



## Department of Energy

Washington, DC 20585

November 28, 2005

Mr. David Armstrong  
National Security News Service  
1100 Connecticut Avenue, NW  
Suite 1310  
Washington, DC 20036

Re: Freedom of Information Act Request F2002-00648

Dear Mr. Armstrong:

This is the Office of Inspector General (OIG) final response to your request for information that you sent to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. 552. You asked for a classified report by the OIG that concerned the Los Alamos National Laboratory (LANL).

A review of the declassified document and a determination concerning its release has been made pursuant to the FOIA, 5 U.S.C. 552. The document is released with certain material withheld pursuant to subsections (b)(6) and (b)(7)(C) of the Act, or Exemptions 6 and 7(C), respectively.

Exemption 6 protects from disclosure "personnel and medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. . . ." Exemption 7(C) provides that "records or information compiled for law enforcement purposes" may be withheld from disclosure, but only to the extent that the production of such documents "could reasonably be expected to constitute an unwarranted invasion of personal privacy . . . ."

Names and information that would tend to disclose the identity of certain individuals have been withheld pursuant to Exemptions 6 and 7(C). Individuals involved in OIG investigations, which in this case include subjects, witnesses, sources of information, and other individuals, are entitled to privacy protections so that they will be free from harassment, intimidation, and other personal intrusions.

To the extent permitted by law, the DOE, in accordance with Title 10, Code of Federal Regulations (CFR), Section 1004.1, will make available records it is authorized to withhold pursuant to the FOIA unless it determines such disclosure is not in the public interest.

In invoking Exemptions 6 and 7(C), we have determined that it is not in the public interest to release the withheld material. In this request, we have determined that the public interest in the identity of individuals whose names appear in investigative files



does not outweigh such individuals' privacy interests. Those interests include being free from intrusions into their professional and private lives.

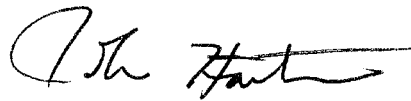
The document has sections of information that originated within the DOE, Office of Counterintelligence (CN) and at the Federal Bureau of Investigations (FBI). Those sections have been returned to the CN and the FBI for review and release determination. The CN and the FBI will response directly to you.

As required, all releasable information has been segregated from the material that is withheld and is provided to you. See 10 C.F.R. 1004.7(b)(3).

This decision may be appealed within 30 calendar days from your receipt of this letter pursuant to 10 C.F.R. 1004.8. Appeals should be addressed to the Director, Office of Hearings and Appeals, HG1/L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585-1615.

Thereafter, judicial review will be available to you in the federal district court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where the Department's records are situated, or (4) in the District of Columbia.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hartman", written over a horizontal line.

John Hartman  
Assistant Inspector General  
for Investigations  
Office of Inspector General

Enclosures

Document Number 1



July 27, 1999

MEMORANDUM FOR THE SECRETARY

b6,7(c)

FROM: GREGORY H. FRIEDMAN  
INSPECTOR GENERAL

SUBJECT: SUMMARY OF FINDINGS: CIRCUMSTANCES  
SURROUNDING DECISIONS REGARDING THE  
SECURITY CLEARANCE, ACCESS AND WORK  
ASSIGNMENTS OF [ ]

In a memorandum dated June 8, 1999, you asked that the Office of Inspector General undertake an inquiry to address the facts and circumstances surrounding the security clearance, access, and assignments of [ ]

Specifically, we were asked to ascertain: (1) the individuals responsible for decisions relating to [ ] security clearance, access and work assignments, including who directed these activities and who was informed of them at the time; (2) the basis for changes to [ ] clearance, access and work assignments beginning in 1997 until [ ] and, (3) why [ ] clearance and access were not curtailed during this period. We agreed that I would report back to you on or about July 26, 1999. Attached is our report of inquiry.

We found that witnesses we interviewed possessed varying degrees of recollection concerning the matters related to these issues. Further, we were provided with conflicting versions about the circumstances surrounding decisions relating to [ ] security clearance, access, and work assignments. Despite these obstacles, we were able to make certain observations and provide findings.

We found that from [ ] was identified as a possible suspect in committing espionage, the status [ ] (1) work assignments within the [ ] remained unchanged until the [ ] (specific date unknown); (2) access within [ ] remained unchanged until [ ] and, (3) "Q" security clearance remained unchanged until [ ] We discovered that during January and February 1999, [ ]

[ ] We also identified

Department and LANL officials who were responsible for intelligence and counterintelligence matters during these periods, and who possessed, or should have possessed, knowledge and understanding of the status of [ ] clearance, access, and work assignments.

Senior managers and other key personnel, apparently relying on their advisors or others, did not obtain sufficient confirmation that directed actions had, in fact, been appropriately executed. Additionally, senior officials did not ensure that the positions taken by the Federal Bureau of Investigation, with regard to the suspect's clearance, access and work assignments, were clear and fully understood. These failures resulted from a lack of adequate communications at all levels and confusion as to individual responsibilities and accountability. For instance, a misunderstanding of terms relating to limiting [ ] access through redirection of [ ] assignments, may have contributed to delays in action, or inaction, by senior managers.

While concerns raised during this inquiry are significant, the Department has taken steps designed to address many of these issues. For example, the responsibility for departmental security matters has recently been centralized with the naming of a retired senior military officer as the Department's "security czar." Further, the Department now has a separate Office of Counterintelligence with direct responsibility for counterintelligence matters throughout the complex. The director of this office, a recognized specialist in counterintelligence, reports directly to the Secretary on such matters.

The attached report of inquiry expands upon our observations and findings and includes details of the information that we received. Two exhibits have been provided to assist the reader. This information should be considered in its entirety in any evaluation of this matter. The report should be handled as SECRET/NOFORN pending review by a Department classifier.

This report and attachments are the property of the Department's Office of Inspector General, and should be protected in accordance with the provisions set forth in the Privacy Act, Title 5 U.S. C., Section 552a. Appropriate safeguards should be provided for this information, and should be limited to persons with a need-to-know. Additionally, this report should be handled in accordance with Department classification guidelines.

