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*National Security Agency/Central Security Service
Office of the Inspector General*

**(U//FOUO) Report of Investigation Regarding
Alleged Improprieties
at NSA Georgia**



*Office of the Inspector General
Office of Investigations
August 14, 2009*

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Approved for Release by NSA on 10-21-2014, FOIA Case # 70809 (Litigation)

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(U) EXECUTIVE SUMMARY

(U) Background

(U//~~FOUO~~) David Faulk, a former Navy linguist assigned to the [redacted] NSA/CSS Georgia (NSAG) from 2004 until 2007, alleged that the [redacted] program at NSAG unlawfully intercepted and processed U.S. person communications [redacted]

[redacted]

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

(U//~~FOUO~~) [redacted] Did Not Target U.S. Persons

(S//~~REL TO USA, FVEY~~) We found no targeting of U.S. persons by [redacted]. Our investigation involved [redacted] interviews of Mr. Faulk, more than [redacted] witness interviews, [redacted] and the forensic analysis of [redacted] records. Our analysis showed that [redacted] handled approximately [redacted] during the period Mr. Faulk's allegation covered (2004-2005) and that [redacted] (.022 percent) [redacted] were incidentally collected U.S. communications. [redacted]

[redacted] Incidental collection of U.S. person communications is a by-product of collection against legitimate foreign targets. The forensic data and relevant testimony showed that [redacted] personnel handled incidentally collected U.S. person communications in accordance with USSID SPO018, marking and deleting them as appropriate. [redacted]

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(U) Sharing SIGINT for Entertainment Purposes

(U//~~FOUO~~) Mr. Faulk alleged that, solely for entertainment purposes, [redacted] shared with him [redacted]. We found no merit to this allegation. [redacted]

[redacted]

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

(U) Other Allegations Unfounded

(U//~~FOUO~~) Mr. Faulk also made two allegations regarding unlawful activity involving [redacted]

[redacted]

Our investigation determined these allegations to be without merit.

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III. (U) INVESTIGATION

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

(U) ALLEGATION ONE: Improperities in Collection and Processing

(U//FOUO) [Redacted]

[Redacted]

A. (U) Background

(U//FOUO) [Redacted]

[Redacted]

(S//SI) [Redacted]

[Redacted]

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(U//FOUO) **Figure 1**

[Redacted]

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(S//SI) [Redacted]

[Redacted]

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⁹ (U//FOUO) See *Faulk MOI*, App. B at 3-9.

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B. (U) Applicable Authorities¹⁴

(U) **Executive Order 12333**, United States Intelligence Activities, December 4, 1981 (As amended by Executive Orders 13284 (2003), 13355 (2004), and 13470 (2008))

(U) **Department of Defense Regulation 5240.1-R**, Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons, December 1982 (Procedure 14 – Employee Conduct)

(U) **5 C.F.R. § 2635.704**, Use of Government Property

(U) **5 C.F.R § 2635.705**, Use of Official Time

(U) **NSA/CSS USSID SP0018**, Legal Compliance and Minimization Procedures (27 July 1993)

(U) **NSA/CSS USSID DA 3460**, SIGINT Signal Surveys (16 August 2006)

(U) **NSA/CSS Policy 1-23**, Procedures Governing NSA/CSS Activities that Affect U.S. Persons (11 March 2004; Revised 27 December 2007 and 29 May 2009), enclosing (U) Annex – Classified Annex to DoD Procedures under Executive Order 12333

(U//~~FOUO~~) **INFORMATION MEMORANDUM**, March 31, 2009, from NSA/CSS General Counsel to NSA/CSS Inspector General, SUBJECT: (U//~~FOUO~~) Concerning the Use of Material Derived from Signals Intelligence Activities for Personal Reasons

¹⁴ (U) See App. E for the text of relevant portions of the cited authorities.

