against the person who made it

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conduct. *Izen v. Catalina*, 256 F.3d 324, 329 (5th Cir. 2001); *but see Plati*, 258 F.3d at 1176 (holding that defendant's adverse actions must be "substantially motivated" against the plaintiff's exercise of constitutionally protected conduct). Accordingly, retaliation need not be the sole motive for prosecuting. *Izen*, 256 F.3d at 329.

III. BIVENS CLAIMS CHALLENGING FAILURES TO DISCLOSE EXCULPATORY INFORMATION DURING A CRIMINAL PROSECUTION

It has long been established that, in a criminal proceeding, a prosecutor has the obligation to provide to the defense any evidence within the state's possession that is favorable to the accused and material to guilt or punishment. *See Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972). The obligation extends to impeachment evidence as well. *See Youngblood v. West Virginia*, 547 U.S. 867, 869 (2006); *United States v. Bagley*, 473 U.S. 667, 676 (1985). Violation of this duty is a denial of due process to the accused and will result in a reversal of the defendant's conviction. *See Brady*, 373 U.S. at 83; *Giglio*, 405 U.S. at 150; *Kyles v. Whitley*, 514 U.S. 419 (1995).

It is less clear whether, and in what circumstances, the failure of government officials to disclose exculpatory or impeachment information to the accused can give rise to a civil suit under *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), or 42 U.S.C. § 1983. As the following section elaborates, it is fairly clear that while prosecutors are entirely immune from

liability for failing to make so-called *Brady* disclosures to the accused, investigating agents can be held liable for failures to disclose material exculpatory or impeachment information to the prosecutor. Many more questions are still unanswered, including the doctrinal basis for liability, the meaning of terms such as "bad faith," and "material" exculpatory information, the threshold requirements for bringing a *Bivens* action for failure to make exculpatory disclosures, when officials other than investigating agents may be held liable, and whether bad faith is necessary to establish liability.

A. The *Brady* Duty to Disclose Exculpatory and Impeachment Information

In a criminal proceeding, the accused is entitled to obtain all evidence within the state's possession that is favorable to the accused and material to guilt or punishment. See *Brady v. Maryland*, 373 U.S. 83; *Giglio v. United States*, 405 U.S. 150. All exculpatory or impeachment evidence is considered "*Brady* material," including evidence known only to police investigators but not the prosecutor, but a *Brady* violation can only be made out if its suppression would "undermine confidence in the conviction." See *Youngblood v. West Virginia*, 547 U.S. 867, 870 (2006); *Kyles*, 514 U.S. at 434-37; *United States v. Bagley*, 473 U.S. 667, 682 (1985). The *Brady* duty is imposed directly by the due process clauses of the Fifth and Fourteenth Amendments. It is not a merely prophylactic rule designed to effect the purposes of the clauses. See *Carter v. Harrison*, 612 F. Supp. 749 (E.D.N.Y. 1985).

For the purposes of assessing whether the criminal *Brady* duty is transferable to the civil context, one of the most important questions is: What government

official or officials are charged with carrying out the duty? The consensus is that the *Brady* duty belongs to the prosecutor alone, see *Jean v. Collins*, 221 F.3d 656 (4th Cir. 2000); *Kyles*, 514 U.S. at 437 ("the prosecution, which alone can know what is undisclosed, must be assigned the consequent responsibility to gauge the likely net effect of all such evidence and make disclosure...."), and most cases appear to presume that the duty belongs to the prosecutor; see, e.g. *United States v. Bhutani*, 175 F.3d 572, 577 (7th Cir. 1999) (agency's knowledge is "imputed" to the prosecutor for *Brady* purposes); *United States v. Avellino*, 136 F.3d 249, 55 (2d Cir. 1998) (discussing duty from prosecutor's perspective); *United States v. Sanchez*, 50 F.3d 1448, 1453 (9th Cir. 1995) ("The prosecutor will be deemed to have knowledge of and access to anything in the possession, custody or control of any federal agency participating in the same investigation of the defendant."). There are, however, indications that the duty may belong as well to officers or agencies closely aligned with the prosecution. See *United States v. Wood*, 57 F.3d 733, 737 (9th Cir. 1995) (where FDA was agency charged with administration of statute and had consulted with prosecution on the case, "[f]or *Brady* purposes, the FDA and the prosecutor were one"); *Jean*, 221 F.3d at 664 (Murnaghan, J., dissenting) (arguing that lead investigators who communicated with prosecution were subject to *Brady* duty); see also *United States v. Pelullo*, 399 F.3d 197, 218 n.22 (3d Cir. 2005) (since it could not be shown that the civil investigators in *Pelullo* had a "similar level of involvement in the criminal prosecution" as compared to the agency officials in *Wood* and *Bhutani*, the limited holdings of *Wood* and *Bhutani* did not apply).