I would be pleased to discuss these matters in greater detail.

Attachment

U.S. Department of Energy (U)  
Office of Inspector General (U)  
Case No. I99HQ010 (U)

## REPORT OF INQUIRY (U)

July 27, 1999

(U) This report and attachments are the property of the U.S. Department of Energy's Office of Inspector General, and should be protected in accordance with the provisions set forth in the Privacy Act, Title 5 U.S. C., Section 552a. Appropriate safeguards should be provided for this information, and should be limited to persons with a need-to-know. Additionally, this report should be handled in accordance with Department classification guidelines.

Control Lot: \_\_\_\_\_  
Copy: \_\_\_\_\_ of \_\_\_\_\_

**REPORT OF INQUIRY (U)**  
**(Case No. I99HQ010) (U)**

**TABLE OF CONTENTS (U)**  
**(This page contains no classified information)**

b6, 7(c)

**I. EXECUTIVE SUMMARY**.....1

A. Initial Decisions Regarding [ ] Security Clearance, Access, and Work Assignments.....1

B. Changes in Circumstances Regarding Decisions Relating to [ ] Access.....2

C. Observations and Findings.....4

**II. INTRODUCTION**.....7

**III. FOCUS, OBJECTIVES, AND METHODOLOGY OF INQUIRY**.....8

**IV. APPLICABLE GUIDELINES**.....9

A. The Department of Energy's Intelligence Function.....9

B. The Federal Bureau of Investigation's Intelligence Function.....9

C. Coordination and Conduct of Intelligence Activities by the Department of Energy and the Federal Bureau of Investigation.....9

D. The Department of Energy's Personnel Security and Access Function.....10

**V. BACKGROUND**.....12

A. The Department of Energy's Intelligence Structure.....12

B. The Department of Energy's Kindred Spirit Administrative Inquiry.....13

C. History of [ ].....14

b6,7(c)

VI. DETAILS OF INQUIRY.....16

A. Issue #1:   Security Clearance, Access, and Work Assignments..... 16

- 1. Changes in   Security Clearance.....16
- 2. Changes in   Access.....17
- 3. Changes in   Work Assignments..... 17

B. Issue #2: Individuals Responsible for Decisions Relating To    
Security Clearance and Access, Including Who Directed These  
Activities and Who Was Informed of Them During the Time.....18

- 1. May 2, 1996 to April 14, 1997... .. 18
- 2. April 15, 1997 to October 15, 1997..... 42
- 3. October 16, 1997 to December 23, 1998..... 90
- 4. December 24, 1998 to March 8, 1999..... 95

C. Issue #3: Why   Access and Clearance were not Curtailed During  
This Period.....124

VII. LIST OF EXHIBITS.....127

A. Applicable Guidelines.....Exhibit A

B. List of Department and LANL Personnel, with Corresponding Duties  
And Responsibilities.....Exhibit B



106, 700  
I EXECUTIVE SUMMARY (U)

(U) In a memorandum dated June 8, 1999 Secretary of Energy Bill Richardson asked that the Office of Inspector General undertake an inquiry to address the circumstances surrounding the security clearance, access, and work assignments of [redacted]

Specifically, the Office of Inspector General was asked to ascertain: (1) the individuals responsible for decisions relating to [redacted] security clearance, access and work assignments, including who directed these activities and who was informed of them at the time; (2) the basis for changes to [redacted] clearance, access and work assignments beginning in May 1997 until [redacted] and, (3) why [redacted] clearance and access were not curtailed during this period.

(U) The Office of Inspector General conducted 97 interviews as part of this inquiry. We found that witnesses possessed varying degrees of recollection of the matters related to these issues. Further, we were provided conflicting versions about the circumstances surrounding decisions related to [redacted] clearance, access, and work assignments. We were unable to reconcile many of these conflicts.

A. Initial Decisions Regarding [redacted] Clearance, Access, and Work Assignments (U)

(OUO) [redacted]

[redacted] were involved in making decisions during the May through July 1996 time frame, to maintain [redacted] security clearance and access, but [redacted] work activities through redirection [redacted] project work assignments. These decisions were made in coordination with the Federal Bureau of Investigation (FBI), which opened a full field investigation on [redacted] did not concur with these decisions, and was very concerned about [redacted] continued access.

The FBI's general policy and practice regarding suspected espionage, by employees of a government agency, is that the employing agency may take appropriate administrative, disciplinary, or other action at any time in connection with the employee. The anticipated changes in the employee's status, however, should be coordinated with the FBI beforehand. This policy and practice is outlined in a joint FBI - Department Counterintelligence Memorandum of Understanding, dated October 1992.

Decisions regarding [redacted] access were based on a number of factors, including: (1) the FBI's request to keep [redacted] position; (2) the FBI's request that [redacted] be handled in a "non-alert" status, so that [redacted] not become aware of the FBI investigation; (3) the desire to promote the success of the FBI investigation; (4) consideration that [redacted] was only a suspect and that the [redacted] and, (5) consideration that the success of the FBI investigation would possibly lead to a better understanding of what may have been compromised [redacted]

b6,7(c)

(OUO) The following [ ] knew about the clearance, access and assignment decisions during, or shortly after, the May-July 1996 time frame: [ ]

(OUO) The decisions to maintain [ ] clearance and access, and control [ ] through work re-assignments, was reaffirmed at an [ ] meeting at LANL. In attendance at the meeting for the Department were: [ ] Present [ ] FBI officials were also in attendance. During the meeting, the FBI committed to [ ] Our inquiry revealed that [ ] work assignments were not [ ]

The specific reasons for the delay in [ ] are unclear. Our inquiry disclosed, however, that there was uncertainty, and inconsistent understanding, with respect to what was meant by "limit" access and "control," "modify," and "redirect" work assignments. The distinctions between these and related terms, and a common understanding of their meaning, are key to decision making in a situation where counterintelligence concerns have been raised.

