P.O. Box 2355
Leonardtown, MD 20659

Via E-Mail

October 18, 2013

Mr. John P. Fitzpatrick
Director
Information Security Oversight Office
700 Pennsylvania Avenue, NW
Washington, DC 20408-0001

Dear Mr. Fitzpatrick: John

I am writing you in endorsement of Major James Weirick's complaint detailing the intentional improper classification of information by various members of the United States Marine Corps and/or other government officials. Specifically, the complaint deals with the classification of a personal video depicting Marines urinating on human remains in Afghanistan and which had been made widely available to the public when posted to YouTube and other online sites, along with the improper classification of ancillary reports and investigations. As Major Weirick accurately points out, since this video is not owned by, produced by or for, or is otherwise under the control of the United States Government, it cannot be classified under any circumstances per Section 1.1 (2) of Executive Order 13526, "Classified National Security Information." This is not a matter of agency judgment or discretion.

As indicated in my public writings and comments, as well as my spoken and written discussions with you, I am extremely concerned that the integrity of the classification system continues to be severely undermined by the complete absence of accountability in instances such as this clear abuse of classification authority. Equally important, the many security professionals within the Marine Corps who stood up to improper command pressure and whose highly professional and entirely proper guidance was willfully ignored by Marine Corps leadership are due the support of your office, having been established by the President to oversee implementation of the classification system.

I am available to discuss further if you wish. In the meantime, I look forward to learning of the disposition of Major Weirick's complaint.

Sincerely,

Bill

J. William Leonard

NOV 14 2013

Major James W. Weirick, USMC
108 Gibbon Street
Alexandria, VA 22314
Ph: 619.208.3681
Email: weirick@weirick.com

VIA EMAIL

Mr. John P. Fitzpatrick
Director
Information Security Oversight Office
700 Pennsylvania Avenue, NW
Washington, DC 20408-0001

Subj: COMPLAINT CONCERNING INACTION ON REPORT OF INTENTIONAL IMPROPER CLASSIFICATION

Ref: (a) Executive Order 13526, Classified National Security Information

Encl: (1) Report of Intentional Improper Classification of Information, 18 Apr 13
(2) Email, Report of Intentional Improper Classification of Information, 19 Apr 13
(3) Email, from Bridged A. DelGrosso, 16 Aug 13
(4) Email, from Bridget A. DelGrosso, 24 Sep 13
(5) Email, Reporting Question (Unclassified), 26 Feb 12

Mr. Fitzpatrick,

1. I am filing this complaint pursuant to the reference (Order), Sec. 5.2(b)(6). As Director, Information Security Oversight Office (ISOO), you are empowered to "oversee agency actions to ensure compliance with this order." Specifically, I am requesting you to ascertain if members of the United States Marine Corps and/or other officials of the United States Government have willfully classified and/or continued the classification of information in violation of the Order and its implementing directive and thus should be subject to appropriate sanctions in accordance with Section 5.5(b)(2) of the Order and, if so, why appropriate agency action has not been taken to date.

2. I originally reported this intentional improper classification on 18 April 2013, enclosure (1). The original report was filed with the Department of the Navy Central Adjudication Facility (DONCAF), enclosure (2), who forwarded the complaint to the Department of Defense Central Adjudication Facility (DODCAF) on 19 Apr 13. Despite repeated requests for information regarding this matter, enclosures (3) and (4), I have yet to receive any information concerning the actions taken to address this intentional improper classification.

3. As I fully explained in my original complaint, enclosure (1), the classification of the video depicting Marines urinating on human remains in Afghanistan was clearly in violation of the Order. Every security professional in the Marine Corps consulted on this matter opined that it was impermissible to classify the video and associated investigation. Among the numerous reasons the urination video could not be classified is that the information was never "owned by, produced by or for, or under the control" of the U.S. Government a clear prerequisite for classification as set forth in Sec. 1.1(2) of the reference. This video was captured on a personal video recorder and only became known to the U.S. Government after it surfaced on YouTube, and other media outlets, in January 2012. The Government could never account for all the copies of this information and made no attempt to account for this information. Moreover, it is clear that the intent behind this intentional improper classification was to conceal violations of law and prevent embarrassment, both prohibited under the Order, Sec. 1.7.

4. Due to the sheer volume of documents involved in this matter, I omitted an email that appears to have set this intentional improper classification in motion, enclosure (5). This email, of 26 Feb 12, is from Col Donald J. Riley, USMC, who was at the time serving as the Staff Judge Advocate for Gen John R. Allen Jr., USMC, then the Commanding General International Security Assistance Force and U.S. Forces Afghanistan. That the Staff Judge Advocate was handling this matter, vice a security professional, is indicative of the common thread throughout this intentional improper classification, i.e., intentionally removing security professionals for the process. This was intentional, because as detailed in my original report, enclosure (1), no competent security professional would ever countenance the classification of this information.

5. As is clear from the use of quotation marks around "Classified" in enclosure (5), it is obvious that there was a question about the propriety of classifying this information. Further, in the email there is a clear intent to classify information depicting "US Forces . . . engaged in misconduct." It could not be more clear in the Order that the classification of "violations of law" or to "prevent embarrassment" is prohibited. Reference (a), Sec. 1.7.(a)(1)-(2).

6. The 2012 report of the Public Interest Declassification Board begins with sentiments similar to many other introductory paragraphs of classified information, "A democratic society is grounded on the informed participation of the citizenry, which in turn requires access to Government information . . . government must act to ensure openness and should have to justify any use of secrecy." If this pronouncement is to have any substance there must be accountability for failing to justify the use of secrecy. The original attempt to classify the information in this case justifies the use of secrecy with the words "national security," as though the recitation of these two words is all that is required. No additional justification. No detailed

explanation. Just two words and the classification of any information is perfectly justified.

7. This is not the system the President envisioned when he enacted Executive Order 13526. To allow this flagrant abuse of the classification system to go unchecked undermines the entire purpose of the classification system.

8. I await your response to this complaint to include the results of your inquiry and any action taken in response to this formal complaint. Please advise if you need any additional information.

9. As should be abundantly clear from the content of this complaint, the views expressed in this communication are offered in my individual or personal capacity, and do not reflect the official policy or position of the Department of Defense, Department of the Navy, or the United States Marine Corps, or any other U.S. Government entity. Use of my rank and Service is in accord with JER 3-300a(1).

J. W. WEIRICK

5520

APR 18 2013

From: Major James W. Weirick XXX XX XXXX/4402 USMC
To: Department of the Navy Central Adjudication Facility

Subj: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Ref: (a) DoD Manual 5200.01 Volume 1
(b) SECNAV M-5510.36
(c) SECNAV M-5510.30
(d) 11JAN12-CALE-0032-7XMA (INTERIM) 27JAN12
(e) Executive Order 13526, 29 Dec 09

Encl: (1) Classification Timeline
(2) Complaint of UCMJ Violation Article 37 Unlawful Command Influence Involving Marines From 3/2 Urinating on Human Casualties, dtd 14 Mar 13
(3) Email "Time?" dtd 27 Feb 12
(4) Email "CLASSIFICATION ISSUE" dtd 27 Feb 12
(5) Email "OCA AUTH" dtd 27 Feb 12
(6) Email "ORIGINAL CLASSIFICATION AUTHORITIES" dtd 27 Feb 12
(7) Email "M-5510.36" dtd 29 Feb 12
(8) Email "M-5510.36" dtd 29 Feb 12
(9) Email "classification" dtd 29 Feb 12
(10) ACTION MEMO HQMC, dtd 29 Feb 12
(11) Email "ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo" dtd 6 Mar 12
(12) Email "ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo" dtd 6 Mar 12
(13) Email "Afghanistan Investigation" dtd 8 Mar 12
(14) Email "CLASSIFICATION OF VIDEO" dtd 14 Mar 12
(15) Email "CLASSIFICATION OF VIDEO" dtd 14 Mar 12
(16) Email "CLASSIFICATION OF VIDEO" dtd 21 Mar 12
(17) Email "Continued Classification" dtd 2 Apr 12

1. Nothing in this document or enclosures is classified. As detailed in this memorandum, all security personnel involved in this matter acted in a processional and ethical manner at all times. Nothing in this report should be construed to question their actions, or to suggest inaction. They all tried to the best of their abilities to caution against this course of action. Also note, an associated and overlapping matter is

currently being investigated by the Office of Inspector General, United States Department of Defense. Enclosure (2). This report is being made to satisfy my reporting requirements pursuant to 4-6, paragraph 4.(e) and (f) of reference (c).

