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[Redacted] [Redacted] [Redacted] [Redacted]
 [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]
 [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]
 [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]

6/2/04
 K.C.
 013/ 617MO SP
 [Redacted]
 [Redacted]
 [Redacted]
 [Redacted]
 [Redacted]

Page 1
 b7A -1
 b6 -1,3
 b7C -1,3
 b7D -1
 b7E -1

Washington D.C. 20535
May 6, 2004

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(S)

CORRUPTION FEDERAL PUBLIC OFFICIAL -
EXECUTIVE BRANCH

b1
b7A -1

[Redacted]

[Redacted]

(S)

b1
b7A -1
b5 -3
b6 -4
b7C -4

[Redacted]

[Redacted]

(S)

b1
b7A -1
b6 -2,4
b7C -2,4
b5 -3

(U) Because of specific conflict of interest concerns with regards to [Redacted] requested the Department of Justice take the lead in directing and referring this investigative matter to the Federal Bureau of Investigation(FBI). On 05/06/2004, SA [Redacted] discussed the facts and circumstances of this investigation with Patrick Sullivan, Trial Attorney, Department of Justice, Counterterrorism Division. Sullivan agreed to prosecute this matter [Redacted]

b1
b7A -1
b6 -1,2,4
b7C -1,2,4
b5 -3

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(S)

[Redacted]

b7A -1
b5 -3

Case ID : 58A-WF-229348

Serial : 1

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5/25/11-01-2004
 CLASSIFIED BY 61599DM/SCB/216/UCV-ALB
 REASON: 1.5 (C)
 DECLASSIFY ON: 11-01-2023
 DETAINEES-2100

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Page 2



b7A -1

b5 -3

Washington D.C. 20535
May 6, 2004

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DETAINEES-2101

4266

Precedence: ROUTINE

Date: 05/06/2004

To: Criminal Investigative

Attn: Public Corruption

From: Washington Field

Squad CR-15 (NVRA)

Contact: SA [redacted]

b2 -1
b6 -1
b7C -1

Approved By: Kinnally Thomas G

Kennedy Kathleen E

b6 -1
b7C -1

Drafted By: [redacted]:mfh

b6 -1
b7C -1

Case ID #: (U) (S) 58A-WF-NEW (Pending)

Title: (S)

[redacted] (S)
CORRUPTION FEDERAL PUBLIC OFFICIALS -
EXECUTIVE BRANCH

b1
b7A -1

Synopsis: (U) (S) The purpose of this communication is to request SAC authority to open captioned full field investigation.

~~(S) Derived From: G-3 (U)
Declassify On: X1~~

Enclosure(s): (U) (S) Enclosed for Public Corruption Unit are the original and one copy of an opening LHM detailing captioned matter.

Details: (S) Captioned investigation is predicated on a referral [redacted]

b1
b7A -1
b6 -2
b7C -2

[redacted] to the U.S. Department of Justice, Criminal Division, Washington, D.C. Details regarding the basis for opening captioned matter are provided in the enclosed LHM.

DATE: 11-01-2004
CLASSIFIED BY: 61579DXH/BCE/SJG DS: CV-1131
REASON: 1.4 (U)
DECLASSIFY ON: 11-01-2024

Case ID : 58A-WF-229348

Serial : 2

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DETAINees-2102

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Precedence: ROUTINE

Date: 05/24/2004

To: Washington Field

From: Washington Field

Squad CR-15 (NVRA)

Contact: SA [redacted]

b2 -1

b6 -1

b7C -1

Approved By: [redacted]

b6 -1

Drafted By: [redacted]

mfh

b7C -1

Case ID #: ~~(S)~~ (U) 58A-WF-229348 (Pending)

Title: (S) [redacted] (S)

CORRUPTION FEDERAL PUBLIC OFFICIALS - EXECUTIVE BRANCH

b1

b7A -1

Synopsis: ~~(S)~~ (U) Case status report.

~~(S) Derived From: G-3 (U)
Declassify On: X1~~

Details: ~~(S)~~ On 05/21/2004, A/SSA [redacted] discussed captioned investigation with SAC Thomas G. Kinnally. Per SAC Kinnally's request, no investigative measures or steps are to be taken by SA [redacted] regarding captioned investigation until authorized by SAC Kinnally. It was determined that SA [redacted] could meet with [redacted]

b6 -1

b7C -1

[redacted]

(S)

b1
b7A -1
b6 -1,2
b7C -1,2

DATE 11-01-2004
CLASSIFIED BY 615 WDM/BCP/330 04-CV-4152
REASON 1.5 (C)
DECLASSIFY ON: 11/01/2024

Case ID : 58A-WF-229348

Serial : 3 DETAINEES-2103

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Precedence: ROUTINE

Date: 05/26/2004

To: Washington Field

From: Washington Field

Squad CR-15 (NVRA)

Contact: SA [redacted]

b2 -1
b6 -1
b7C -1

Approved By: [redacted]

b6 -1
b7C -1

Drafted By: [redacted]

mfh

Case ID #: ~~(S)~~ 58A-WF-229348 (Pending)

Title: (S) [redacted]

b1
b7A -1

CORRUPTION FEDERAL PUBLIC OFFICIALS -
EXECUTIVE BRANCH

Synopsis: ~~(U)~~ ~~(S)~~ Case status report.