(U) During the period [ ] five key [ ] were vacated and then filled. These position changes were: [ ] replaced by [ ] (2) [ ] replaced by [ ] (3) [ ] replaced by [ ] (4) [ ] and, (5) [ ]

We found that these changes, and their impact on the continuity of operations, may have played a role in the issues outlined in this report.

**B. Changes in Circumstances Regarding Decisions Relating to [ ] Access (U)**

(U) [ ] stated that during a meeting held at the FBI Headquarters on [ ] that: (1) the FBI's attempt to obtain Foreign Intelligence Surveillance Act Court approval during the investigation of [ ] was unsuccessful; (2) the Department should not leave [ ] in place for the FBI; and, (3) the Department should do what it needed to do to protect access to information by [ ]

[ ] does not recall attending the meeting, [ ] do recall attending the meeting.

(U) [ ] further stated that during another meeting held at Department Headquarters on October 15, 1997, [ ] and other representatives from the Department, the FBI, and the Central Intelligence Agency. [ ] and others in attendance at the meeting recall hearing the comments. [ ] do not recall hearing the comments.

(U) [ ] meetings changed the FBI's position with regard to its initial request to keep [ ] position. The Office of Inspector General found no evidence that Department officials notified LANL of the FBI's change in position.

(OUO) On [ ] that: (1) the FBI's position with regard to [ ] had changed; and, (2) the FBI would not stand in LANL's way [ ] Nevertheless, [ ] informed the Office of Inspector General that: (1) [ ] jointly agreed to "stick with" the agreement made at the [ ] project work assignments); (2) that it was clearly within [ ] position; and, (3) [ ]

regarding the FBI's change in position and [ ] position.

(OUO) [ ] each told the Office of Inspector General that [ ] not informed of the FBI's change in position, or that [ ] had decided to keep [ ] in place. They said they did not learn of [ ] comments until [ ] time frame. [ ] informed the Office of Inspector General that [ ] during a [ ] briefing that the FBI was leading an investigation into [ ] suspected espionage activities, but that [ ] in place. [ ] said that [ ] also did not [ ] that the FBI's position had changed.

(U) In April 1998, Presidential Decision Directive (PDD) 61 was implemented and [ ] informed the Office of Inspector General that [ ] understanding through [ ] that the investigation was being handled appropriately and that the FBI had the lead. [ ] was not made aware of the comments made by [ ] during the [ ] was not made aware until October 1998, that [ ] had remained unchanged since [ ]

(OUO) [ ]

C. Observations and Findings (U)

(U) As a result of the inquiry, the Office of Inspector General is providing several observations and findings with regard to decisions and actions by senior Department and LANL officials, relating to the security clearance, access, and work assignments of [redacted]

(U) The inquiry found that from the time [redacted] the following occurred with respect to [redacted] access, and work assignments:

- (OUO) The status of [redacted]

- (OUO) The status of [redacted]

- (OUO) The status of [redacted]

(OUO) The inquiry further disclosed that Department and LANL officials took no meaningful action regarding [redacted] after the FBI's change in position. It was learned that while temporarily reassigned to the [redacted]

[redacted] (1) gained access to the [redacted] office; and, (3) attempted to have a box of documents brought to [redacted] office. The box was discovered to contain one unmarked classified document and was, therefore, not given to [redacted]

(OUO) We found systemic problems in the Department's management of counterintelligence matters. There was inadequate communications at all levels. A misunderstanding of terms relating to [redacted] access through "redirection" of [redacted] assignments may have contributed to delays in action, or inaction, by senior managers. Further, several senior level transitions were not structured so as to ensure that incoming Departmental and LANL officials were fully conversant with ongoing counterintelligence matters, including details of the history and status of [redacted] clearance, access, and work assignments. Finally, senior managers and other key

b6,7(c)

personnel, apparently relying on their advisors or others, did not obtain sufficient confirmation that directed actions had, in fact, been appropriately executed.

(OUO) The inquiry also found indicators of long-term management deficiencies. The Department's management structure, during the time, was such that many participants contended that they had no direct responsibility for, and therefore, should not be held accountable for, decisions and actions relating to this matter. Additionally, senior officials did not ensure that the positions taken by the Federal Bureau of Investigation, with regard to the suspect's clearance, access and work assignments, were clear and fully understood. Certain senior officials with direct management responsibility for LANL were not aware of, nor did they seek, essential information on [redacted] in this matter, and specifically, on the status of [redacted] clearance and continued access within the [redacted]. Finally, senior officials with intelligence or counterintelligence responsibilities, who were also aware of the FBI's initial request [redacted] may not have adequately reassessed the status of [redacted] access following [redacted] and the change in the FBI's position and, consequently, failed to respond in an appropriate and timely manner.

(U) Analysis during the course of the inquiry revealed that several Department and LANL officials had (1) a degree of responsibility regarding Department intelligence and counterintelligence matters, or programmatic security; (2) a degree of understanding with respect to the status of the FBI's request [redacted] position; and, (3) a certain level of knowledge regarding [redacted] clearance, access, or work assignments. These individuals include:<sup>1</sup>

[Large redacted area]

<sup>1</sup> (U) This list is not intended to convey a hierarchy of responsibility for deficiencies. Rather, it is arranged in the following order: [redacted]

b6,7(C)

(U) In this Executive Summary, the Office of Inspector General has attempted to summarize the key issues, observations, and findings reached during the inquiry. The matters at issue in this report span several years, involve Department of Energy and federal law enforcement decision making at every level, and concern one of the most sensitive allegations of espionage in this Nation's history. As indicated in the report, a number of systemic deficiencies in the Department's organization and structure contributed to the problems noted. With respect to the particular actions of the above named officials, review of the details of the testimony (text of the Report of Inquiry); the summary of relevant statutes, laws, procedures, and guidelines (Exhibit A); and responsibilities of Department and LANL officials for intelligence, counterintelligence, and security programs (Exhibit B), is crucial to a full evaluation of this matter.

b6,7(c)

## II. INTRODUCTION (U)

(U) In a memorandum dated June 8, 1999, Secretary of Energy Bill Richardson requested that the Office of Inspector General conduct a review of the circumstances surrounding [redacted] access and security clearance from 1997 until the [redacted]

(U) The Office of Inspector General initiated an inquiry in response to the Secretary's request. In order to more completely understand the facts and circumstances regarding these issues, the Office of Inspector General examined the period May 1996 through March 1999. This report conveys the results of the Office of Inspector General's inquiry.