2. Administrative Matters.

a. I do not wish to remain anonymous.

b. I want this to remain confidential, though I understand that if that is not possible I am still willing to participate.

c. I am willing to be interviewed.

d. I have contacted the Inspector General, United States Department of Defense. I am not requesting that your office open an additional investigation, this report is related, but deals mainly with the continued security clearance of the listed individuals. The assigned investigators are:

(1) Peter Schmid, Ph: 703.604.9033
Email: peter.schmid@dodig.mil

(2) David A. Core, Ph: 703.604.8836
Email: david.core@dodig.mil

e. Name: James William Weirick
Address: 108 Gibbon Street
Alexandria VA 22314
Home: 619.208.3681
Work: 703.432.8669
Home: weirick@weirick.com
Work: james.weirick@usmc.mil

3. Individuals involved:

a. Subjects:

(1) Col Joseph G. Bowe, Deputy Staff Judge Advocate to the Commandant
Ph: 703.693.7713
Email: joseph.bowe@usmc.mil

(2) SES Robert D. Hogue, Counsel for the Commandant of the Marine Corps
Ph: 703.614.2150
Email: robert.d.hogue

(3) SES Peter L. Delorier, Deputy Counsel for the Commandant of the Marine Corps
Ph: 703.614.2150
Email: peter.delorier@usmc.mil

b. Witnesses:

(1) Col Jesse L. Gruter, former Staff Judge Advocate, Marine Corps Combat Development Command
Ph: 703.784.4853
Email: jesse.gruter@usmc.mil

(2) Col Gregg W. Brinegar (Ret.), former Chief of Staff, Marine Corps Combat Development Command
Ph: 703.535.5597
Email: gregg.brinegar@gmail.com

(3) SES Raymond F. Geoffroy Jr., Assistant Deputy Commandant (Security), Plans, Policies, and Operations Department
Ph: 703.614.1068
Email: raymond.geoffroy@usmc.mil

(4) Civ William T. "Chip" Potts, Manager, Information & Personnel Security Program
Ph: 703.695.7162
Email: william.t.potts@usmc.mil

(5) Civ Robert J. Hanson, Command Security Manager, SCMSRO CA (169090)
Ph: 703.784.6260
Email: robert.hanson@usmc.mil

(6) Civ Leslie Bethune, Security Manager, HQMC
Ph: 703.614.9464
Email: leslie.bethune@usmc.mil

(7) Civ Timothy R. Roy, Marine Corps Base Quantico/Marine Corps Combat Development Command Supervisory Security Specialist
Ph: 703.784.6270
Email: timothy.roy@usmc.mil

4. Subject of wrongdoing

At the outset, it must be noted that all of the security personnel - Mr. Hanson, Mr. Potts, Ms. Bethune, and Mr. Roy - acted in a thoroughly processional and ethical manner at all times. They all gave accurate and professional advice about the proper classification of this information and tried to the best of their abilities to thwart this improper classification.

This complaint concerns the purposeful and wrongful classification of information in order to conceal violations of the law, prevent embarrassment to an organization, and to delay disclosure, in violation of references (a), (b), and (e). The purpose of this complaint is to inform your organization of the intentional misuse of classification for a wrongful purpose and to question the continued security clearance of the individuals involved in this intentional wrongful classification.

The subject matter of the improperly classified information are video recordings, one of which appears to depict four Marines urinating on the human remains of three males in Afghanistan (urination video). The urination video was uploaded to YouTube in January 2012. This was one of a number of videos taken by Marines of 3rd Battalion, 2nd Marines while deployed to Afghanistan in 2011. From interviews with the Marines, their testimony at courts-martial, and the seizure of the videos by Naval Criminal Investigative Service (NCIS), it is clear that that these videos were taken using personally-owned video cameras. The videos were not recorded at the direction of the U.S. Government. The videos were downloaded to personally-owned computers and other storage devices. The videos were freely exchanged amongst the Marines, as remembrances of their time in Afghanistan. And, it is impossible to account for all of the duplicates of the videos, especially the urination video. See, Reference (d) and Enclosure (4).

The videos were never in the possession of, or the property of, the U.S. Government until the personal computers of the Marines were seized by NCIS. See, Reference (d) The urination video remains on YouTube, and other Internet sources, to this day. There was never any attempt to recover this information before classifying it. The urination video was first discovered on YouTube on 10 Jan 12. Thereafter investigations were initiated by the command and NCIS.

It was not until approximately 27 Feb 12 that there was any mention of classification. There were no facts discovered that

would justify the classification and no event that occurred that indicated the videos qualified for classification. Rather, the investigation reveled the private nongovernmental production of the videos and that it was impossible to account for all the copies of the video, as mentioned in reference (d). Note, the interim NCIS investigation, reference (d), was unclassified FOUO as of 27 Jan 12. Similarly, the command investigation was unclassified. See, Enclosure (4). The investigators, both command and NCIS, where in the best position to determine the necessity to classify the information, and both investigations were unclassified.

5. Rule or regulation violated.

a. DoD Manual 5200.01 Volume 1

b. SECNAV M-5510.36

c. EO 13526

6. When did the incident occur.

See Timeline, enclosure (1).

7. Where the incident took place.

Various offices at the Pentagon.

8. Why I believe the incident occurred.

To prevent or delay the disclosure of information before court-martial, to conceal violations of law, and prevent embarrassment to the United States Marine Corps.

9. How I have tried to resolve the problem.

As illustrated in the enclosures, from the outset of this matter I consulted security personnel and attempted to pass accurate information to the subjects, in order to prevent this improper classification. I contacted Judge Advocate Division, Col Bowe's office, to inform that office of the impropriety of the classification. See, Enclosure (16). That office took no corrective ation. After the improper classification, I eventually arranged to have the information reviewed by an independent OCA at CENTCOM, who promptly declassified the urination video.

10. Requested action.

Determine if the subjects of this report meet the national security standard for personnel security clearance eligibility in light of the information contained in this report and if the subjects still posses the requisite reliability and trustworthiness such that entrusting them with access to classified information is clearly consistent with the interests of national security. Given President Obama's commitment to transparency and an open Government, see Attorney General Memorandum of 19 Mar 2009 and reference (e), and his guidance that, "[t]he Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears," and the intent and actions of the subjects of this report, their actions do not appear to be in keeping with this guidance. At minimum, safeguards need established, or fortified, to ensure the subjects are not free to commit this type of misconduct in the future.

11. Additional information.

a. Background of classification

This was, in no way, an unintentional misclassification or simple mistake. This is was a coordinated effort to circumvent the proper classification procedures. The words of Mr. Potts best illustrate the intentional actions of the subjects, "We weren't consulted on this process . . . the primary problem is that lawyers were engaged to try and make or advice the Commandnat [sic] and PP&O on classification issues instead of our office." Enclosure (12). This improper classification was done knowingly and willfully, or at a minimum negligently. I do not bring this charge lightly or without ample evidence.

This was a concerted effort between Col Bowe, Mr. Delorier, and Mr. Hogue to knowingly circumvent the appropriate classification procedures. These individuals purposefully avoided any input or advice from security personnel in order to wrongfully classify this information. Moreover, they attempted to influence individuals after the fact to further this improper classification. "The Counsel to the Commandant [Mr. Hogue] spoke with Mr. Geoffrey this Friday." Enclosure (12).

The first individual to mention classification was Col Bowe. This occurred during a VTC I attended along with Col Gruter, Mr. Roy, and Col Brinegar on 27 Feb 12. Before the meeting I contacted Mr. Roy for advice about security classification, and he attended the VTC. During the VTC Col Bowe stated that we, Marine Corps Combat Development Command (MCCDC), were being directed to classify the investigation and that we were to "classify now and declassify later for trial." This is improper classification to delay the release of information. Reference (b), 4-11, 1, d.

I demurred, on numerous grounds, inter alia, CG, MCCDC is not one of the four Original Classification Authorities (OCA) in the Marine Corps, and that classifying the video would violate EO 13526, specifically, Sec. 1.7, which prohibits classification in order to "prevent embarrassment . . . delay the release of information that does not require protection in the interest of the national security." The directive, from Col Bowe, to classify the investigation remained. After this meeting Mr. Roy cautioned about the problems with classification and advised that the information remain "controlled unclassified information." Enclosure (5).

Later in the same day, 27 Feb 12, I attended a conference call along with Col Gruter and Col Brinegar, again at the direction of Col Bowe. Col Bowe iterated that the investigation was to be classified by CG, MCCDC and that this direction was coming directly from Gen J. F. Dunford, then Assistant Commandant of the Marine Corps. I again attempted to explain that CG, MCCDC was not an OCA, but Col Bowe insisted CG, MCCDC was an OCA and CG, MCCDC was to classify the investigation and videos. I had confirmed with Ms. Bethune at Plans, Policies, and Operations (PP&O) before the conference call that LtGen Mills, CG, MCCDC, is not an OCA. I also attempted to explain the various problems with classifying the urination video, including that the classification would constitute a direct violation of EO 13526; to no avail. These conversations were one way. Any questioning of the legality or advisability of this decision to classify was not entertained by Col Bowe, even when mentioned by SJA, MCCDC, Col Gruter. Col Gruter was a lieutenant colonel at the time.

Despite my warnings and the collective warnings of the security personnel, the subjects continued the process to improperly classify the information. I received the attached action memorandum "Request for Original Classification Authority, of 29 Feb 12" signed by LtGen R. T. Tryon, DC, PP&O. This document

was from Mr. Hogue and prepared by Mr. Delorier. Enclosure (10).

b. Actions and advice by security personnel

From the outset, each of the security personnel advised against the classification of the urination video and associated investigation. They advised the information remain "controlled unclassified" enclosure (5) or "FOUO at best" enclosure (11). Mr. Hanson warned, "I believe that EO 13526 Sec. 1.7. has relevance in cases where a definitive reason for a classification decision is not established by an OCA in the preservation of National Security." Enclosure (11). Similarly, Ms. Bethune stated, "the information that is being classified falling in the area if EO 13526 Sec 1.7 . . . and the information . . . was not classified using any classification guides." Enclosure (11). Mr. Potts echoed these concerns, "We weren't consulted on this process but we're engaged trying to get it fixed . . . No effort to turn anything into a class guide and . . . it was done improperly. I prepared an Info Paper for DC, PP&O to let him know. The primary problem is that lawyers were engaged to try and make or advice the Commandant [sic] and PP&O on classification issues instead of our office." Enclosure (12). Further, Mr. Potts related that Mr. Houge, Counsel for the Commandant had spoken with SES Raymond F. Geoffroy, Jr., Assistant Deputy Commandant (Security), Plans, Policies, and Operations Department about this matter, but provide no details about the conversation. Enclosure (12)

c. Process of improper classification

During the original classification decision, there was never an attempt to (1) determine that the information is owned by, produced by or for, or is under the control of the U. S. Government; (2)determine the information falls within one or more of the categories of information listed in paragraph 1.b. of this enclosure; (3) determine that there is a reasonable possibility that the information can be provided protection from unauthorized disclosure; or to document the classification decision and clearly and concisely communicate it in writing, per reference (a).