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3. (U) Other Evidence

a. (U) Consensual and Non-Consensual Collection Authorities

(U) The United States Signals Intelligence System may deliberately intercept communications of or concerning a U.S. person under certain conditions and with appropriate authority.⁵³

(U//~~FOUO~~) We reviewed available records pertaining to consensual and non-consensual collection of U.S. person communications in 2004 and 2005, including relevant consensual collection forms, notifications to the Attorney General of the emergency collection of communications of U.S. persons [redacted] Attorney General authorizations issued pursuant to Section 2.5 of E.O. 12333, and Quarterly Reports to the NSA Office of the Inspector General. None of these records reflected [redacted] involvement.

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(b) (3) - 50 USC 3024 (i)

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

(U//~~FOUO~~) We also determined, through the NSA Office of Oversight and Compliance, that [redacted] has not been authorized to access data collected pursuant to the Foreign Intelligence Surveillance Act (FISA) of 1978.

b. (U) COMSEC Monitoring

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(U//~~FOUO~~) [redacted]
[redacted]

⁵³ ~~(S//REL TO USA, FVEY)~~ See Classified Annex to Department of Defense Procedures Under Executive Order 12333 (Classified Annex to Department of Defense Regulation 5240.1-R), Section 4.A.1.(a): communications of or concerning a United States person may be intercepted intentionally or selected deliberately through use of a selection term or otherwise only: (1) with the consent of such United States person...; or (2) with specific prior court order pursuant to the Foreign Intelligence Surveillance Act of 1978 where applicable...; or (3) with the specific prior approval of the Director, National Security Agency, in any case in which the United States person is reasonably believed to be held captive by a foreign power or by a group engaged in international terrorist activities...; or (4) with specific prior approval by the Attorney General based on a finding by the Attorney General that there is probable cause to believe the United States person is an agent of a foreign power and that the purpose of the interception or selection is to collect significant foreign intelligence. The above-cited requirements govern targeting of U.S. persons outside the U.S. in the timeframe of Mr. Faulk's allegations. In 2008, Congress amended the FISA to require a court order to target U.S. persons believed to be agents of a foreign power. See also Exec. Ord. 12333 § 2.5 and USSID SP0018 § 4.1.

⁵⁴ (U//~~FOUO~~) [redacted]
[redacted]

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[Redacted]

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c. (U) President's Surveillance Program

(U//~~FOUO~~) We determined, through the NSA OIG Office of Intelligence Oversight, that [Redacted] had no involvement in the President's Surveillance Program for counterterrorism.

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

d. (U) [Redacted]

(U//~~FOUO~~)
(U//~~SI~~)
[Redacted]

D. (U) Analysis and Conclusions

1. (U) No Targeting of U.S. Person Communications

(S//~~REL TO USA, FVEY~~) Our review uncovered no evidence that [Redacted] targeted U.S. persons. [Redacted]

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[Redacted]

2. (U) No "Collection Violation"

(U//~~FOUO~~) [Redacted]

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(S//~~SI//REL TO USA, FVEY~~) [Redacted]

⁵⁵ (U//~~FOUO~~) [Redacted]

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

(b) (3)-18 USC 798

(b) (3)-50 USC 3024(i)

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(U) ALLEGATION TWO Report Cancelled Due to White House Pressure
 (U//FOUO) In 2004, the White House pressured [redacted] to cancel an Intelligence Report [redacted]

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

A. (U) Background

(U//FOUO) Mr. Faulk's second allegation is set forth in the following excerpt from his statement:

(TS//SI) [redacted]

[redacted]

(b) (1)
(b) (3) - P.L. 86-36
(b) (3) - 18 USC 798
(b) (3) - 50 USC 3024 (i)

B. (U) Evidence

1. (U) Testimonial Evidence

a. (U//FOUO) [redacted]

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

(U//FOUO) The OIG interviewed [redacted] on [redacted] In 2004, [redacted] was assigned to [redacted] as a mid-shift senior analyst. She recalled the cancellation of [redacted] reports in August 2004. [redacted] knew Mr. Faulk, but did not recall that he had any involvement in the [redacted] cancelled reports.

(U//FOUO) [redacted]

[redacted]

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

⁶³ (U) App. B at 11, 12.