(U) Exhibit A outlines applicable statutes, laws, procedures, and guidelines governing intelligence duties, functions and responsibilities, as well as policies and procedures, governing the suspension and revocation of Department of Energy security access clearances. Exhibit B contains a list of key Department and LANL officials involved in the events outlined in this report.

### III. FOCUS, OBJECTIVES, AND METHODOLOGY OF INQUIRY (U)

(OUO) The Office of Inspector General's inquiry focused on identifying the facts and circumstances surrounding [redacted] security clearance, access, and work assignments from May 1996 until the [redacted]. Specifically, the Office of Inspector General's inquiry focused on three issues outlined in Secretary Richardson's June 8, 1999, memorandum, as follows:

1. (U) The basis for changes to [redacted] access or assignment;
2. (U) The individuals responsible for decisions relating to [redacted] security clearance and access, including who directed these activities and who was informed of the activities during the identified period of time; and
3. (U) Why [redacted] access and clearance were not curtailed during this period.

(U) The objective of our inquiry was to identify and present facts with respect to the three issues. During the inquiry, the Office of Inspector General:

- (U) Conducted 97 witness interviews, including interviews of [redacted]
- ]
- (U) Collected and reviewed documentation from the Department's Office of Intelligence and Office of Counterintelligence, LANL's Office of Counterintelligence, and the FBI.
  - (U) Reviewed applicable Federal laws and departmental rules and regulations concerning intelligence and counterintelligence duties, functions and programs, as well as personnel security and access to classified matters.

<sup>2</sup> (U) A total of seventy-nine individuals were interviewed.



#### **IV. APPLICABLE GUIDELINES (U)**

(U) This section provides a general summary of statutes, laws, procedures, and other guidelines pertaining to the Department of Energy's intelligence and counterintelligence functions, activities, and programs, as well as personnel security and access to classified matter. Exhibit B provides a more detailed synopsis.

##### **A. The Department of Energy's Intelligence Function (U)**

(U) The Department's intelligence function is governed principally by the Atomic Energy Act of 1954, the National Security Act of 1947, Executive Order 12333, and the Department's own guidance, "Department of Energy Procedures for Intelligence Activities." The Atomic Energy Act of 1954 authorizes the Department to safeguard its facilities, equipment, and materials and provides sanctions for the unlawful dissemination of restricted data. Section 1.6 of the Executive Order denotes the duties and responsibilities of the heads of the executive branch departments and agencies while Section 1.7 pertains to senior officials of the intelligence community. Section 1.13 of the Executive Order addresses the role and responsibilities of the Secretary of Energy specifically. The Secretary of Energy, in addition to other heads of executive branch departments and agencies, serves as a Senior Official of the Intelligence Community. As such, the Secretary has reporting responsibilities to the Attorney General, the FBI, the Intelligence Oversight Board, the Director of Central Intelligence, and the National Security Council. These responsibilities include reporting violations of criminal laws and breaches in security, as well as furnishing intelligence information related to the Department's mission.

(U) The "Department of Energy Procedures for Intelligence Activities" establishes the Department's director of the Office of Intelligence as the Department's Senior Intelligence Official. The Senior Intelligence Official, is responsible for the Department's intelligence functions, which are outlined in Section 1.7 of Executive Order 12333.

##### **B. The Federal Bureau of Investigation's Intelligence Function (U)**

(U) The FBI's intelligence function is governed principally by the Atomic Energy Act of 1954 and Executive Order 12333. The FBI has authority to investigate criminal violations of the Atomic Energy Act of 1954 under section 221(b). Part 1.14 of the Executive Order establishes the FBI as the agency responsible for conducting counterintelligence activities within the United States and for coordinating the foreign counterintelligence activities of Intelligence Community members within the United States.

##### **C. Coordination and Conduct of Counterintelligence Activities by the Department of Energy and the Federal Bureau of Investigation (U)**

The coordination and conduct of counterintelligence activities by the Department and the FBI were principally governed by the October 7, 1992, Memorandum of Understanding (MOU)

between the two entities until the agreement was superseded by another MOU in June 1999. In summary, the 1992 MOU:

- Defined procedures mutually acceptable to both the FBI and the Department regarding the conduct and coordination of counterintelligence activities and investigations involving Department of Energy programs, facilities, or personnel in the United States;
- Defined Department investigative support to be provided to the FBI; and
- Established procedures for coordinating FBI investigations of Department referrals of alleged or suspected counterintelligence activities.

The 1992 MOU required the Department to refer to the FBI information pertaining to allegations of possible intelligence activity or unauthorized contact on the part of Department personnel with a foreign power. According to the MOU, if the FBI declined primary investigative jurisdiction, the Department could pursue necessary leads to resolve the allegation or facilitate administrative sanctions.

Further in accordance with the MOU, the Department could take appropriate administrative, disciplinary, or other action at any time against a Department employee whose activities were reported to the FBI. However, the Department was required to coordinate any action, in advance, with the FBI, to avoid prejudicing any ongoing or planned FBI investigative effort or criminal prosecution.

According to the MOU, the Department's Office of Counterintelligence and the FBI's Intelligence Division were to serve as the points of contact for the coordination of referred matters. The FBI was to keep the Department informed of pertinent developments in those referred cases being investigated by the FBI. FBI field offices were to coordinate with Department field offices. Needs and requests for assistance and technical services were to be conducted at a local level unless circumstances dictated otherwise.