~~(S) Derived From: G-3 (U)~~
~~Declassify On: X1~~

Details: [redacted]

[redacted]

(S) b1
b7A -1
b6 -1,2,4
b7C -1,2,4
b7F -1

[redacted]

(S) b1
b7A -1
b6 -2,4
b7C -2,4
b7F -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Case ID : 58A-WF-229348

Serial : 4

DETAINEE-2104

[Redacted]

(S)

b1
b7A -1
b6 -2,4
b7C -2,4

[Redacted]

(S)

b1
b7A -1
b6 -2,4,5
b7C -2,4,5

[Redacted]

(S)

b1
b7A -1
b6 -2,4
b7C -2,4

~~SECRET~~

SMA-WF-229348
MM/mth
05/20/2006

The following investigation was conducted by SA

~~SECRET~~
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b7A -1
b6 -1,2,4
b7C -1,2,4

(S)

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Case ID : SMA-WF-229348

Serial : 5

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Page 1

DATE: 11-01-2004
CLASSIFIED BY: 2137DNR/BOB/SGS/04-07-01
REASON: E.O. 13526
DECLASSIFY ON: 11-01-2029

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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DETAINEES-2106

4271

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Page 2

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DETAINEES-2107

4272

Precedence: ROUTINE

Date: 06/01/2004

To: Washington Field

Attn: SAC Thomas G. Kinnally
ASAC Kathleen E. Kennedy

From: Washington Field
Squad CR-15 (NVRA)
Contact: SA [redacted]

b2 -1
b6 -1
b7C -1

Approved By: [redacted]

b6 -1
b7C -1

Drafted By: [redacted]:mfh

Case ID #: (S) 58A-WF-229348 (Pending)

Title: (S) [redacted]

b1
b7A -1

CORRUPTION FEDERAL PUBLIC OFFICIALS (S)
EXECUTIVE BRANCH

Synopsis: (S)(U) Case status report and initial investigative strategy.

(S) ~~Derived From : G-3 (U)~~
~~Declassify On: X1~~

Details: (U) (S) On 06/01/2004, SAC Thomas G. Kinnally authorized Squad CR-15 to proceed with captioned investigation. The following investigative steps will be initiated within the next thirty days:

b1
b7A -1
b6 -2,4
b7C -2,4

[redacted] (S)

b1
b7A -1
b6 -2,4
b7C -2,4

[redacted] Report findings to DOJ Attorney Patrick Sullivan.

(S)

[redacted]

b1
b7A -1
b6 -2,4
b7C -2,4

[redacted]
b1
b7A -1
b6 -2,4,5
b7C -2,4,5

(S)

(S)

[redacted]
b7C -4
b7F -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[redacted]
b1
b7A -1
b6 -2,4
b7C -2,4

Case ID : 58A-WF-229348

Serial : 6

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b7A -1

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DETAINEES-2109

II. Potentially Relevant Federal Criminal Statutes

Jurisdictional Statutes

18 U.S.C. 3261 et seq-MEJA

Provides for jurisdiction of conduct that would constitute a felony had the activity been engaged in within the Special Maritime and Territorial Jurisdiction of the United States, where the offender was employed by or accompanying the military outside the United States. Also provides for jurisdiction over military members under specific circumstances, including if military member charged as co-defendant with non-military member.

Provides that DoD shall, after consulting with State and DOJ, prescribe regulations governing the apprehension, detention, delivery and removal of persons under MEJA. The regulations will take effect 90 days after submitted to Congress. Regulations not yet submitted to Congress, but DoD, State and DOJ in final stages of consultation requirement.

Provides that DoD, after consultation with State and DOJ, shall prescribe regulations requiring that, to maximum extent practicable, notice shall be provided to persons employed by or accompanying military, but state that failure to provide such notice shall not defeat jurisdiction or provide a defense.

Provides that persons who are nationals of, or ordinarily resident in the host nation are not considered "employed" by the military for purposes of the Act. (The draft regulations also note that third country nationals may have a nexus to the United States that is so tenuous that the Act should not be applied, and advises consultation with DOJ and with State in such cases.)

18 U.S.C. 7 -Special Maritime and Territorial Jurisdiction of the United States

Defines as within the territorial jurisdiction of the United States acts committed by a national of the United States on the "premises" of United States military...including the buildings, parts of buildings and land used for purposes of those missions or entities. This provision does not apply if person's conduct is chargeable under MEJA.