This classification way done solely to (1) conceal violations of law; (2) prevent embarrassment to an organization and (3) to delay the release of information that does not require protection in the interests of the national security. All of which are prohibited. References (a), (b), and (e).

This all illustrates the central thesis of this report: that there was a coordinated effort between Col Bowe, Mr. Hogue, and Mr. Delorier, to circumvent security regulations in order to impermissibly classify this information. This situation appears to falls within the area of sanctions contemplated under reference (a). Specifically, "DoD military and civilian personnel may be subject to criminal or administrative sanctions if they knowingly, willfully, or negligently: (b) classify . . . information in violation of this Volume." Reference (a) and Sec. 5.5 of reference (e)..

Feel free to contact me if you have any questions or require additional documentation or information. The listed security personnel are also a good source of information along with the investigators from IG, DoD.

12. Signature

I certify that all of the statements made in this complaint are true, complete, and correct, to the best of my knowledge. I understand that a false statement or concealment of a material fact is a criminal offense (18 U.S.C. §1001; Inspector General Act of 1978, As Amended, §7)

J. W. [illegible]IRICK APR 18 2013

Classification Timeline

10 Jan 12 - Video of Marines appearing to be urinating on human remains discovered on YouTube.

11 Jan 12 - Marine Corps announces, "This matter [video] will be fully investigated."

13 Jan 12 - Commandant of the Marine Corps (CMC) appoints LtGen Thomas D. Waldhauser as consolidated disposition authority (CDA) initiate any necessary investigation and take administrative or disciplinary actions. LtGen Steven Hummer appointed investigating officer for the matter, Col Bligh is appointed legal advisor.

10 Feb 12 - CMC appoints Commanding General, Marine Corps Combat Development Command (MCCDC) as the new CDA.

27 Feb 12 - Col Bligh explains that the ongoing investigation and "exsum, and brief on the unclass side." Enclosure (4). Col Bligh also cautions, "there are several copies of the videos." Enclosure (4).

27 Feb 12 - Col Bowe insists on speaking with Col Gruter. Enclosure (3).

27 Feb 12 - Issue of classification first raised. VTC called by Col J. G. Bose, Deputy SJA to Commandant of the Marine Corps. Enclosure (3) Present at VTC are Maj Weirick, Col Brinegar, then-LtCol Gruter, Col Bligh, Mr. Roy. Col Bowe insisted that CG, MCCDC classify the videos and associated investigation, and he stated we were to "classify now and declassify later for trial." Col Bowe insisted on classification.

27 Feb 12 - Mr. Roy clarifies that CG, MCCDC is not an original classification authority (OCA), and that the "only OCA aboard Quantico is CG MARCORSYSCOM." Enclosure (5). Mr. Roy mentions during "VTC an overall consensus was that not all the information could be known to have been contained" and that "some level of a threat to National Security 'Yet to be determined.'" Enclosure (5). Mr. Roy rightfully recommends that the videos and investigation be treated as "controlled unclassified information." Enclosure (5). Finally, he cautions that if the information is classified, the Government must attempt to "recover every piece" of this information. Enclosure (5).

27 Feb 12 - After conferring with Mr. Bethune, Maj Weirick confirms and reports to Col Gruter that LtGen Mills, CG, MCCDC is not an OCA, thus is unable to classify information even it said information meets the criteria for classification. Enclosure (6).

29 Feb 12 - Col Gruter contacts Col Bowe and informs him that security personnel for MARFORSYSCOM would "not be comfortable" with any classification of the videos or investigation. Enclosure (7). Col Bowe responds, "[s]eems like you gave me info that may not be accurate . . . " Enclosure (7).

29 Feb 12 - Col Gruter informs Col Bowe that Mr. Potts called Mr. Roy "asking who the POC was on the classification issue at HQMC" and that he gave Col Bowe and Mr. Delorier as the POCs for this matter. Enclosure (7).

29 Feb 12 - Col Gruter informs Col Bowe that CG, MCCDC is comfortable with the "current unclass/FOUO." Enclosure (9). Col Bowe responds to Col Gruter "Hmm… Mr. Delorier tells me . . . the entire invest is now classified." Enclosure (7).

29 Feb 12 - 1909, Maj Kraics, Office of Counsel for the Commandant, sends email with attached memorandum, enclosure (10), indicating the videos and investigation are now classified. Enclosure (11). Note: the email is sent to Col Bowe and others, and Mr. Hogue and Mr. Delorier are both on the Cc line. Enclosure (11).

29 Feb 12 - Classification memorandum, enclosure (10), prepared by Mr. Delorier and from Mr. Hogue. Enclosure (10).

6 Mar 12 - 1050, Mr. Hanson forwards to Mr. Potts and Ms. Bethune classification memorandum warning of the impropriety of said classification. Mr. Hanson states, "[t]he attached action memo does not state the reason for the classification decision . . ." Enclosure (12). He correctly points out "the NOFORN caveat is an intelligence making." Enclosure (12). And sums up by accurately stating, "EO 13526 Sec. 1.7. has relevance in cases where a definitive reason for a classification decision is not established by an OCA in the preservation of National Security." Enclosure (12).

6 Mar 12 - Mr. Potts responds to Mr. Hanson, stating "[w]e weren't consulted on this process but we're engaged trying to get it fixed." Enclosure (12). Mr. Potts mentions "Counsel to

the Commandant [Mr. Hogue] spoke with Mr. Geoffroy" about the issue, but gave no further details. Enclosure (12). Mr. Potts confirms that, "[n]o effort to turn anything into a class guide and your are correct, it [the classification] was done improperly" and he prepared an "Info Paper for DC, PP&O [LtGen Tryon] to let him know." Enclosure (12). Mr. Potts further explains "that lawyers [Col Bowe, Mr. Delorier, and Mr. Hogue] were engaged to try and make or advice the Commandant and PP&O on classification issues instead of our office." Enclosure (10).

8 Mar 12 - Maj Kraics, assistant to Mr. Hogue, contacts SA David L. Gardner, NCIS, about questions Mr. Hogue has about classification. Enclosure (13)

13 Mar 12 - Maj Weirick contacts Mr. Potts about the improper classification. Mr. Potts replies, "[w]e found the Position Paper in our SES's box." Enclosure (11).

14 Mar 12 - Mr. Potts correctly cautions that any lawyer challenge to the classification process could "shoot holes in our whole process and bring the whole decision making process into question." Enclosure (12). And anyone knowledgably in classification issues could call into question and "make us look silly if he supported a defense contention that the video was improperly classified." Enclosure (12).

21 Mar 12 - Maj Weirick contacts Judge Advocate Division, the office of Col Bowe, cautioning that office of the multiple improprieties with the classification of the video and investigation. Enclosure (16) This email has never been answered.

2 Apr 12 - Maj Weirick reminds Col Gruter, after earlier conversation with Commandant's Legal office, that continued classification of this information is impermissible; despite the desires of higher authorities. Enclosure (17)

5040

MAR 1 4 2013

From: Major James W. Weirick, USMC
To: Office of Inspector General, United Sates Department of Defense
Naval Inspector General

Subj: COMPLAINT OF UCMJ VIOLATION ARTICLE 37 UNLAWFUL COMMAND INFLUENCE INVOLVING MARINES FROM 3/2 URINATING ON HUMAN CASUALTIES

1. Because of the seniority of the individuals involved in this matter, this complaint is being sent to both the Office of Inspector General, United States Department of Defense and the Naval Inspector General. The purpose is not to file two complaints; rather it is to allow these offices to properly coordinate. Similarly, given the rank of the individuals involved, filing a complaint with a local IG or the Inspector General of the Marine Corps did not seem appropriate. If I have done this in error, please reroute this complaint to the appropriate office.

2. Administrative matters.

a. I do not wish to remain anonymous.

b. I want this to remain confidential, though I understand if that is not possible and I am willing to go forward.

c. I am willing to be interviewed.

d. I do intend to contact other Inspector Generals as listed in the above paragraph.

e. Name: James William Weirick Major O-4 USMC
Address: 108 Gibbon Street
Alexandria VA 22314
Home Telephone: 619.208.3681
Work Telephone: 703.432.8669
E-Mail Address: weirick@weirick.com

Subj: COMPLAINT OF UCMJ VIOLATION ARTICLE 37 UNLAWFUL COMMAND INFLUENCE INVOLVING MARINES FROM 3/2 URINATING ON HUMAN CASUALTIES

3. Individuals involved.

Subjects:

1. Gen James F. Amos
2. Gen Joseph F. Dunford
3. MajGen Vaughn A. Ary
4. Col Joseph G. Bowe
5. SES Robert D. Hogue
6. SES Peter L. Delorier

Witnesses:

1. Gen John M. Paxton
2. LtGen Thomas D. Waldhauser
3. Col Gregory Gillette
4. LtGen Steven A Hummer
5. Col David J. Bligh
6. LtGen Richard P. Mills
7. Col Jesse L. Gruter
8. Col Terence P. Brennan
9. Col Gregg W. Brinegar (Ret.)
10. LtGen Richard T. Tryon
11. Col John R. Ewers
12. Col Mark K. Jamison
13. LtCol Derek Brostek
14. Civ Joseph A. Rutigliano
15. Mr. Alexander R. Wilschke
16. SES Raymond F. Geoffroy Jr.
17. Civ Robert J. Hanson
18. Civ William T. Potts
19. Maj Michael D. Libretto

4. Subject of the wrongdoing.

This incident involves the attempted, and in many ways, successful unlawful command influence by Gen Amos to influence the outcome of cases involving Marines accused of urinating on human remains in Afghanistan. This includes attempting to

influence the judgment of the convening authority in order to direct the outcome of courts-martial and to take selective action against individuals to remove them from billets and withhold promotions. Moreover, there was an over arching design to classify this information to accomplish this in a secretive manner. This is my belief after spending over a year working on this matter on a daily basis.