#### **D. The Department of Energy's Personnel Security and Access Functions (U)**

(U) The Department's personnel security and access functions are principally governed by Title 10 Code of Federal Regulations (CFR) Part 710 "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material" dated July 8, 1995; Department Order 472.1B "Personnel Security Activities" dated March 24, 1997; and Department Order 471.2A "Information Security Program" dated March 27, 1997.

(U) In summary, Title 10 CFR 710 identifies security regulations that pertain, in part, to the (1) suspension of access authorization; and (2) the responsibilities of the local Operations Office Director of Security, the Operations Office Manager, and the Director, Office of Safeguards and

Security when information is obtained which may create a question as to an individual's eligibility or continued eligibility for access authorization.

(U) The CFR provides, in part, the following examples of "derogatory" information that may create a question as to an individual's eligibility:

- (U) Committed, prepared or attempted to commit, or aided, abetted or conspired with another to commit or attempt to commit any act of sabotage, espionage, treason, terrorism or sedition; and
- (U) Failed to protect classified matter or safeguard special nuclear material or violated or disregarded security or safeguards regulations to a degree, which would be inconsistent with the national security.

(U) According to Department Order 472.1B, the Director of Security Affairs renders final determinations to grant or deny, reinstate or revoke Department access authorization under 10 CFR 710. Department Order 471.2A requires in part that the Director of Energy Intelligence coordinate with the Office of Security Affairs concerning security issues, to include espionage and possible or potential compromise of intelligence related information.

V. BACKGROUND (U)

b6,7(c)

(U) This section provides an overview of the structure of the Department of Energy's intelligence and counterintelligence programs, the events which led the Department to refer the [ ] to the FBI, and the history of [ ]

A. The Department of Energy's Intelligence Structure (U)

(U) Until 1993, the Department's Office of Intelligence reported directly to the Secretary of Energy. The Office of Intelligence had primary responsibility for ensuring effective use of U.S. Government intelligence in support of the Department's need for information on global nuclear weapons development, non-proliferation, and other energy production and consumption. On June 10, 1993, Secretary of Energy Hazel O'Leary consolidated Office of Intelligence functions and activities, along with those of the Office of Arms Control and Nonproliferation and the Office of Security Affairs, into the Office of Intelligence and National Security. In March 1994, the Office of Intelligence and National Security was renamed the Office of Nonproliferation and National Security (NN-1). The Office of Intelligence became a subcomponent of NN-1 and was designated as NN-30.

(U) Under an assignment agreement pursuant to Title IV of the Intergovernmental Personnel Act (IPA), [ ]

[ ] responsibilities, including:

- [ ]
- [ ]

- [ ]
- [ ]

(U) On February 11, 1998, Presidential Decision Directive (PDD) 61 was issued. As a result of PDD 61, Department counterintelligence functions, which had been under the Office of Intelligence,

were separated. In March 1998, the Office of Intelligence (IN-1) and the Office of Counterintelligence (CN-1) were created as separate directorates, each reporting directly to the Secretary. [ ]

(U) On May 8, 1998, [ ] In this capacity, [ ] reported directly to the [ ] and providing [ ] to the Secretary, Deputy Secretary, and other key Department of Energy policy officials. As the [ ] for the Department's intelligence functions, as outlined in Section 1.7 of Executive Order 12333.

(U) On July 1, 1998, [ ] Secretary Bill Richardson's confirmation on August 18, 1998. Beginning on August 18, 1998, [ ]

#### B. The Department of Energy's Administrative Inquiry (U)

On September 25, 1995, [ ] the Department's KINDRED SPIRIT<sup>3</sup> Administrative Inquiry based on information derived from an Office of Energy Intelligence Working Group. The Working Group had conducted an in-depth review of available intelligence and determined that there was a high probability that the [ ]

(OUO) Based on this information, [ ] the Department's Office of Counterintelligence to initiate an Administrative Inquiry to determine the facts and circumstances relative to the potential loss of the [ ] information. Based upon the Office's limited investigative authority, [ ] that an FBI agent be temporarily assigned to the Department's Office of Counterintelligence to assist in the conduct of this preliminary investigation.

(OUO) A meeting was subsequently held on October 31, 1995, between Department officials and FBI personnel. FBI representatives consisted of [ ]

<sup>3</sup> Various witnesses interviewed by the Office of Inspector General used the words "KINDRED SPIRIT," "China matter," "LANL espionage matter," and [ ] when referring to the specific espionage issues outlined in this report.

<sup>4</sup> [ ] was developed at the LANL in 1984. The design information was subsequently provided to the Lawrence Livermore National Laboratory and the Department's Pantex facility.

] The Department was represented by [

] at this

meeting. In summary, those in attendance agreed that the Department would take the lead role in the investigation, with both the FBI and the CIA providing assistance. It was further agreed that should a subject be identified, the FBI would be responsible for any subsequent espionage investigation.

On May 28, 1996, [ ] forwarded a copy of the Department's Office of Counterintelligence report outlining the results of the KINDRED SPIRIT Administrative Inquiry to [ ] In summary, the Inquiry identified 11 offices/divisions within LANL that had access to the [ ] The Inquiry also identified persons, from which [ ] were subsequently determined to be the most logical suspects. The report recommended that the FBI take the lead in the investigation because the Office of Counterintelligence had basically exhausted all logical leads. The FBI's Sante Fe office, a satellite office under the FBI's Albuquerque Field Office, subsequently opened a full investigation on July 3, 1996.

(U) As of May 28, 1996 [

Up to that point, no action had been initiated by the Department [ or access to research and development information.