Substantive Statutes

18 U.S.C. § 113- Assaults within Maritime and Territorial Jurisdiction

includes, assault with intent to commit murder, assault with intent to commit a felony, assault with a dangerous weapon with intent to do bodily harm and without just cause or excuse, assault by striking, beating or wounding (misdemeanor), simple assault (misdemeanor), assault resulting in serious bodily injury, and assault resulting in substantial bodily injury.

18 U.S.C. § 114 - Maiming within Maritime and Territorial Jurisdiction

whoever, with the intent to torture, maim or disfigure, cuts, bites, or slits the nose, ear, or lip, or cuts out or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person, or whoever, with like intent, throws or pours upon another person any scalding water, corrosive acid, or caustic substance...

18 U.S.C. 2241 - Aggravated Sexual Abuse

Whoever in special maritime or territorial jurisdiction or in a federal prison, knowingly causes another person to engage in a sexual act-
by using force against that other person, or
by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping...

18 U.S.C. 2242 - Sexual Abuse

Whoever in special maritime or territorial jurisdiction or in a federal prison knowingly causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping)

18 U.S.C. §2243-Sexual abuse of a minor or ward

.....Whoever, in special maritime or territorial jurisdiction of the United States or in a federal prison, knowingly engages in a sexual act with another person who is-
in official detention; and
under the custodial, supervisory, or disciplinary authority of the person so engaged.

18 U.S.C. 2244 - Abusive Sexual Contact

(Under MEJA, violations of this statute could only be charged for violations of subsections (a)(1)-(3), which are punishable by more than one year in prison)

Whoever, in the special maritime or territorial jurisdiction of the US or in a federal prison, knowingly engages in or causes sexual contact with or by another person, had the sexual contact been a sexual act, shall be fined under this title, or imprisoned....

DETAINEES-2111

18 U.S.C. § 2340A -Torture

- (a) **Offense.**— Whoever outside the United States commits or attempts to commits torture shall... be imprisoned not more than twenty years...
- (b) **Jurisdiction...** There is jurisdiction over the activity prohibited in subsection (a) if—
- (1) the alleged offender is a national of the United States; or
 - (2) the alleged offender is present in the United States...
- (c) **Conspiracy.** — A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death)....

18 U.S.C. §2340 Definitions

As used in this chapter—

- (1) “Torture” means an act committed by a person
 - acting under color of law
 - specifically intended to inflict severe physical or mental pain or suffering
 - other than pain or suffering incidental to lawful sanctions
 - upon another person within his custody or control
- (2) “Severe mental pain or suffering” means the prolonged mental harm caused by or resulting from —
 - (A) the intentional infliction or threatened infliction of severe physical pain or suffering;
 - (B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated profoundly to disrupt the senses or the personality;
 - (C) threat of imminent death; or
 - (D) the threat that another person will imminently be subjected to death, severe physical pain...
- (3) “United States” includes all areas under the jurisdiction of the United States of the places described in sections 5 and 7² of this title....

² 18 U.S.C §7(9) includes military premises in foreign countries, but does not apply with respect to a person described in § 3261 (a) (MEJA).

18 U.S.C. 2441 War Crimes

(a) Offense.— Whoever, whether inside or outside the United States, commits a war crime, in any of the circumstances described in subsection (b) shall beimprisoned for life or any term of years...

(b) Circumstances.— The circumstances are....that persons committing such war crime... is a member of the Armed Forces of the United States...or a national of the United States...

(c) Definition. 'war crime' means any conduct —

(1) defined as a grave breach³ in any international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party

* * * * *

(3) which constitutes a violation of common Article 3⁴ of the international conventions signed at Geneva, 12 August 1949, or any protocol....and which deals with non-international armed conflict...

18 U.S.C. § 1510 (a) — Obstruction of Criminal Investigations

Whoever willfully endeavors by means of bribery to obstruct, delay or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined under this title, or imprisoned for five years , or both

³ Grave breaches to 1949 Geneva Conventions III (relative to prisoners of war, Article 130), or 1949 Geneva Convention IV (relative to civilians, Article 147) include
wilful killing, torture or inhuman treatment,
wilfully causing great suffering or serious injury to body or health

⁴Violations of Common Article 3 include
violence to life and person, in particular murder of all kinds, mutilation, cruel treatment
and torture
outrages upon personal dignity, in particular humiliating and degrading treatment

18 U.S.C. § 1001-False Statements

Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully

— falsifies, conceals or covers up by any trick, scheme, or device a material fact;

— makes any materially false, fictitious, or fraudulent statement or representation; or

— make or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

Shall be fined under this title or imprisoned not more than five years or both.