5. Rule or regulation violated.

1. Article 37, UCMJ, Unlawfully influencing action of court
2. SECNAV M-5510.36
3. EO 13526

6. When did the incident occur.

This incident began in January 2011 and is ongoing. When the video first appeared on the Internet, Gen Amos appointed a Consolidated Disposition Authority (CDA) to act as the convening authority for all of the cases. On 13 Jan 12 the Commandant designated LtGen T. D. Waldhauser the CDA then redesignated LtGen R. P. Mills the CDA on 10 Feb 12. I have circumstantial evidence that suggests this change occurred because LtGen Waldhauser intended to dispose of these cases at Summary Courts-Martial or nonjudicial punishment. When Gen Amos learned of this, he reassigned the responsibility of CDA to LtGen Mills.

The Commandant, or others acting on his behalf, directed the classification of the investigation and videos, despite the objections of all the subject-matter experts in the security sections. In June 2012, the investigation and videos were finally reviewed by an OCA outside of the Marine Corps, Major General K. R. Horst, USA, Chief of Staff, U.S. Central Command, and properly declassified.

Further, Gen Amos has directly commented on evidence in ongoing criminal trials and expressed his opinion on the evidence. The Commandant included photographs of the 3/2 Marines in his Heritage Brief and stating that the alleged acts were "behavior unbecoming a Marine." This was done at numerous

bases and stations throughout the Corps to all the assembled officers of the Marine Corps. He also prohibited these briefs from being recorded. This makes it almost impossible for any of the accused to receive a fair trial.

7. Where the incident took place.

Various locations, including General Officer meetings and offices within the Pentagon.

8. Why I believe the incident occurred.

I believe Gen Amos truly wanted to ensure these Marines were punished for their alleged participation in the video that appeared to depict four Marines from 3/2 urinating on human remains. It appears Gen Amos may also have engaged in selective prosecution as a personal favor to former Commandant Gen J. T. Conway. Specifically, by releasing Gen Conway's son from legal hold and allowing him to be promoted and assuming command. Gen Conway's son was the XO of 3/2 at the time. The CO of 3/2, LtCol C. G. Dixon, has been removed from the TLS list for two years and has had his promotion to colonel withheld.

9. How I have tried to resolve the problem.

I have tried to remedy the illegal classification of the evidence, and to a great deal I have been successful. I have repeatedly tried to get the necessary discovery from Judge Advocate Division and Commandant's Legal, I have received no responses. I have been successful in having LtGen Mills's emails collected by NMCI and these will be turned over to the accused. I am just without the authority to resolve all of the issues and my attempts have been thwarted at almost every turn.

10. Requested actions by the IG.

To fully investigate this matter to ensure that the lives and careers of Marines accused of wrongdoing in this matter are not impacted by this unlawful command influence. Specifically, to ensure any Marine tried at a court-martial is not deprived of

all of the discovery he is entitled to and that any Marine who is the subject of any other administrative or disciplinary action receives a fair hearing, free from pressure from HQMC. Additionally, I request the judicial and administrative actions that have already been taken against the Marines be reviewed by an authority outside the influence of Gen Amos.

11. Additional information.

In order to be prompt in beginning this investigation, I have only included a general outline of the situation. I had hoped to resolve many of these issues myself. But with an Article 32 investigation scheduled for 19 May 13, in U.S. v. Sgt Richards, it will be impossible to have a full and fair investigation without the required discovery related to unlawful command influence. I lack the power or authority to get the emails and other requested materials in the possession of the Commandant and his staff. To ensure a fair proceeding I need the assistance of those with much greater authority. I should have acted earlier, but I truly believed those with the authority to accomplish this would adhere to the Rule of Law and our shared value of due process. This, sadly, has not been the case. Both civilian and uniformed counsel for the Commandant have thwarted my efforts and remained silent, or possibly assisted in, this unlawful command influence.

As this has been ongoing for over a year, there have been thousands of emails and other documents created. I have possession of many of these and I am prepared to make them available at any time. Additionally, I stand ready to be interviewed and provide all the additional information and insight I have regarding this case.

It must be noted that my immediate supervisor, Col J. L. Gruter and my Commanding General, LtGen Richard P. Mills, have at all times, and to the best of their abilities, avoided any involvement in any unlawful command influence. Col Gruter has always provided sound ethical and legal advice to LtGen Mills, despite pressure from Judge Advocate Division, which included MajGen Ary attempting to have Col Gruter replaced as SJA, MCCDC.

Similarly, LtGen Mills has steadfastly resisted pressure from Gen Amos, including leaving CMC briefings on the subject of these cases.

I have been present for, or participated in, nearly every briefing of LtGen Mills on these cases. LtGen Mills has at all times fulfilled his role as a convening authority in an impartial manner, carefully reviewing the fact of each case, considering mitigating and extenuating circumstances of the individual Marines, and arriving at legally appropriate decision when determining the appropriate administrative or judicial action to take in each case.

These two men are shining examples of ethical and fair Officers of Marines. I regret that they were put in this precarious position by those officers above them. Moreover, I regret that I did not do more to protect them and to protect those Marines who have faced judicial or administrative punishment that was, at least partly, influenced by the extraordinary pressure being applied by Gen Amos.

I do not bring this complaint lightly. This has weighed on me for some time. I am sad for the Corps and the military-justice system.

12. Signature

I certify that all of the statements made in this complaint are true, complete, and correct, to the best of my knowledge. I understand that a false statement or concealment of a material fact is a criminal offense (18 U.S.C. § 1001; Inspector General Act of 1978, As Amended, §7).

JAMES W. WEIRICK

MAR 1 4 2013

Copy to:
Inspector General of the Marine Corps

Weirick Maj James W

Subject: FW: Time?

-----Original Message-----
From: Barnett Capt Brandon W
Sent: Monday, February 27, 2012 9:32
To: Weirick Maj James W
Subject: RE: Time?

Sir,

It sounds like the VTC will go at 1400. Can you send out the access info? Thanks for your help Sir.

V/R,

Brandon W. Barnett
Capt, USMC
(703) 693-8673

-----Original Message-----
From: Weirick Maj James W
Sent: Monday, February 27, 2012 9:31 AM
To: Barnett Capt Brandon W
Subject: RE: Time?

THEY ARE TALKING

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

-----Original Message-----
From: Barnett Capt Brandon W
Sent: Monday, February 27, 2012 9:23
To: Weirick Maj James W
Subject: RE: Time?

Me again Sir. Col Bowe would like to talk with LtCol Gruter ASAP. Thanks Sir.

V/R,

Brandon W. Barnett
Capt, USMC
(703) 693-8673

Enclosure (3)

-----Original Message-----
From: Weirick Maj James W
Sent: Monday, February 27, 2012 9:21 AM
To: Barnett Capt Brandon W
Subject: RE: Time?

I'm working it.

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

-----Original Message-----
From: Barnett Capt Brandon W
Sent: Monday, February 27, 2012 9:17
To: Weirick Maj James W
Subject: Time?

Sir,

Col Bowe asked me to ask you if you have a time for the VTC yet? Please advise soonest.

Very Respectfully,

Brandon W. Barnett
Captain, U.S. Marine Corps
Judge Advocate Division
HQMC - Pentagon
(703) 693-8673
brandon.w.barnett@usmc.mil

Weirick Maj James W

From: Bligh Col David J
Sent: Monday, February 27, 2012 8:33 AM
To: Gruter LtCol Jesse L
Cc: Weirick Maj James W; Bowe Col Joseph G; Lore LtCol Joseph A; Hummer LtGen Steven A
Subject: CLASSIFICATION ISSUE

Jesse,

We are standing-by for phone con or VTC with CG, MCCDC.

To implement the guidance we have received, we (the command investigation team) plan to continue:

- our preparation of the investigation, exsum, and brief on the unclass side.
- once we are prepared to go "final," we will then mark and migrate the data to the high side.

We will only push data to you on the high side.

Break - there are several copies of the videos that need to be marked and handled appropriately. At minimum, II MEF SJA, LSSS, MARCENT SJA, CL, and NCIS offices have copies of the videos. To you for action you deem necessary.

R/ DJB

Enclosure (4)

Weirick Maj James W

From: Roy CIV Timothy P
Sent: Monday, February 27, 2012 3:44 PM
To: Gruter LtCol Jesse L
Cc: Weirick Maj James W
Subject: OCA AUTH
Signed By: timothy.roy@usmc.mil

Gentlemen,

The only OCA aboard Quantico is the CG MARCORSYSCOM (BGEN Frank Kelley). BGen Kelley is assisted by his security specialist Mr. Stephen Benjamin.

My concerns with classifying a particular part of the investigation which is ongoing in your area, is that it seemed that during the VTC an overall consensus was that not all the information could be known to have been contained. I understand that a determination could be made that release of some or all of this information could be considered some level of a threat to National Security "Yet to be determined". For this reason, if it is now classified, or any portion of it, then this only heightens awareness of the incident and could actually intensify the impact of what we are trying to contain.

There is also the consideration of associated parts of the investigation that when known could equal that portion which may have been classified separately and in fact would make the whole of the investigation classified.

I would offer that if possible, given the information that I was recently made aware of, that every effort be made to restrict the access of persons without a need to know and work to protect this information as controlled unclassified information.