] clearance ]

C. History of [

] (U)

(OUO) [

b6, 7(c)

(U) From [redacted] was specifically responsible for:

- 1. [redacted]
- 2. [redacted]
- 3. [redacted]

(U) From [redacted] was responsible for:

- 1. [redacted]
- 2. [redacted]
- 3. [redacted]
- 4. [redacted]

On [redacted] pending the results of the ongoing FBI investigation. While there [redacted]

(OUO) On [redacted] pursuant to Title 10, Code of Federal Regulations (CFR), Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Material." [redacted]

**VI. DETAILS OF INQUIRY (U)**

b6,7(c)

(U) This section outlines the details of the Office of Inspector General's inquiry with respect to (1) [redacted] security clearance, access, and work assignments during the period May 1996 to March 1999; (2) individuals responsible for decisions relating to [redacted] security clearance, access, and work assignments; and (3) why [redacted] clearance and access were not curtailed beginning May 1996.

**A. Issue 1: [redacted] Security Clearance, Access, and Work Assignments<sup>5</sup> (U)**

(OUO) In summary, the Office of Inspector General determined that from the time [redacted]

[redacted] the following occurred:

- (OUO) The status of [redacted] security clearance remained unchanged until [redacted]
- The status of [redacted] pending the results of the FBI investigation. The [redacted] included: (a) [redacted] and, [redacted]
- (OUO) The status of [redacted] work assignments within the [redacted] involving less sensitive classified information.

**1. Changes in [redacted] Clearance (U)**

(OUO) The Office of Inspector General's inquiry disclosed that Department officials, in coordination with the FBI, decided to approach [redacted] to submit to an in-depth interview and polygraph. [redacted] During the interview and subsequent polygraph administered by the Department, [redacted] did not engage in any activities detrimental to the national security of the United States. [redacted] denied: ever engaging in espionage; ever providing classified information to anyone; ever providing any sensitive or classified information weapons data to anyone; any foreign contacts for the purposes of engaging in espionage; and knowing anyone whom [redacted] to be, or to have been, involved in espionage.

<sup>5</sup> (U) Individuals involved in, and responsible for, [redacted] security clearance, access, and work assignments are identified in Section B on page 18.



b67c0

(OUO) Data analyses of the polygraph results by Department contractor officials originally disclosed sufficient physiological criteria for [ ] to believe that [ ] during the Department administered polygraph. However, the results were later examined by the FBI and determined to be inconclusive.

(OUO) On [ ] FBI officials asked [ ] to take an FBI-administered polygraph examination, the results of which indicated that [ ]

agencies was completed. [ ] until an investigation by appropriate

(U) [ ]

2. Changes in [ ] Access (U)

(OUO) As noted above, Department officials [ ]

and without prejudice and was to have no effect on [ ] clearance status. [ ] was temporary

(OUO) The Office of Inspector General's inquiry disclosed that this transfer was the first meaningful action taken by the Department or LANL to physically limit or restrict [ ] The Office of Inspector General learned that despite this action, while [ ] (1) gained access to the [ ] and, (3) attempted to have a box of documents brought to [ ]<sup>6</sup>

3. Changes in [ ] Work Assignments (U)

(OUO) During the May to July 1996 time frame, senior Department and LANL officials made the initial decision, in coordination with the FBI, to (1) maintain [ ] security clearance, and access within the [ ] and (2) contro [ ] work activities through project reassignments. These officials based their decision on several factors, including:

- (OUO) The FBI's request to keep [ ] position;
- (OUO) The FBI's request that the investigation be conducted in a "non-alert status;"
- (OUO) The desire to promote the success of the FBI investigation;
- (OUO) The consideration that [ ] was only a suspect;

<sup>6</sup> (U) Details of these incidents are outlined in several interview summaries, which follow.

b6,7(c)

- (OUO) The knowledge provided by the FBI that the [redacted] and
- (OUO) The knowledge provided by the FBI that the success of the FBI investigation could increase the likelihood of learning what, specifically, may have been possibly compromised [redacted]

(OUO) The Department's and LANL's decision to [redacted] clearance and access, and control [redacted] was re-affirmed in an [redacted] meeting with Department, LANL, and FBI officials present.

(OUO) The Office of Inspector General's inquiry disclosed, however, that [redacted] work assignments were not actually [redacted] following a meeting between LANL and local FBI officials. The reasons for the delay were unexplained. In the [redacted] work project assignments would be redirected to less sensitive work within a new project. [redacted]

[redacted] This was the first actual change to, or redirection of, [redacted] following the May to July 1996 and April 1997 meetings between the Department, LANL and the FBI. This work reassignment did not involve a curtailment of [redacted] security clearance and access to [redacted] areas, and employees. [redacted]

**B. Issue 2: Individuals Responsible For Decisions Relating To [redacted] Security Clearance And Access, Including Who Directed These Activities And Who Was Informed Of The Activities During The Time (U)**

(OUO) In summary, the Office of Inspector General determined that decisions pertaining to [redacted] security clearance, access, and work assignments were made with the knowledge of representatives from five different entities, including: (1) Department of Energy Headquarters; (2) the Department's Albuquerque Operations Office; (3) LANL; (4) FBI Headquarters; and, (5) local FBI offices in New Mexico. Furthermore, the decisions and actions by these representative can be divided into four general time periods: (1) May 2, 1996, to April 14, 1997; (2) April 15, 1997, to October 15, 1997; (3) October 16, 1997, to December 23, 1998; and (4) December 24, 1998, to March 8, 1999.

**1. Individuals Responsible for Decisions Relating to [redacted] Security Clearance, Access, and Work Assignments Clearance (May 2, 1996 -April 14, 1997) (U)**

(U) This section begins with an overview of events from May 2, 1996, to April 14, 1997, and follows with the results of Office of Inspector General interviews with key Department, LANL, and FBI personnel.