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d. (U) White House Situation Room Activity Logs

(U//~~FOUO~~) In a March 25, 2009, memorandum to Mr. Chris Weideman, Associate White House Counsel, the OIG requested a review of WHSR Activity Logs from [redacted] for entries relating to cancelled [redacted] reports. On March 28, 2009, the White House Counsel's Office (WHCO) requested that the National Archives and Records Administration (NARA) comply with our request. On April 14, 2009, NARA advised the WHCO that a review of WHSR logs for the relevant timeframe "found no mention of any NSA intelligence reports."⁸⁸ (b) (3)-P.L. 86-36

C. (U) Analysis and Conclusions

(U//~~FOUO~~) We conclude that the White House had no involvement in the cancellation of a 2004 NSAG intelligence report [redacted]

- (U//~~FOUO~~) No [redacted] report cancelled in 2004 involved the circumstances described by Mr. Faulk.
- (U//~~FOUO~~) According to NSA records, [redacted] related reports were cancelled in 2004 because they contained erroneous information.⁸⁹
- (U//~~FOUO~~) Relevant NSAG logs recorded no calls received from or on behalf of the WHSR in regard to the [redacted] cancelled reports; however, these logs did document the receipt of such calls from [redacted].⁹⁰
- (U//~~FOUO~~) [redacted] denied White House involvement in his decision to cancel the reports and denied having told Mr. Faulk that the WHSR had been involved in the decision.
- (U) Other witnesses, including one assigned to the WHSR at the time of the reports' cancellations, had no recollection of White House involvement.

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

⁸⁸ (U) *Id.* at 142-144.

⁸⁹ (U) *Id.* at 6-8.

⁹⁰ (U) *Id.* at 25-140.

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

(b) (3) - 18 USC 798

(b) (3) - 50 USC 3024 (i)

• ~~(TS//SI//REL TO USA, FVEY)~~ [REDACTED]

[REDACTED] This report was distributed to the White House, but never cancelled.

(U//~~FOUO~~) In view of the above, we deem Mr. Faulk's second allegation to be without merit.

⁹¹ (U) *Id.* at 157-160.

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(U) ALLEGATION THREE: Interception and Reporting on Second Party
(U) During 2005, NSA reported on a telephone conversation between former U.K. Prime Minister Tony Blair and an alleged mistress

A. (U) Background

(U//~~FOUO~~) Mr. Faulk's third allegation is set forth in the following passage from his statement to the OIG:

~~(TS//SI)~~ [Redacted]

- (b) (1)
- (b) (3) - P.L. 86-36
- (b) (3) - 18 USC 798
- (b) (3) - 50 USC 3024(i)

~~(TS//SI)~~ [Redacted]

⁹² (U//~~FOUO~~) See Faulk MOI, App. B at 11, 12.

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[Redacted]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

c. (U) Quarterly Intelligence Oversight Reports

(U//~~FOUO~~) We reviewed the Intelligence Oversight Quarterly Reports submitted by NSAG to the NSA OIG from October 2004 through September 2005 for references to violations or mishandling of Second Party information. No references were found.

C. (U) Analysis and Conclusion

~~(C//REL TO USA, FVEY)~~ Extensive interviews, a review of relevant targeting authorizations and NSAG IO reporting, and a search of NSA databases produced no evidence to support the existence of intelligence reporting concerning Mr. Blair and an alleged mistress.

(U//~~FOUO~~) In view of the above, we deem Mr. Faulk's third allegation to be without merit.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

⁹² (S//NF) [Redacted]

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IV. (U) DISTRIBUTION OF RESULTS

1. (U) NSA Director
2. (U) NSA Deputy Director
3. (U) NSA Chief of Staff, for information.
4. (U) Director, Signals Intelligence Directorate, for appropriate management action with regard to sharing SIGINT for non-official purposes.
5. (U//~~FOUO~~) Commander, NSAG, for (1) appropriate management action, in coordination with the NSA Director of Signals Intelligence, with regard to sharing SIGINT for non-official purposes and (2) appropriate management action (in coordination with the NSA Office of Intelligence Oversight) (b) (3) - P.L. 86-36
6. (U) General Counsel, for information.
7. (U) Associate Director, Legislative Affairs Office, for information.
8. (U) Associate Director for Strategic Communications, for information.
9. (U) Associate Director for Security and Counterintelligence, for information.