If the determination is made that there remains a threat to national security then the next step would be to try to recover every piece of this situation prior to shining the spot light on what might be in the wrong hands, i.e. various players within the set affected environment?

s/f
r/s

Mr. Timothy P. Roy
MCBQ/MCCDC Supervisory Security Specialist
G-1 Manpower, Security Branch
3250 Catlin Ave
Quantico, VA 22134
COMM 703-784-6270
Fax: TBD
SMO Code: 300015

Enclosure (5)

Weirick Maj James W

From: Weirick Maj James W
Sent: Monday, February 27, 2012 6:00 PM
To: Gruter LtCol Jesse L
Subject: ORIGINAL CLASSIFICATION AUTHORITIES
Signed By: james.weirick@usmc.mil

Sir,

The Original Classification Authorities (OCA) are listed in SECNAV M-5510.36 (Ex. 4A). Deputy Commandant for Combat Development and Integration is not listed as an OCA. Furthermore, I contacted DC, PP&O (PS) to check on the OCAs (POC - 703.614.9464). I was informed that there are only four OCAs by MCO: CMC, MCSC, MARFORCENCOM, DC, PP&O. LtGen Mills is not an OCA. Suggested COA, investigative team go directly to an OCA.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

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Enclosure (6)

Weirick Maj James W

From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 4:40 PM
To: Weirick Maj James W
Subject: FW: M-5510.36

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 16:40
To: Bowe Col Joseph G
Subject: RE: M-5510.36

Sir,

Mr. Chip Potts called our Assistant Security Manager, Mr. Tim Roy asking who the POC was on the classification issue at HQMC. I gave Mr. Roy your name and Mr. Deloier's name as the POC on this matter. I'm not sure why he was calling here; I understood him to be HQMC Security Manager. In any event, I wanted to give you a heads up.

V/r
Jesse

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 16:09
To: Bowe Col Joseph G
Subject: RE: M-5510.36

Sir,

I just called Joe Kennedy, and reconfirmed what I'm telling you is accurate that beginning on 28 Feb '12 forward, anything produced is classified. It is not there to go back and reclassify what has already been produced. I'll keep you posted.

V/r
Jesse

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 15:04
To: Bowe Col Joseph G
Subject: RE: M-5510.36

Sir,

If I did not give you accurate information it is only because that is what two NCIS agents told me - "from yesterday forward." Specifically, I asked both of them were they going to go "back" and both said no. This was from Heather

Enclosure (7)

Bain (the lead agent) and Joe Kennedy, Special Agent in Charge. I will continue to attempt to clarify, but this is the best information I have.

V/r
Jesse

-----Original Message-----
From: Bowe Col Joseph G
Sent: Wednesday, February 29, 2012 14:43
To: Gruter LtCol Jesse L
Subject: RE: M-5510.36

Jesse,

Seems like you just gave me info that may not be accurate...

I'll be in my office 5 more minutes...give me a call.

thx

Joseph Bowe
Colonel, U. S. Marine Corps
Deputy Staff Judge Advocate to the
Commandant of the Marine Corps
Deputy Director, Judge Advocate Division
The Pentagon - 4D558
(703) 693-7713 (Office)
(571) 435-0934 (Bberry)

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 13:56
To: Bowe Col Joseph G
Subject: M-5510.36

Sir,

This is the language that I cited to the CG regarding potential push back from SYSCOM

"4-3 ORIGINAL CLASSIFICATION:

Original classification is the initial decision that an item of information could be expected to cause damage to the national security if subjected to unauthorized disclosure. This decision shall be made only by persons (i.e., OCAs) who have been specifically delegated the authority to do so, have received training in the exercise of this authority, and have program responsibility or cognizance over the information."

And I said, despite, this we do by virtue of the MOU can task them to do this although at the action officer level there has been an indication that they would not be comfortable.

I hope this helps.

V/r
Jesse

LtCol Jesse Gruter
SJA, MCCDC
(wk) 703.432.8168
(BB) 571.221.8688
jesse.gruter@usmc.mil

Enclosure (7)

Weirick Maj James W

From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 6:10 PM
To: Weirick Maj James W
Subject: FW: M-5510.36

...and it continues...

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 18:05
To: Bowe Col Joseph G
Subject: RE: M-5510.36

Sir,

Just talked to Korvin; he confirmed everything I passed was correct.

V/r
Jesse

-----Original Message-----
From: Bowe Col Joseph G
Sent: Wednesday, February 29, 2012 18:00
To: Gruter LtCol Jesse L
Subject: RE: M-5510.36

Hmm.. Mr Delorier tells me Heather Bain told him point-blank that the entire invest is now classified.

S/F

JB

Joseph Bowe
Colonel, U. S. Marine Corps
Deputy Staff Judge Advocate to the
Commandant of the Marine Corps
Deputy Director, Judge Advocate Division
The Pentagon - 4D558
(703) 693-7713 (Office)
(571) 435-0934 (Bberry)

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 16:09
To: Bowe Col Joseph G
Subject: RE: M-5510.36

Sir,

I just called Joe Kennedy, and reconfirmed what I'm telling you is accurate that beginning on 28 Feb '12 forward, anything produced is classified. It is not there to go back and reclassify what has already been produced. I'll keep you posted.

V/r
Jesse

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 15:04
To: Bowe Col Joseph G
Subject: RE: M-5510.36

Sir,

If I did not give you accurate information it is only because that is what two NCIS agents told me - "from yesterday forward." Specifically, I asked both of them were they going to go "back" and both said no. This was from Heather Bain (the lead agent) and Joe Kennedy, Special Agent in Charge. I will continue to attempt to clarify, but this is the best information I have.

V/r
Jesse

-----Original Message-----
From: Bowe Col Joseph G
Sent: Wednesday, February 29, 2012 14:43
To: Gruter LtCol Jesse L
Subject: RE: M-5510.36

Jesse,

Seems like you just gave me info that may not be accurate...

I'll be in my office 5 more minutes...give me a call.

thx

Joseph Bowe

Colonel, U. S. Marine Corps
Deputy Staff Judge Advocate to the
Commandant of the Marine Corps
Deputy Director, Judge Advocate Division
The Pentagon - 4D558
(703) 693-7713 (Office)
(571) 435-0934 (Bberry)

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 13:56
To: Bowe Col Joseph G
Subject: M-5510.36

Sir,

This is the language that I cited to the CG regarding potential push back from SYSCOM

"4-3 ORIGINAL CLASSIFICATION:

Original classification is the initial decision that an item of information could be expected to cause damage to the national security if subjected to unauthorized disclosure. This decision shall be made only by persons (i.e., OCAs) who have been specifically delegated the authority to do so, have received training in the exercise of this authority, and have program responsibility or cognizance over the information."

And I said, despite, this we do by virtue of the MOU can task them to do this although at the action officer level there has been an indication that they would not be comfortable.

I hope this helps.

V/r
Jesse

LtCol Jesse Gruter
SJA, MCCDC
(wk) 703.432.8168
(BB) 571.221.8688
jesse.gruter@usmc.mil

Enclosure (8)

Weirick Maj James W

From: Gruter LtCol Jesse L
Sent: Wednesday, February 29, 2012 6:50 AM
To: Bowe Col Joseph G
Subject: RE: classification

Sir,

I am waiting for the CG to discuss with ACMC which is why I hadn't said anything. At this point the CG is comfortable with the current unclass/FOUO, but we understand that because we're not an OCA, that is not our determination to be make. If CMC directs that it be classified, we will forward the investigation to either CMC or PP&O for determination of classification.

V/r
Jesse

-----Original Message-----
From: Bowe Col Joseph G
Sent: Wednesday, February 29, 2012 6:47
To: Gruter LtCol Jesse L
Subject: classification

Jesse,

Update on what came out of the 1400 yesterday?

Thx

JB

Joseph Bowe
Colonel, U. S. Marine Corps
Deputy Staff Judge Advocate to the
Commandant of the Marine Corps
Deputy Director, Judge Advocate Division
The Pentagon - 4D558
(703) 693-7713 (Office)
(571) 435-0934 (Bberry)

Enclosure (9)

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, D.C. 20350-3000

ACTION MEMO

February 29, 2012

FOR: DEPUTY COMMANDANT, HQMC PLANS, POLICIES, AND OPERATIONS

FROM: Robert D. Hogue, Counsel for the Commandant of the Marine Corps

SUBJECT: REQUEST FOR ORIGINAL CLASSIFICATION AUTHORITY

REFERENCES: (a) SECNAV M-5510.36
(b) SECNAV M-5510.30
(c) SECNAVINST 5510.36A

- The purpose of this memorandum is to request that Deputy Commandant, HQMC Plan, Policies, and Operations (DC, PP&O) , acting as a designated Original Classification Authority (OCA), classify the photographs and video recordings listed at TAB A as SECRET//NOFORN.

- Per reference (b), original classification is required because the unauthorized disclosure of the subject photographs and video recordings listed at TAB A could reasonably be expected to cause damage to the national security.

- Per reference (c), the subject photographs and video recordings listed at TAB A shall remain classified as SECRET//NOFORN and shall be marked for declassification on 28 February 2022, ten (10) years from the date of this original classification decision.

RECOMMENDATION: That DC, PP&O approve the request to classify the subject photographs and video recordings provided at TAB A as SECRET//NOFORN by initialing in the "Approve" block below:

Approve _____ Disapprove _____

COORDINATION: Commandant of the Marine Corps
Assistant Commandant of the Marine Corps
Deputy Commandant, HQMC PP&O
Deputy Commandant, MCCDC
Staff Judge Advocate of the Marine Corps

ATTACHMENT: As stated

Prepared by: Mr. Peter L. Delorier, Assistant Counsel for CMC, (703) 692-1764

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Enclosure (10)

TAB A

1. All recordings and photographs, regardless of viewing format, whether physical or electronic in nature, in current and future NCIS custody for official purposes pertaining to NCIS case 11JAN12-CALE-0032-7XMA.