The case law gives very little guidance as to who may be sufficiently connected to the prosecution to assume an independent duty for civil liability purposes or under what circumstances those individuals might assume a duty. As the courts tend to presume that the *Brady* duty belongs to the prosecutor alone, the role of third parties in the process of *Brady* disclosure generally arises in the context of the prosecutorial duty. The prosecutor's duty is a "no fault duty," which is violated even by unintentional failures to disclose. See *Jean*, 221 F.3d at 663. Thus, the prosecution can violate the *Brady* duty even if it is unaware of the exculpatory material, as long as the material is in the possession of someone sufficiently connected with the prosecution to "impute" that third party's knowledge to the prosecution. See *Kyles*, 514 U.S. at 437; *Bhutani*, 175 F.3d at 577. There is rich case law addressing the question of whether the prosecution is responsible for knowledge possessed by a third party. Compare *Wood*, 57 F.3d at 737 (where FDA was agency charged with administration of statute and had consulted with prosecution on the case, "[f]or *Brady* purposes, the FDA and the prosecutor were one"); *United States v. Gale*, 314 F.3d 1 (D.C. Cir.), *reh'g denied on other grounds*, 326 F.3d 228 (D.C. Cir. 2003) (for *Brady* purposes, assumed prosecution was aware of prior false testimony by police officer witness who was not part of the investigation team); *United States v. Wilson*, 237 F.3d 827, 832 (7th Cir. 2001) (where U.S. Marshal Service knew witness had tested positive for drugs while in witness protection and did not convey that information to the prosecution "it is impossible to say in good conscience that the U.S. Marshal's service was not 'part of the team' that was

participating in the prosecution, even if the role of the Marshals Service was to keep the defendants in custody, rather than to go out on the streets and collect evidence"); *with United States v. Morris*, 80 F.3d 1151, 1169 (7th Cir. 1996) (where prosecution had no knowledge of documents possessed by agencies which were not involved in the investigation or prosecution of the case, court would not impute those agencies' knowledge to the prosecution); *United States v. Locascio*, 6 F.3d 924, 949 (2d Cir. 1993) (refusing to infer knowledge to prosecutor of agents not assigned to the investigation or prosecution); *United States v. Gambino*, 835 F. Supp. 74 (E.D.N.Y. 1993), *aff'd*, 59 F.3d 353 (2d Cir. 1995) (same); *Shakur v. United States*, 32 F. Supp. 2d 651, 665 (S.D.N.Y. 1999) (information known to undercover NYPD officer not imputed to prosecution team even though other NYPD officers exchanged information with FBI task force investigating the case); *People v. Beard*, 620 N.Y.S.2d 242, 247 (Sup. Ct. 1994) (when information concerning misconduct of arresting officer is unknown to prosecution and investigating officers, no *Brady* violation).

The general rule that may be gleaned from the above sampling of cases is that courts will impute knowledge to the prosecution where a third party or agency is sufficiently connected to the prosecution to warrant the presumption that the third party or agency communicated with, or should have communicated with, the prosecution. Unfortunately, however, as the cases tend to view the *Brady* duty from the prosecutor's perspective, and as that duty is irrespective of fault, the cases generally provide very little useful information about when an official other than

the prosecutor might be "culpable" in some sense for failing to disclose information. Defendants in civil damages cases may take advantage of this fact to assert that their obligation to disclose exculpatory information was unclear, such that they are entitled to qualified immunity from liability.