18 U.S.C. § 371 - Conspiracy

If two or more persons conspire either to commit any offense against the United States, or any agency thereof, or to defraud the United States in any manner or for any purpose,

--- and one or more of such persons do any act to effect the object of the conspiracy

---each shall be fined or imprisoned under this title

---not more than five years or both⁵

⁵If the offense which was the object of the conspiracy was a misdemeanor, then the punishment shall not exceed the maximum punishment for a misdemeanor.

III. Crimes Referral Statute and MOUs

A. Statutory Requirements

Title 28 U.S.C. § 535(b) requires that—

[a]ny information, allegation or complaint received in a department of the executive branch of the Government relating to violations of title 18 involving government officers or employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless—

(1) the responsibility to perform the investigation ... is assigned otherwise by another provision of law; or

(2) as to any department or agency ... the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

B. MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENTS OF JUSTICE AND DEFENSE RELATING TO THE INVESTIGATION AND PROSECUTION OF CERTAIN CRIMES

* * * *

2. CRIMES COMMITTED ON MILITARY INSTALLATIONS⁶

(b) One or More Subjects cannot be Tried by Court-Martial

“When a crime (other than those covered by paragraph C.1)⁷ has occurred on a military installation and there is reasonable basis to believe that it has been committed by a person or persons, some or all of whom are not subject to the [UCMJ], the Department of Defense investigative agency will provide immediate notice of the matter to the appropriate Department of Justice investigative agency unless the Department of Justice has

⁶ The MOU was signed in August, 1984, long before MEJA, and at time when the holding in *Reid v. Covert*, 354 U.S. 1 (1957) meant there was no effective U.S. extraterritorial jurisdiction over civilians accompanying the military. The military could always try members under the UCMJ who committed crimes off post and overseas, hence the reference in the MOU to crimes committed on military installations should be interpreted as military installations in the U.S.

⁷ e.g. Corruption by DOD personnel, theft and embezzlement of government property.

relieved the Department of Defense of the reporting requirement for that type or class of crime.”

C. MEMORANDUM OF UNDERSTANDING: REPORTING OF INFORMATION CONCERNING FEDERAL CRIME ⁸

This Memorandum of Understanding” (MOU) sets forth the procedures by which each agency and organization within the Intelligence Community shall report to the Attorney general and to federal investigative agencies information concerning possible federal crimes by employees of an intelligence agency or organization, or violations of specified federal criminal laws by any other person, which information was collected by it during the performance of its designated intelligence activities, as those activities are defined in E.O. 12333, §§1.8-1.13. Of significance is the definition in the MOU of “Employee”, which means:

1. A staff employee, contract employee, asset, or other person or entity providing service to or acting on behalf of any agency within the intelligence community.
2. A former officer or employee of any agency within the intelligence community for purpose of an offense committed during such person’s employment....
- (3) any other Government employee on detail to the Agency

The MOU requires each employee of the agency to report to the General Counsel or IG facts or circumstances that reasonably indicate to the employee that an employee of an intelligence agency has committed, is committing, or will commit a violation of federal criminal law.⁹

The MOU provides detailed instructions on how “Special

⁸ Directed by Executive Order 12333, and entered into by the Secretary of Defense on August 11, 1995.