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VI. (U) APPENDICES

(U) Appendix A

1. (U//~~FOUO~~) DVD containing video clips of interviews of David M. Faulk: ABC News, NIGHTLINE: Episode "Ears Wide Open," Brian Ross, October 9, 2008 (1009.03.a.rm/16,870 KB); ABC World News with Charlie Gibson, Episode "Private Lies," Brian Ross, October 9, 2008 (ABCWorldNews-NSA.rm/4,954 KB); Good Morning America - Robin Roberts, Episode "Spies on the Line," Brian Ross, October 10, 2008 (Good morning america.rm/ 8,325 KB).

(U) Appendix B

1. (U//~~FOUO~~) Memorandum documenting the results of OIG interviews of David M. Faulk on October 31, 2008, December 1, 2008, February 27, 2009, and April 6, 2009. (p. 1 - 12)

(U) Appendix C

1. (U//~~FOUO~~) Letter, dated October 10, 2008, from United States Senators Patrick Leahy and Arlen Specter to Hon. J. Michael McConnell, Director of National Intelligence (DNI), and LTG Keith B. Alexander, Director, National Security Agency.

2. (U//~~FOUO~~) Letter, dated October 17, 2008, from Hon. J. Michael McConnell, DNI, to U.S. Senators Leahy and Specter.

3. (U//~~FOUO~~) November 2008 email traffic between NSA OIG Deputy IG [redacted] (b) (3)-P.L. 86-36

(U) Appendix D

1. (~~S~~//REL TO USA, FVEY) Document, dated February 24, 1998, entitled "(S) [redacted]"

[redacted]

(b) (1)
(b) (3)-P.L. 86-36
(b) (3)-18 USC 798
(b) (3)-50 USC 3024 (i)

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- 14. (U) 2004 [redacted] organization chart, entitled [redacted] ORGANIZATION."
- 15. (U) [redacted] personnel rosters for 2004 and 2005.
- 16. (U) 2006 [redacted] Junior Linguist Handbook.
- 17. (U) Undated documents from [redacted] NSAnet website, entitled [redacted] REPORTING."
- 18. (U//~~FOUO~~) Undated [redacted] Standard Operating Procedures from ESECS, entitled: [redacted] PROCESSING SOP."

(b) (3) - E.O. 13526-36

(U) Appendix E

- 1. (U) Executive Order 12333, United States Intelligence Activities, December 4, 1981 (As amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008).
- 2. (U) Department of Defense Regulation 5240.1-R, Procedures Governing the Activities of DoD Intelligence Components that affect United States Persons, (December 1982), Procedure 14 - Employee Conduct.
- 3. (U) 5 C.F.R. § 2635.704, Use of Government Property.
- 4. (U) 5 C.F.R § 2635.705, Use of Official Time.
- 5. (U//~~FOUO~~) NSA/CSS USSID SP0018, Legal Compliance and Minimization Procedures (27 July 1993).
- 6. (U//~~FOUO~~) USSID DA3460, SIGINT Signal Surveys (16 August 2006).
- 7. (U) NSA/CSS Policy 1-23, Procedures Governing NSA/CSS Activities that Affect U.S. Persons (11 March 2004; Revised 27 December 2007, 29 May 2009), enclosing (U) Annex - Classified Annex to DoD Procedures under Executive Order 12333.
- 8. (U//~~FOUO~~) Information Memorandum, dated March 31, 2009, from NSA General Counsel to NSA Inspector General, SUBJECT: (U//~~FOUO~~) Concerning the Use of Material Derived from Signals Intelligence Activities for Personal Reasons.

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(U) This report is respectfully submitted on this 14th day of August 2009.



(b) (6)

Assistant Inspector General for Investigations

George Ellard
DR. GEORGE ELLARD, Inspector General

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