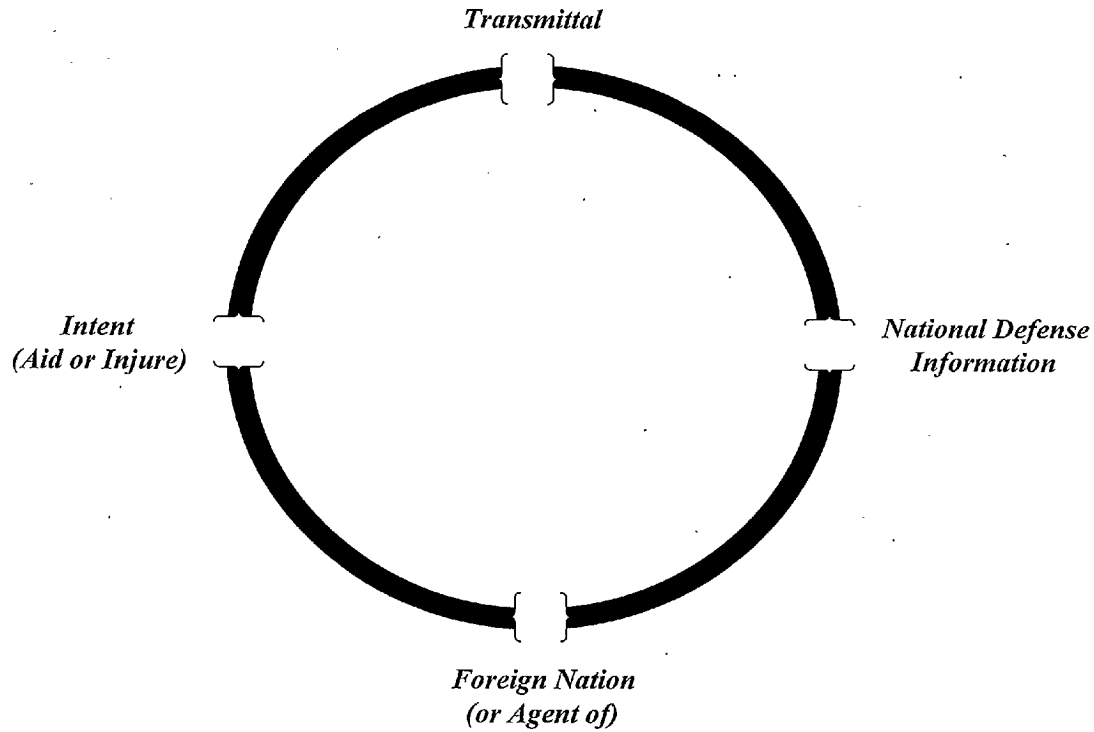
Although it appears that the prosecutor has the duty to disclose *Brady* material within the possession of agencies with which it has contact during the course of the investigation, imposing on the prosecution a limited duty to *search* for exculpatory material, the prosecution does not have the obligation to search for exculpatory information among agencies not sufficiently connected to the prosecution to warrant "imputation" of their knowledge to the prosecution. *See, e.g., United States v. Bender*, 304 F.3d 161, 163 (1st Cir. 2002); *United States v. Earnest*, 129 F.3d 906, 910 (7th Cir. 1997); *Sanchez v. United States*, 50 F.3d 1448, 1453 (9th Cir. 1995). Whether third parties who are not sufficiently connected to the prosecution to warrant "imputation" of their knowledge to the prosecution can ever be civilly liable for failing to disclose information to the prosecution has never been addressed.

B. Civil Liability For Failing to Disclose Exculpatory or Impeachment Information

Although the prosecutor clearly has a duty, imposed directly by the due process clause, to disclose exculpatory or impeachment information to the accused, the only remedy the accused has for a prosecutor's violation of that duty is reversal of his conviction; the prosecutor is absolutely immune from civil liability for violating his *Brady* duty. *Imbler v. Pachtman*, 424 U.S. 409 (1976), extended absolute

ESPIONAGE

ELEMENTS OF THE CRIME "CLOSING THE GAPS"



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DECLASSIFY ON: 02-02-2037

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**Counterintelligence Training Center
Test – Week 3**



Name:
Course: **CIOPs 11-01 Course**
Dates: **10/04-29/2010**

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C10P3

ESP
Subj. Interview

Serial Description ~ Unrecorded Serial

~~No Dupes~~
FBI042769

No Duplication Allowed
FBI042771