(a) Summary (U)

06,700

(OUO) In summary, the Office of Inspector General's inquiry determined that the initial decisions to [redacted] security clearance and access, but [redacted] work activities through project reassignment, occurred in the [redacted] time frame and involved [redacted] in coordination with the FBI.<sup>7</sup> As noted previously, the decision was based on several factors, including:

- The FBI's request to keep [redacted] position;
- The FBI's request that the investigation be conducted in a "non-alert status;"
- The desire to promote the success of the FBI investigation;
- The consideration that [redacted] was only a suspect;
- The knowledge provided by the FBI that the possible [redacted] and
- The knowledge provided by the FBI that the success of the FBI investigation could increase the likelihood of learning what, specifically, may have been possibly compromised [redacted]

(U) The following additional key Department and Laboratory officials were aware of the initial decision to keep [redacted]



<sup>7</sup> (OUO) Interviews by the Office of Inspector General disclosed inconsistent recollections with respect to who actually made the decisions. [redacted] did not decide to leave the suspect in place. [redacted] the FBI had "directed" that the suspect be left in place, which [redacted] meant that the Department could not reassign the individual to a less sensitive position. In contrast, [redacted] recalled that [redacted] decided, in coordination with the FBI, that the Department would not remove the suspect so that the FBI could investigate the matter.

<sup>8</sup> (U) [redacted] did not officially assume the position of [redacted]

(b) Interviews (U)<sup>9</sup>

[ ] (U)

b6, 7(c)

(OUO) [ ] stated that [ ] to the FBI advising them that the Department was going to initiate an Administrative Inquiry on this matter. [ ] said that [ ] not recall that the notification letter also requested the assistance of the FBI in conducting the Administrative Inquiry. [ ] that the time frame in question was just before [ ]

(OUO) [ ] did not recall [ ] meeting with FBI [ ] When informed during the interview that others who might have attended with [ ]

[ ] could not recall attending such a meeting with the FBI. [ ] did not know if [ ] sensitive information was discussed at that meeting.

(OUO) [ ] recalled attending several meetings at the FBI with [ ] [ ] might also have attended some of these meetings. [ ] not recall the dates of the meetings, all those who were present, or the exact circumstances for which they were held. The discussions generally involved the Department's counterintelligence deficiencies and needed reforms at the Department laboratories. On occasion, the status of the FBI investigation may have been discussed, but [ ] did not specifically recall any discussions about the suspect's access to sensitive materials.

(OUO) It was during these meetings in 1996 that [ ] got the impression that a suspect had been developed (though [ ] know a name), that the suspect was [ ] and that the FBI was investigating [ ] therefore, knew that the decision to [ ] and to allow the FBI to pursue the espionage investigation had been made by someone at a higher level. [ ] was not part of those discussions and, therefore, did not know first-hand who had made them or when. The discussions held at the meetings involving [ ] only reinforced this fact in [ ] mind, namely that the decision about [ ] access had been made and the Department could do nothing but wait until the FBI investigation was completed.

(OUO) Regarding a [ ] meeting involving LANL [ ] during which [ ] access to sensitive information was reportedly discussed, [ ] did not recall attending this meeting. The only meeting [ ] recall attending where [ ] was present was a meeting that included all the [ ]

<sup>9</sup> (U) The interviews in this section, and throughout the report, are presented alphabetically.

b6,7(c)

[ ] that possibly occurred sometime during late 1995. [ ] this meeting because [ ] that there were significant counterintelligence problems at the Department's laboratories.

[ ] (U)

[ ] informed the Office of Inspector General that the Department's Administrative Inquiry had been referred to the FBI, and the FBI had initiated an investigation of the [ ] prior to [ ]. After the matter was referred to the FBI, the Office of Counterintelligence continued to provide liaison and support to the FBI on its KINDRED SPIRIT investigation of the alleged espionage.

According to [ ] of the [ ] was responsible for [ ]

[ ] primarily dealt with FBI [ ] kept in contact with [ ] but usually did not learn much of what was occurring on the FBI investigation. [ ] was of the opinion that there appeared to be a breakdown in communication between the FBI Headquarters, the FBI Albuquerque Field Office, and the FBI Santa Fe Resident Office. FBI agents conducting the investigation were stationed in the Santa Fe Resident Office.

After [ ] how to get the FBI moving on the case. [ ]

[ ] along with [ ] According to [ ] the purpose of the meeting was two-fold. First, the Department representatives requested that the FBI assign an agent to the Department's Office of Counterintelligence as a means of improving the responsiveness of the FBI to Department of Energy related matters. Second, Department representatives expressed concern over the progress and pace of the KINDRED SPIRIT investigation. [ ] stated that the FBI indicated they would move forward. Neither [ ] work assignments, access, nor clearance were discussed at the meeting.

[ ] recalled that during [ ] Department, [ ] so that the FBI could conduct the investigation. [ ] does not know who made those initial decisions. By the time [ ]

[ ] that senior Department management was knowledgeable that the suspect had been left in place so the FBI could conduct an investigation and that senior Department management considered the idea of limiting the suspect's access through job assignments.

b6,7cc

[ ] had no direct contacts with senior Department management at the time, but it was [ ] had knowledge and concurred that the suspect was to be left in place pending completion of the FBI investigation. [ ] has no direct knowledge as to what [ ] specifically briefed these officials on regarding the suspect's history with the FBI. However, [ ] was knowledgeable that the FBI had prior information on [ ] but nothing that could be used to suspend or revoke [ ] security clearance. [ ] that once the [ ] were briefed on KINDRED SPIRIT, they were responsible for any and all clearance determinations.

With respect to KINDRED SPIRIT, [ ] [ ] for briefing senior Department management on [ ] stated that it was the responsibility of [ ]

[ ] (U)

The Office of Inspector General learned that in a memorandum dated [ ]

[ ] for a meeting [ ] of the FBI. According to the memorandum, [ ] that Department senior management were leaning towards serious consideration of having [ ] clearance lifted based solely on the circumstantial evidence obtained during the Department's Administrative Inquiry. [ ] full field investigation. [ ] that the FBI assume jurisdiction over the case and initiate a [ ] that senior Department officials might be inclined to avoid initiating any actions, such as removing [ ] clearance, so that successful resolution of this matter would not be hindered.

(OUO) [ ] informed the Office of Inspector General that [ ] [ ] said that [ ]

[ ] received occasional telephone calls and electronic mail (e-mail) messages from [ ] on what they knew about the status of the FBI investigation. [ ] had some contacts with [ ] on the status of the FBI investigation.