2. Related recordings and photographs in NCIS custody pertaining to NCIS case 11JAN12-CALE-0032-7XMA include, but are not limited, to the electronic recordings listed as follows:

0015

0016

P7260442

P7260443

P7260454

P7270465

P7270470

P7270471

P7270472:

P7270473:

P7270476:

P7270478:

P7270479:

X1700005

X1700006

X1700007

X1700009

X17000010

X17000011

TAB A

X17000012

X1700016

X1700017

X1700018

X1700019

X1700020

X1700021

Toyota Poss

100_0034

100_0035

100_0036

MVI_2046

MVI_2060

MVI_2066

P8230526

P8230518

P8230519

P8230520

P8230522

P8230523

P8230524

P8230525

TAB A

P8230527

P8230528

P8230535

P8230547

P8230548

P8230552

P8230581

P82305191

MVI_2068

MVI_2069

X1700021

X17000161

X17000201

X17000211

MVI_1979

3. Exception. Recordings and photographs, regardless of viewing format, whether physical or electronic in nature, depicting the images contained in the recording labeled "Noooo" currently in NCIS custody under NCIS case file 11JAN12-CALE-0032-7XMA are excluded from this list for classification purposes.

Weirick Maj James W

From: Hanson CIV Robert J
Sent: Tuesday, March 06, 2012 11:44 AM
To: Weirick Maj James W
Cc: Gruter LtCol Jesse L
Subject: FW: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

-UNCLASSIFIED-

Maj Weirick,

Received an out of office from Mr. Potts however, I do expect that he will respond via blackberry.

Personally, I am not convinced that the subject matter of this investigation should be classified at any level because a definitive reason for a classification decision has not been determined per EO 13526.

My conclusion thus far based on the duties of an OCA is that this information falls under the FOIA Exemption category (5) which would make it FOUO at best, but it is not my decision.

I will update you with Mr. Potts feedback and when a determination is ultimately made.

Very Respectfully
R. J. Hanson
Command Security Manager
SCMSRO CA (169090)
Designated Disclosure Authority
MCBQ/MCCDC, Quantico, VA
Comm: (703) 784-6260
DSN: 278-6260
SIPRNet: (robert.hanson@usmc.smil.mil)

-UNCLASSIFIED-

-----Original Message-----
From: Bethune CIV Leslie M
Sent: Tuesday, March 06, 2012 11:07 AM
To: Hanson CIV Robert J; Potts CIV William T
Subject: RE: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

Mr. Hanson,
You are absolutely right about the information that is being classified falling in the area if EO 13526 Sec 1.7. This is not a classification guide and the information that is classified SECRET//NOFORN I believe was not classified using any classification guides nor do I believe there are any SCGs out there that would cover this information. This is going to come back an bite them. I'm just saying...

Enclosure (11)

r/
Les

-----Original Message-----
From: Hanson CIV Robert J
Sent: Tuesday, March 06, 2012 10:50
To: Potts CIV William T
Cc: Bethune CIV Leslie M
Subject: FW: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

-UNCLASSIFIED-

Chip,

Is the attached file a purposed classification guide, and is there something being considered with more detail?

Reason for asking is, as you may know our SJA is looking down the barrel on this with very limited guidelines.

From my perspective;

The attached action memo does not state the reason for the classification decision, nor does it address anything about trial proceedings (assuming there will be) that would include testimony for or against.

As you know the NOFORN caveat is an intelligence marking that would only be relevant should the reason for the classification decision call for it.

I believe that EO 13526 Sec. 1.7. has relevance in cases where a definitive reason for a classification decision is not established by an OCA in the preservation of National Security.

r/Robb.

Very Respectfully
R. J. Hanson
Command Security Manager
SCMSRO CA (169090)
Designated Disclosure Authority
MCBQ/MCCDC, Quantico, VA
Comm: (703) 784-6260
DSN: 278-6260
SIPRNet: (robert.hanson@usmc.smil.mil)

-UNCLASSIFIED-

-----Original Message-----
From: Gruter LtCol Jesse L

Sent: Monday, March 05, 2012 11:12 AM
To: Hanson CIV Robert J
Subject: FW: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

FYSA

-----Original Message-----
From: Kraics Maj Korvin S
Sent: Wednesday, February 29, 2012 19:09
To: Bowe Col Joseph G; Gruter LtCol Jesse L; Bligh Col David J; david.l.gardner1@navy.mil; Bain CIV Heather
Cc: Hogue SES Robert D; Delorier SES Peter L; Repair Capt Kelly J; Fulford LtCol Robert C; Costantini Col William R; Shumaker Col Bradley; Ary MajGen Vaughn A; Lore LtCol Joseph A
Subject: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

Ladies and Gentlemen,

Please find attached for your records and dissemination a copy of the Action Memo signed by LtGen Tryon classifying certain items in the subject NCIS investigation.

Very Respectfully,

Korvin S. Kraics
Major, USMC
Office of Counsel for the Commandant
3000 Marine Corps Pentagon (Rm 4E468)
Washington, DC 20350-3000
Office: (703) 614-2150 DSN 224-2150
BB: (703) 772-4884
Fax: (703) 693-4453

Enclosure (11)

Weirick Maj James W

From: Hanson CIV Robert J
Sent: Tuesday, March 06, 2012 12:47 PM
To: Weirick Maj James W
Cc: Gruter LtCol Jesse L
Subject: FW: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

-UNCLASSIFIED-

Maj Weirick,

Your update, more to come I'm sure.

Very Respectfully
R. J. Hanson
Command Security Manager
SCMSRO CA (169090)
Designated Disclosure Authority
MCBQ/MCCDC, Quantico, VA
Comm: (703) 784-6260
DSN: 278-6260
SIPRNet: (robert.hanson@usmc.smil.mil)

-UNCLASSIFIED-

-----Original Message-----
From: Potts CIV William T
Sent: Tuesday, March 06, 2012 12:10 PM
To: Hanson CIV Robert J
Cc: Bethune CIV Leslie M
Subject: RE: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

Rob

We weren't consulted on this process but we're engaged trying to get it fixed. The Counsel to the Commandant spoke with Mr. Geoffroy on Friday so we hope to get this fixed in a couple days.

No effort to turn anything into a class guide and you are correct, it was done improperly. I prepared an Info Paper for DC, PP&O to let him know.

The primary problem is that lawyers were engaged to try and make or advice the Commandnat and PP&O on classification issues instead of our office. We were asked to come in only on the periphery and only for very basic and generic type questions.

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Enclosure (12)

Chip

-----Original Message-----
From: Hanson CIV Robert J
Sent: Tuesday, March 06, 2012 10:50
To: Potts CIV William T
Cc: Bethune CIV Leslie M
Subject: FW: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

-UNCLASSIFIED-

Chip,

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From my perspective;

The attached action memo does not state the reason for the classification decision, nor does it address anything about trial proceedings (assuming there will be) that would include testimony for or against.

As you know the NOFORN caveat is an intelligence marking that would only be relevant should the reason for the classification decision call for it.

I believe that EO 13526 Sec. 1.7. has relevance in cases where a definitive reason for a classification decision is not established by an OCA in the preservation of National Security.

r/Robb.

Very Respectfully
R. J. Hanson
Command Security Manager
SCMSRO CA (169090)
Designated Disclosure Authority
MCBQ/MCCDC, Quantico, VA
Comm: (703) 784-6260
DSN: 278-6260
SIPRNet: (robert.hanson@usmc.smil.mil)

-UNCLASSIFIED-

-----Original Message-----
From: Gruter LtCol Jesse L
Sent: Monday, March 05, 2012 11:12 AM
To: Hanson CIV Robert J

Enclosure (12)

Subject: FW: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

FYSA

-----Original Message-----
From: Kraics Maj Korvin S
Sent: Wednesday, February 29, 2012 19:09
To: Bowe Col Joseph G; Gruter LtCol Jesse L; Bligh Col David J; david.l.gardner1@navy.mil; Bain CIV Heather
Cc: Hogue SES Robert D; Delorier SES Peter L; Repair Capt Kelly J; Fulford LtCol Robert C; Costantini Col William R; Shumaker Col Bradley; Ary MajGen Vaughn A; Lore LtCol Joseph A
Subject: ATTORNEY CLIENT PRIVILEGED INFORMATION 11JAN12-CALE-0032-7XMA Classification Memo

Ladies and Gentlemen,

Please find attached for your records and dissemination a copy of the Action Memo signed by LtGen Tryon classifying certain items in the subject NCIS investigation.

Very Respectfully,

Korvin S. Kraics
Major, USMC
Office of Counsel for the Commandant
3000 Marine Corps Pentagon (Rm 4E468)
Washington, DC 20350-3000
Office: (703) 614-2150 DSN 224-2150
BB: (703) 772-4884
Fax: (703) 693-4453

Weirick Maj James W

Subject: Afghanistan Investigation

-----Original Message-----
From: Gardner, David L CIV NCIS [mailto:david.l.gardner1@navy.mil]
Sent: Thursday, March 08, 2012 12:28
To: Gruter LtCol Jesse L
Subject: Fw: Afghanistan Investigation

Jesse,

FYSA - I'm scheduled to talk to Korvin at 1430. No idea what the question(s) pertain to specifically.

R/Dave

David L. Gardner
Special Agent
NCIS Camp Lejeune

----- Original Message -----
From: Kraics Maj Korvin S <korvin.kraics@usmc.mil>
To: dgardner@ncis.navy.mil
Sent: Thu Mar 08 11:57:57 2012
Subject: Afghanistan Investigation

Dave,

Would you mind giving me a call so that we can have an unclassified discussion on your investigation? CMC is asking question to Mr. Hogue.