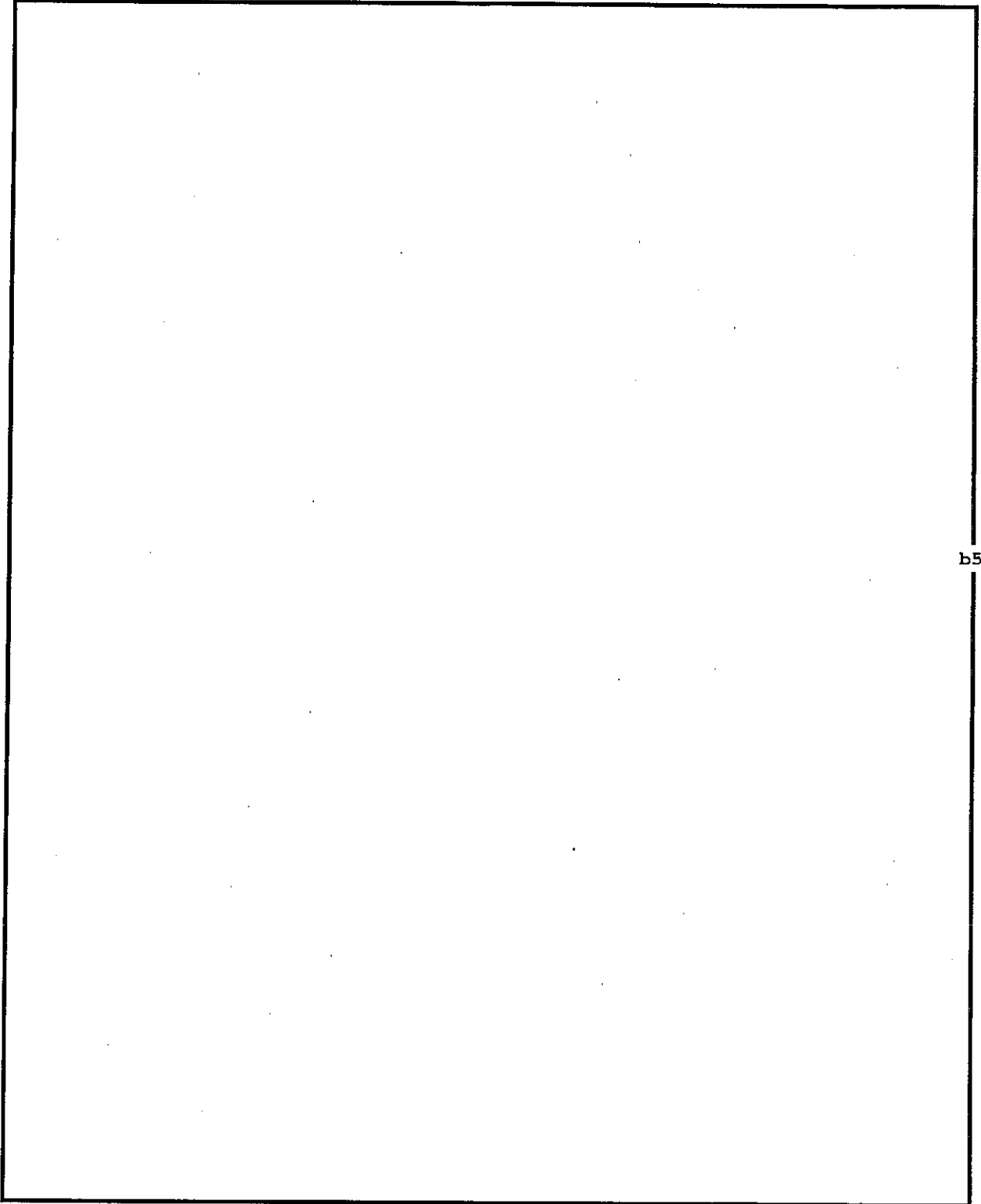
⁹When a General Counsel or IG has received information concerning alleged violations of federal law by an employee of another intelligence community agency, and those violations are not exempted under section III.E.4 [espionage], hereof, the General Counsel shall notify in writing the General Counsel of the accused employee’s agency. The latter General Counsel must then determine whether this MOU requires the allegations to be reported to the Department of Justice.

Crimes Reports" will be submitted by the General Counsel of the agency involved to the AAG or designated Deputy AAG, in the Criminal Division.

The MOU cites Title 28, U.S.C. §535(b), *supra*, and does not modify the provisions of the DOD-DOJ MOU of 1984, *supra*.

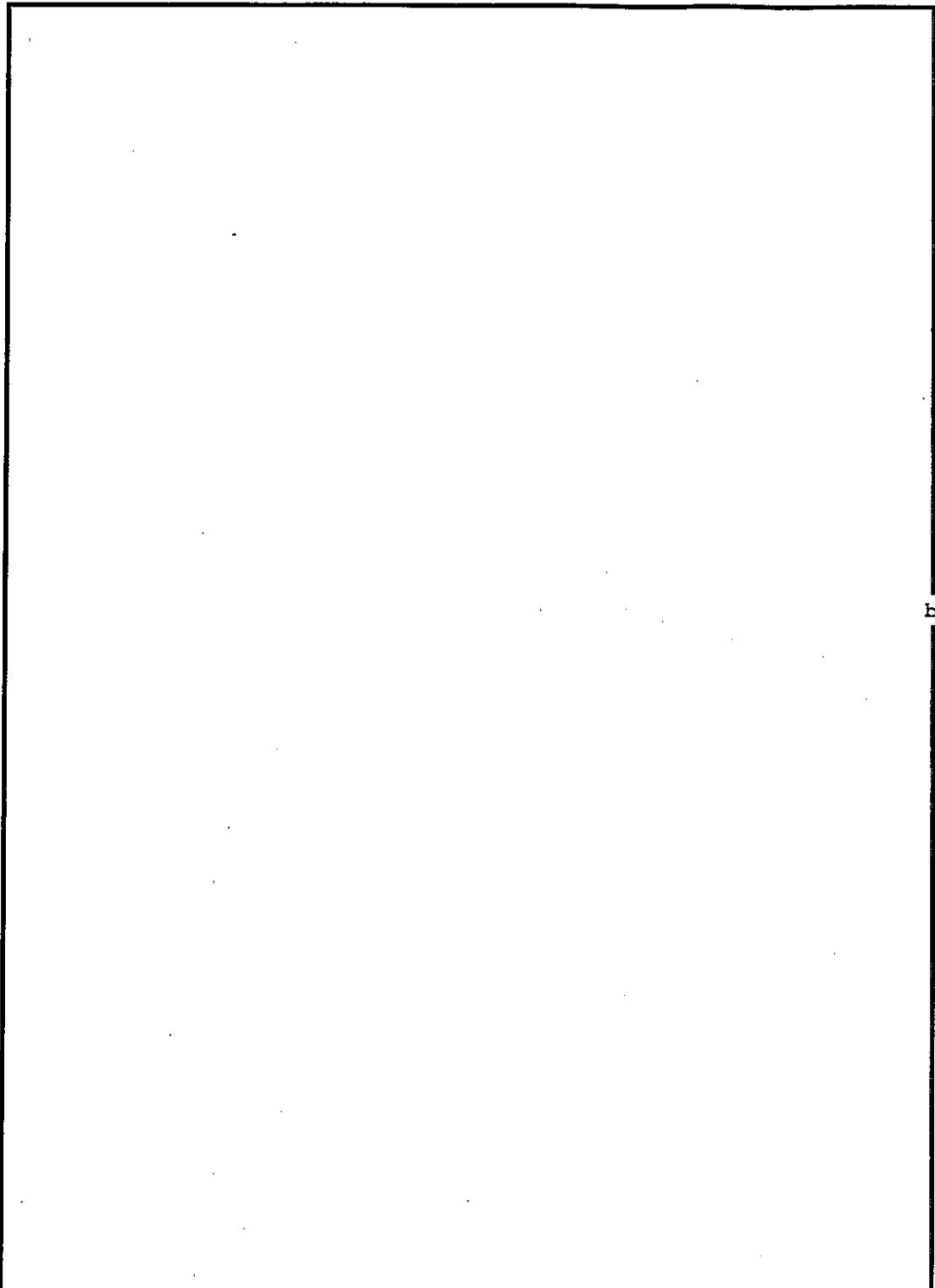
DETAINEES-2117

IV. Potential Issues to be Addressed at 5/14/04 meeting with DOD

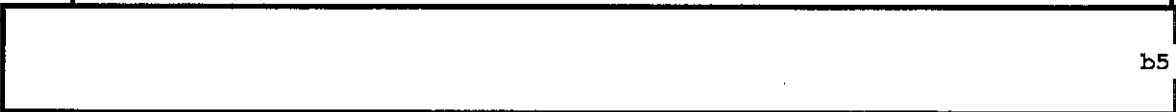


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DETAINEES-2118

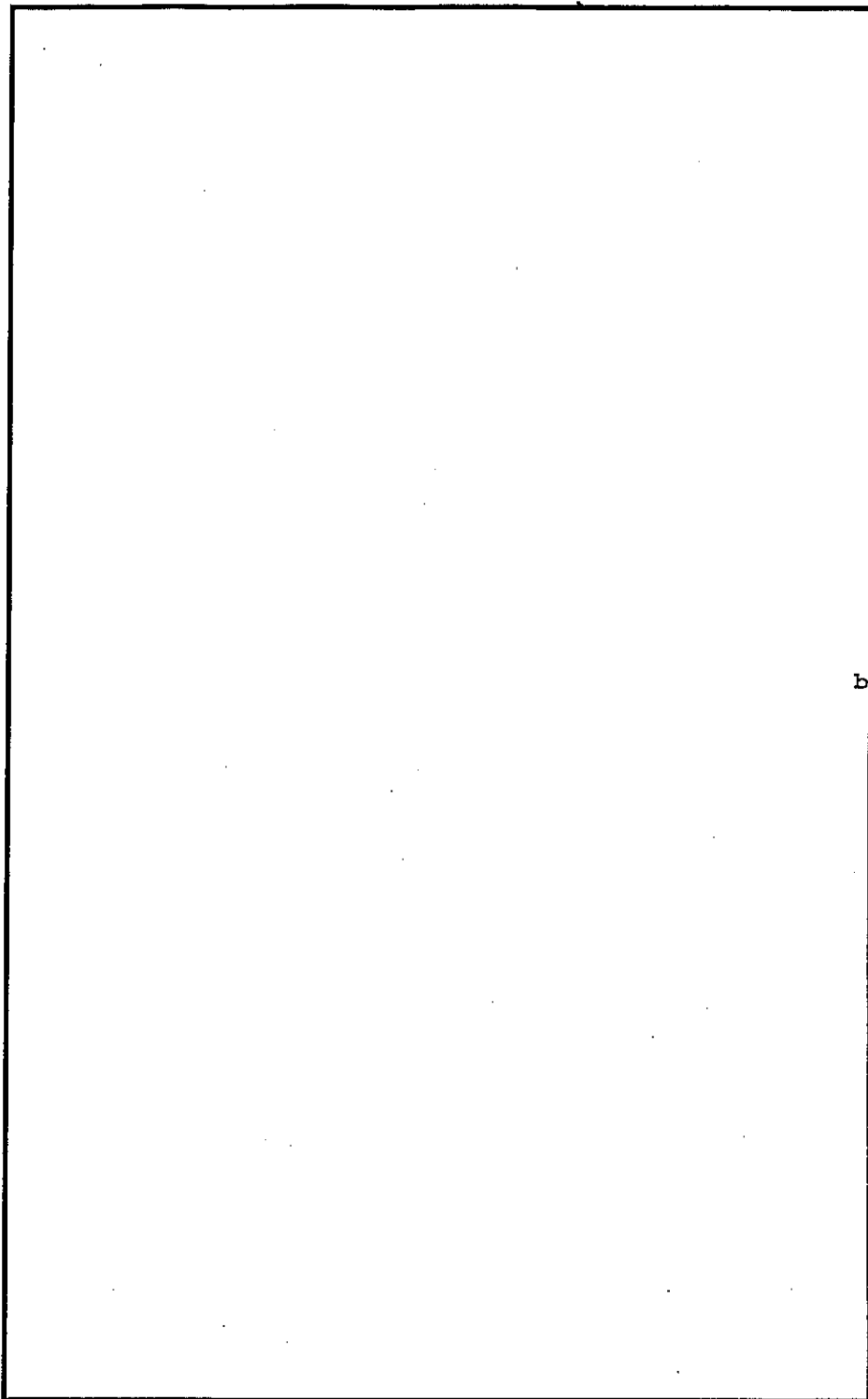


b5 -3



b5 -3

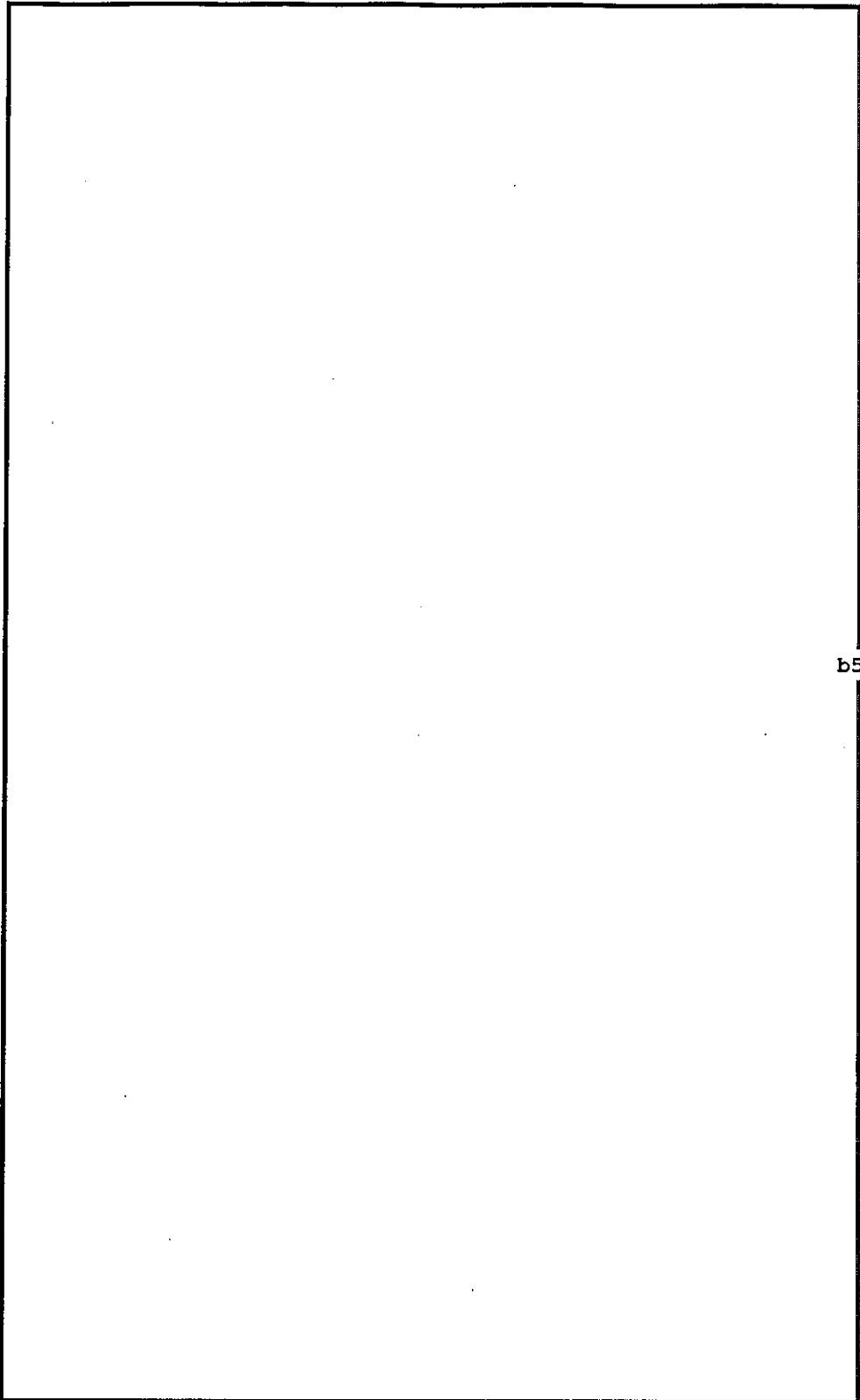
DETAINEES-2119



b5 -3

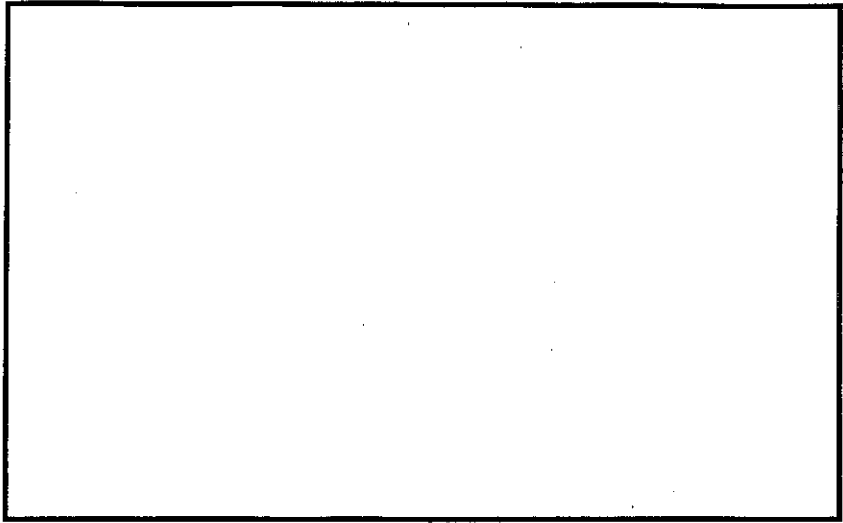
DETAINEES-2120

4285



b5 -3

DETAINEES-2121



b5 -3

DETAINEES-2122

4287

**Integrity in Government/Civil Rights Section FIELD INVESTIGATIONS
IRAQ/AFGHANISTAN
05/27/2004**

b7A -1

CASE TITLE

SUMMARY OF FACTS

ET AL;
FAG-DOD;
46A-WF-228740

AUSA Tom
McQuillan, Eastern
District of VA
(EDVA)

In February, 2004, the FBI was contacted by the Defense Criminal Investigative Service (DCIS) regarding allegations that [redacted] committed fraud [redacted]