V/R

Korvin S. Kraics
Major, USMC
Office of Counsel for the Commandant
3000 Marine Corps Pentagon (Rm 4E468)
Washington, DC 20350-3000
Office: (703) 614-2150 DSN 224-2150
BB: (703) 772-4884
Fax: (703) 693-4453

Enclosure (13)

Weirick Maj James W

From: Weirick Maj James W
Sent: Wednesday, March 14, 2012 9:39 AM
To: Potts CIV William T
Subject: RE: CLASSIFICATION OF VIDEO
Signed By: james.weirick@usmc.mil

Mr. Potts,

Thank you. While this did happen some time ago, it is not OBE. If my CG decides to take judicial or administrative action on this matter, the Marines in the videos all have civilian counsel. Bottom line: we will have to get clearances for these civilian counsel and they must demonstrate a need to know.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

-----Original Message-----
From: Potts CIV William T
Sent: Wednesday, March 14, 2012 9:28
To: Weirick Maj James W
Subject: RE: CLASSIFICATION OF VIDEO

James

We found the Position Paper in our SES's box. He's back in the office next week so hopefully we can get it out of here then. My fear is that it will be old news by then and receive less than a warm reception.

Chip

-----Original Message-----
From: Weirick Maj James W
Sent: Tuesday, March 13, 2012 12:21
To: Potts CIV William T
Subject: CLASSIFICATION OF VIDEO

Mr. Potts,

Thanks for your help. Tell me what I can do.

VRS,
Maj Weirick

Enclosure (14)

Weirick Maj James W

From: Potts CIV William T
Sent: Wednesday, March 14, 2012 9:49 AM
To: Weirick Maj James W
Subject: RE: CLASSIFICATION OF VIDEO
Signed By: william.t.potts@usmc.mil

If this goes to the next level of administrative or judicial action, there are some additional considerations that a lawyer, versed in classification issues, might be able to use to shoot holes in our whole process and bring the whole decision making process into question.

In the interest of keeping the Marine Corps from looking like a box of buffoons, I'd hope the question of punishment remains in the area of a swift kick in the ass. NJP, with the ever present option of court martial, would open that box and spread us all over the media; would probably get Steven Aftergood, Project on Government Secrecy, involved and he knows the rules probably as well as anyone around. He'd make us look silly if he supported a defense contention that the video was improperly classified.

Chip

-----Original Message-----
From: Weirick Maj James W
Sent: Wednesday, March 14, 2012 9:39
To: Potts CIV William T
Subject: RE: CLASSIFICATION OF VIDEO

Mr. Potts,

Thank you. While this did happen some time ago, it is not OBE. If my CG decides to take judicial or administrative action on this matter, the Marines in the videos all have civilian counsel. Bottom line: we will have to get clearances for these civilian counsel and they must demonstrate a need to know.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

-----Original Message-----
From: Potts CIV William T
Sent: Wednesday, March 14, 2012 9:28
To: Weirick Maj James W
Subject: RE: CLASSIFICATION OF VIDEO

James

We found the Position Paper in our SES's box. He's back in the office next week so hopefully we can get it out of here then. My fear is that it will be old news by then and receive less than a warm reception.

Chip

-----Original Message-----
From: Weirick Maj James W
Sent: Tuesday, March 13, 2012 12:21
To: Potts CIV William T
Subject: CLASSIFICATION OF VIDEO

Mr. Potts,

Thanks for your help. Tell me what I can do.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

Weirick Maj James W

From: Weirick Maj James W
Sent: Wednesday, March 21, 2012 1:46 PM
To: Jamison Col Mark K
Cc: Gruter LtCol Jesse L
Subject: CLASSIFICATION OF VIDEO
Attachments: Classification Document ICO file 11JAN12-CALE-0032-7XMA.PDF
Signed By: james.weirick@usmc.mil

Sir,

Thank you for discussing this issue with me today. I will layout the issues I raised. The governing regulation is DoD Manual 5200.01, Volume 1, February 24, 2012 (Manual). http://www.dtic.mil/whs/directives/corres/pub1.html The enclosure is the Action Memo to PP&O, dtd 29FEB12 (Memo).

The Memo and the steps leading to the classification decision raise the following issues:

(1) The Memo states that the photos and video "could reasonably be expected to cause damage to the national security." This would render the information Confidential. For information to be classified Secret, the information must reasonably "be expected to cause serious damage to the national security . . ." Manual at 34.

- The Memo does not give enough detail about the classification, for example: Are only the images classified? Is the location classified? Is the equipment used to capture the images classified? When information is classified the OCA must issue security classification guidance and file the guide with DTIC. Manual at 38 and 71. This does not appear to have been done in this case.

(2) The information may not qualify for classification. The classification decision has 8 steps. Manual at 36 - 37. The current Memo raises the following issues.

- The information must be "owned by, produced by or for, or is under the control of the U.S. Government." The videos were not produced by the Gov, they were captured on personally owned cameras and captured for the personal use by the Marines, mementos. Also, from the report it is clear that the Gov is not in possession of all duplicates of the videos. The videos appear to reside on an unknown number of personal computers, thus not under the control of the Gov.

- It must be determined "that there is a reasonable possibility that the information can be provided protection from unauthorized disclosure." Because the Gov is unable to account for all of the versions of the videos, it would be difficult to satisfy this requirement.

- The classification decision must be documented "clearly and concisely . . . in writing to persons who shall possess the information." Manual at 37, 69-70. The Memo does not document the classification decision nor does it provide "a concise reason for classifying each item." Manual at 69. The Memo just concludes that the information is classified. Also of note, the OCA, in the present case DC, PP&O, must "be prepared to present, as required, depositions and expert testimony in courts of law concerning classification of national security information and to justify their [sic] decisions." Manual at 37.

(3) The classification of the videos and photographs may run afoul of two of the prohibitions on the classification of information: (1) "Conceal violations of law . . ." and (4) "Prevent or delay the release of information that does not require protection in the interests of the national security." Manual, at 34.

Enclosure (16)

- There Gov will likely be taking the position, subject to Art 32, etc., that the videos record violations of law, or at minimum lawful orders.

- It has been suggested that the classification decision may be revisited if there are courts-martial, i.e., the videos will be made unclassified for trial. This could be viewed as delaying the release of information.

These issues are all very likely to be litigated. If the Art 32 or courts-martial are closed to the public because classified information is presented, it will be difficult for a Military Judge to make the findings of fact necessary to justify the closed sessions.

I do not, however, raise these issues without a proposed solution.

Possible COA: Treat the original Memo as a tentative classification decision. Manual at 38. This gives the OCA 180 days (27AUG12) to make a final decision on classification. This allows the OCA the opportunity to consider anew the classification decision without the necessity of going through the requirements of declassification. The information could then be marked FOUO - LES. This allows the Gov to protect the information from disclosure under FOIA Exemption 7(A), withholding records or information compiled for law enforcement purposes. As long as a law enforcement proceeding is pending or prospective, (easily satisfied in the current case) the Gov could protect the information from public release.

Thank you for the help with this, I look forward to your thoughts and guidance on navigating these perilous litigation waters.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

FOUO-LES - Predecisional Draft - Privileged and Confidental - Not Subject to FOIA, Exemption 7

Weirick Maj James W

From: Weirick Maj James W
Sent: Monday, April 02, 2012 3:26 PM
To: Gruter LtCol Jesse L
Subject: Continued Classification
Signed By: james.weirick@usmc.mil

Sir,

Concerning our earlier conversation with CL, we should keep the following in mind:

(1) DoD military and civilian personnel may be subject to criminal or administrative sanctions if they knowingly, willfully, or negligently:
(b) Classify or continue the classification of information in violation of this Volume.
DoDM 5200.01-V1

That higher desires it, does not satisfy all of the requirements for classification.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

Enclosure (17)

James Weirick

Subject: Email, Report of Intentional Improper Classification of Information, 19 Apr 13

-----Original Message-----
From: DelGrosso, Bridget A CIV DepUnSecNav [mailto:bridget.delgrosso@navy.mil]
Sent: Friday, April 19, 2013 8:52
To: Weirick Maj James W
Cc: Kline, Carl CIV DepUnSecNav, Security; Ulate, Stephen O CIV DepUnSecNav
Subject: RE: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Good morning Maj Weirick,

Just wanted to advise you that your email w/attachment was forwarded to the DoDCAF this a.m.

r/Bridget

-----Original Message-----
From: Weirick Maj James W [mailto:james.weirick@usmc.mil]
Sent: Thursday, April 18, 2013 5:26 PM
To: DelGrosso, Bridget A CIV DepUnSecNav
Subject: RE: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Ma'am,

Thank you for the help with this. Not being an expert in the intricacies and interrelationships of the various security authorities I was not able to target this as precisely as I would have wanted. Thank you for your assistance. Please advise if I can provide you any additional information or answer any questions.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

-----Original Message-----
From: DelGrosso, Bridget A CIV DepUnSecNav [mailto:bridget.delgrosso@navy.mil]
Sent: Thursday, April 18, 2013 16:57
To: Weirick Maj James W; DONSECURITYOTA@NAVY.MIL; DON_SECURITY_INFO_PERS_US; DONSECURITYPOLICY; DONSECURITYCLASSMGT
Cc: inspector.general@dss.mil; iscap@nara.gov; isoo@nara.gov
Subject: RE: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

All (including those cc'd);

We have reviewed the email and the contents that were attached, and have been in touch with the sender (Major Weirick) irt this matter. It was explained that the basis for submission of the report was to have specific individuals (identified in the report) assessed for continued clearance eligibility, based on subject. It is our intent to pass the information provided by Major Weirick to the DoD Central Adjudication Facility, for further review.