[redacted] Interviews with [redacted] have substantiated many of the allegations WFO continues to conduct interviews [redacted] The FBI & DCIS Case Agents are likely to conduct approximately 10 interviews [redacted]

b7A -1

PROPOSED

[redacted] (results will be reported upon receipt) WFO/Northern Virginia Resident Agency (NVRA) was advised by UC [redacted] CTD, to cease and desist re: [redacted] Note: WFO's briefing by CTD was scheduled for 05/26/2004—info will be furnished upon receipt.] WFO will not open a case.

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b6 -1,4,
b7C -1,4
b7D -3

b7A -1
b6 -2,4
b7C -2,4

PROPOSED

This case was referred by DCIS and is being investigated jointly.

b7A -1
b6 -2,4
b7C -2,4

b7A -1
b6 -2,4
b7C -2,4

PROPOSED:

The case was referred to WFO by DCIS [Note: The Inspector General recused himself].

b7A -1
b6 -2,4
b7C -2,4

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 11-05-2004
CLASSIFIED BY: 61575DAG/BCE/gjg/CA/CM/1151
REASON: 1.4 (C)
DECLASSIFY ON: 11-05-2039

~~SECRET~~

| CASE TITLE | SUMMARY OF FACTS |
|---|---|
| Congressional Letter, dated 05/24/2004, from The Honorable Darlene Hooley, U S House of Representatives | No action taken. DOJ/Criminal Division is still reviewing jurisdictional matters. |

~~SECRET~~

DETAINEES-2124

| CASE TITLE | SUMMARY OF FACTS |
|--|---|
| 58A-WF-229348 DOJ/Counterterrorism Attorney Patrick Sullivan | WFO/NVRA has opened a case to review the propriety of an investigation into allegations of prisoner abuse The Department of Justice Counterterrorism Division is assigned to the investigation, and the FBI is pursuing the matter |

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b7A -1

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