Additionally, Major Weirick advised during the phoncon that the information addressed in the attached report, which was the basis for the investigation, was declassified by CENTCOM (determined to be the appropriate OCA) and the USMC is no longer handling the information as classified.

v/r Bridget DelGrosso
DUSN PPOI/SD
Deputy Branch Chief, DON Info&PerSec Policy

-----Original Message-----
From: Weirick Maj James W [mailto:james.weirick@usmc.mil]
Sent: Thursday, April 18, 2013 4:05 PM
To: DONSECURITYOTA@NAVY.MIL; DON_SECURITY_INFO_PERS_US; DONSECURITYPOLICY; DONSECURITYCLASSMGT
Cc: inspector.general@dss.mil; iscap@nara.gov; isoo@nara.gov; James Weirick
Subject: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

UNCLASSIFIED

Encl: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION 18 APR 13

None of the information in this email or the attached documents is classified. This is a report about the improper classification of information. Please contact me at the below if you have in questions or require more information.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

UNCLASSIFIED

James Weirick

Subject: Email, from Bridget A. DelGrosso, 16 Aug 13

-----Original Message-----
From: DelGrosso, Bridget A CIV DepUnSecNav [mailto:bridget.delgrosso@navy.mil]
Sent: Friday, August 16, 2013 13:03
To: Weirick Maj James W
Cc: Fodor, Catherine; James Weirick
Subject: RE: Out of Office AutoReply: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Good afternoon Maj Weirick,

We don't have the requested information at this time, but we are working on it. We will contact you once we have the requested information or refer you to the appropriate office to obtain the information.

v/r
Bridget DelGrosso
DUSN PPOI/SD
Deputy Branch Chief, DON Info&PerSec

-----Original Message-----
From: Weirick Maj James W [mailto:james.weirick@usmc.mil]
Sent: Friday, August 16, 2013 12:41 PM
To: DelGrosso, Bridget A CIV DepUnSecNav
Cc: Fodor, Catherine; James Weirick
Subject: RE: Out of Office AutoReply: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Ma'am,

Are you back in the office? I am still looking for a point of contact and status of my complaint. Thank you.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669
The views expressed in this communication are offered in my individual or personal capacity, and do not reflect the official policy or position of the Department of Defense, Department of the Navy, or the United States Marine Corps, or any other U.S. Government entity. Use of my rank and Service is in accord with JER 3-300a(1).

-----Original Message-----
From: DelGrosso, Bridget A CIV DepUnSecNav [mailto:bridget.delgrosso@navy.mil]
Sent: Tuesday, August 06, 2013 16:44
To: Weirick Maj James W
Subject: Out of Office AutoReply: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

I will return Friday, 9 August 2013. If you need immediate assistance please contact Carl Kline at carl.kline@navy.mil or 703-601-0558.

r/Bridget DelGrosso
DUSN PPOI/SD
Deputy Branch Chief, DON Info&PerSec Policy

James Weirick

Subject: Email, from Bridget A. DelGrosso, 24 Sep 13

-----Original Message-----
From: DelGrosso, Bridget A CIV DepUnSecNav [mailto:bridget.delgrosso@navy.mil]
Sent: Tuesday, September 24, 2013 2:33 PM
To: Weirick Maj James W
Cc: Ulate Stephen O; Kline CIV Carl
Subject: RE: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION OF 18 APR 13

Good afternoon Major Weirick,

I've been attempting to coordinate a response irt to your inquiries, but
I'm still waiting on feedback. Sorry for the delays.

I will send you a follow-up email once I obtain information from the appropriate office(s) or they may contact you direct, since the adjudicative matter and any potential IG complaints are not under our AOR. Our preference is the appropriate office(s) contact you direct.

r/Bridget DelGrosso
DUSN PPOI/SD
Deputy Branch Chief, DON Info&PerSec Policy

-----Original Message-----
From: Weirick Maj James W [mailto:james.weirick@usmc.mil]
Sent: Friday, September 20, 2013 9:52 AM
To: DelGrosso, Bridget A CIV DepUnSecNav
Cc: bill@theleonardgroup.net; Fodor, Catherine; James Weirick
Subject: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION OF
18 APR 13

Ma'am,

I just wanted to set expectations and provide adequate notice of the actions I will be taking. As of 18 Oct 13 it will be six months since I submitted my report of intentional improper classification of the video, from YouTube, depicting four Marines urinating on human remains. I thank you for forwarding the report to DoDCAF as promptly as you did.
See attached email.

If no action is taken on this matter before 18 Oct 13, I will be filing a complaint regarding the inaction on my report, pursuant to Section
5.2.(b)(6) of Executive Order 13526, with the Information Security Oversight Office. In this matter every Marine Corps security professional consulted about this classification resoundingly advised against the classification, yet the principles - Marine Corps general officers and members of the SES - ignored these warnings and intentionally improperly classified the video.

Failure to hold any of the classifiers accountable for this intentional violation undermines the integrity of classification system.

VRS,

Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

-----Original Message-----
From: Weirick Maj James W
Sent: Tuesday, September 17, 2013 12:58
To: DelGrosso CIV Bridget A
Cc: Fodor, Catherine; James Weirick
Subject: RE: Out of Office AutoReply: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Ma'am,

We last discussed this on 16 Aug 13. Have you received any information on the progress of this report? I will need to incorporate the results of the intentional-improper classification report into another report I must file. If possible, I would like to give an estimate on when I will be able to complete my report. Thank you for the assistance, it will help me to shape expectations.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669
The views expressed in this communication are offered in my individual or personal capacity, and do not reflect the official policy or position of the Department of Defense, Department of the Navy, or the United States Marine Corps, or any other U.S. Government entity. Use of my rank and Service is in accord with JER 3-300a(1).

-----Original Message-----
From: DelGrosso, Bridget A CIV DepUnSecNav [mailto:bridget.delgrosso@navy.mil]
Sent: Friday, August 16, 2013 13:03
To: Weirick Maj James W
Cc: Fodor, Catherine; James Weirick
Subject: RE: Out of Office AutoReply: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Good afternoon Maj Weirick,

We don't have the requested information at this time, but we are working on it. We will contact you once we have the requested information or refer you to the appropriate office to obtain the information.

v/r

Bridget DelGrosso
DUSN PPOI/SD
Deputy Branch Chief, DON Info&PerSec

-----Original Message-----
From: Weirick Maj James W [mailto:james.weirick@usmc.mil]
Sent: Friday, August 16, 2013 12:41 PM
To: DelGrosso, Bridget A CIV DepUnSecNav
Cc: Fodor, Catherine; James Weirick
Subject: RE: Out of Office AutoReply: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

Ma'am,

Are you back in the office? I am still looking for a point of contact and status of my complaint. Thank you.

VRS,
Maj Weirick

James W. Weirick
Maj, USMC
Deputy Staff Judge Advocate
Marine Corps Combat Development Command
Ph: 703.432.8669

-----Original Message-----
From: DelGrosso, Bridget A CIV DepUnSecNav [mailto:bridget.delgrosso@navy.mil]
Sent: Tuesday, August 06, 2013 16:44
To: Weirick Maj James W
Subject: Out of Office AutoReply: REPORT OF INTENTIONAL IMPROPER CLASSIFICATION OF INFORMATION

I will return Friday, 9 August 2013. If you need immediate assistance please contact Carl Kline at carl.kline@navy.mil or 703-601-0558.

r/Bridget DelGrosso
DUSN PPOI/SD
Deputy Branch Chief, DON Info&PerSec Policy

James Weirick

Subject: Email, Reporting Question (Unclassified), 26 Feb 12

-----Original Message-----
From: Riley, Donald J USMC COL COMLEG LEGAD HQ ISAF [mailto:donald.j.riley@afghan.swa.army.mil]
Sent: Sunday, February 26, 2012 04:16
To: Gruter LtCol Jesse L
Cc: Weirick Maj James W
Subject: RE: REPORTING QUESTION (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: FOUO

Jesse,

FYI, but you may already know...

Over the course of the last week I back briefed Gen Allen regarding the general details of your update last Tuesday. I told him that there were some other videos uncovered and that the Investigators were trying to determine if any of these or other related videos had been uploaded to YouTube or any other site.

This morning he told me that he had gone to Gen Mattis to express his concerns about another video getting out in the public domain.
Accordingly, this went rapidly from Gen Mattis -> Gen Amos -> Gen Dunford -> LtGen Mills to ensure that the investigation got "Classified"
so that someone did not leak the video.

Of course, I see some leak like that as low risk, but right now things are very tense here and are hanging by a thread w/ the double tap of the Koran burning and the murder of the two officers at the MOI. Gen Allen's concern is that another video, especially one showing that US Forces could have done engaged in misconduct would definitely push this over the edge.

I'm sorry if this one rose up and bit you in the ass. I have held onto the email/info paper and did not expect him to make that call, but yesterday was pretty rough.

Let me know if you want to discuss. BTW - Bobbi Shea says you've been helping one of the enlisted folks out here w/ a LA issue. I appreciate the support.

s/f

DJ

Donald J. Riley Jr.
Colonel, U.S. Marine Corps/ NATO OF-5
Legal Advisor to Commander ISAF
Staff Judge Advocate, U.S. Forces Afghanistan
DSN: 318-237-1989
IVSN: 686-2129
VOSIP: 308-237-1530

Tandberg: 22.40.14.12
Afghan Cell: 0702245169
NIPR email: donald.j.riley@afghan.swa.army.mil
SIPR email: donald.j.riley@afghan.swa.army.smil.mil
ISAF SECRET email: CGHQLEGADSENIORLEGALADVISOR@hq.ms.isaf.nato.int

-----Original Message-----
From: Gruter LtCol Jesse L [mailto:jesse.gruter@usmc.mil]
Sent: Thursday, February 23, 2012 6:52 PM
To: Riley, Donald J USMC COL COMLEG LEGAD HQ ISAF
Cc: Weirick Maj James W
Subject: REPORTING QUESTION

Sir,

In the event the previously discussed incident is in fact a LOAC violation, how do you foresee reporting? Us because of our current position as the CDA? Or through the previous operational chain starting with you? Your thoughts?

V/r
Jesse

Classification: UNCLASSIFIED
Caveats: FOUO