[ ] said that the control of the FBI case was being handled out of Albuquerque, not FBI Headquarters. [ ] that in the FBI, the "Office of Origin" for an investigation was the controlling office for the case. Based on [ ] FBI Headquarters was not involved in

the overall supervision or daily progress of the investigative activity. [ ] at FBI Headquarters was [ ]

(OUO) As [ ] that the Department and LANL were not being tasked to support the FBI investigation as [ ] they might be to help develop information for an electronic surveillance request. It appeared to [ ] that the FBI was dragging the case out. According to [ ] were highly concerned about [ ] continued access to classified information. [ ] however, that there was nothing they could do since there was no evidence that [ ] committed a crime. According to [ ] clearance could not just be pulled on suspicion of wrongdoing because doing so would violate a person's rights and could also "blow the case" for the FBI.

[ ] (U)

[ ] informed the Office of Inspector General that [ ] became aware of KINDRED SPIRIT in 1995. [ ] aware that the Department's Office of Counterintelligence subsequently referred the matter to the FBI, and the FBI opened a case on the matter in the summer of 1996.

(OUO) [ ] make decisions relating to [ ] access and clearance. [ ] could only make recommendations regarding decisions relating to [ ] employment and access status. There was not one individual who was solely responsible for those decisions. [ ] feels that these decisions were made jointly between the [ ]

(OUO) [ ] does not feel that the FBI provided sufficient information for LANL to determine that [ ] was likely to cause, or had caused, damage to national security or compromised classified material. Based on [ ] of the FBI's case, [ ] does not feel that the FBI had any substantial information to provide.

(OUO) According to [ ] coordinated with the FBI. [ ] with major issues.

(OUO) [ ] meeting that was called by the FBI. The purpose of the meeting was to [ ] on the FBI's investigation into the issues surrounding [ ] and to gain the support of LANL. [ ] said other attendees included [ ]

[ ] was not surprised by the briefing because [ ] had previously been

b6,7(c)

briefed. [ ] concern was that [ ] apprised of the progress of the investigation and that [ ] aware of any warrants or arrests prior to their occurrence.

(OUO) According to [ ] the FBI implied that it wanted [ ] kept in place [ ] current position. The FBI did not want anything or anyone alerting [ ] about the investigation. The FBI also reviewed the possible steps it would go through during the investigation. [ ] does not recall that the FBI asked for anything specific regarding the monitoring or altering of [ ] access.

[ ] (U)

[ ] informed the Office of Inspector General that [ ] became aware of the possible compromise of [ ] during the spring of 1995. [ ] that sometime during May or June 1995, scientists from LANL came to [ ] with information

[ ] on the matter, [ ] to obtain assistance from the FBI and the CIA. In July of 1995, the KINDRED SPIRIT analytical group was formed to look into the problem. [ ] arrived from [ ] on the matter. [ ] to be briefed on the situation. [ ] on KINDRED SPIRIT and obtained more CIA assistance to analyze the information. By the Summer of 1995, [ ] on the analytical suspicions regarding this matter.

(OUO) [ ] stated that in August 1995, a "walk-in" document was incorporated into the case. After [ ] again met with [ ] initiate the formal Administrative Inquiry with FBI involvement. By December 1995, an FBI specialist in Chinese counterintelligence matters was working with the Department on the Administrative Inquiry.

(OUO) [ ] said that in concert with [ ] an analysis team was put together to take a look at [ ] position that there was a possible compromise of U.S. nuclear weapons information. This was done for several reasons. There were concerns about the validity of the "walk in" document and a possible problem with the reputation of [ ] explained that although [ ] was known to the intelligence community, [ ] was also known to be, on occasion, overly boisterous about [ ] opinions and conclusions. By March 1996, the review was completed and [ ] "China matter" now had the acceptance of the intelligence community, namely, the community felt that the [ ]

[ ] concerning this matter. By that time, the Department's Counterintelligence Administrative Inquiry had identified a



"handful of suspects who had the opportunity, et cetera" to compromise the system, one of which really stood out. [ ] was aware that the matter was referred to the FBI in May of 1996 for investigation of alleged espionage activity.

[ ] said that at about the time the matter was referred to the FBI for investigation, [ ] the KINDRED SPIRIT analytical group and [ ] was in attendance. They were briefed on the development of the entire KINDRED SPIRIT matter, the results of the Department's Administrative Inquiry, the development of [ ] as a suspect based upon indicators, the information that the FBI had a history [ ] and indicators the FBI had no evidence that [ ] had committed espionage. During this meeting with [ ] they discussed the suspect's access. According to [ ] decided to keep the suspect in place, subject to direction from the FBI on their investigation. [ ] had concerns, however, about leaving the suspect in place.

(OUO) [ ] advised that [ ] to discuss the FBI investigation and the process of going to the Foreign Intelligence Surveillance Act court for electronic coverage of the suspect. [ ] to discuss the FBI's approach to the case. [ ] has a general recollection that [ ] may have been present.

(OUO) From these discussions with the FBI, [ ] knew that the FBI intended to investigate the matter. [ ] understood that the possible compromise [ ] and that the FBI would only be able to identify the suspect in a contemporary position of committing espionage now. [ ] said that they all had to assume that the espionage was on-going and that the suspect would continue to do it, so that the FBI would have something to investigate. [ ] agreed with the FBI that if the espionage was on-going and it was being done by an insider, the suspect should not be "spooked" so that the FBI could catch him. [ ] were concerned about the suspect's continued access but also knew that there were no grounds to remove the suspect's security clearance.

(OUO) [ ] said that if either [ ] has been sufficiently concerned about the suspect's access with national interests at stake, [ ] the suspect's access, even though [ ] they had no grounds to do so at the time. [ ] decided that the Department would not remove the suspect so that the FBI could investigate the matter. However, they wanted to try to limit, if possible, the suspect's access to less sensitive information.

(OUO) [ ] stated that after the FBI initiated the case, [ ] recall that anyone raised concerns about the suspect's access. [ ] that the only concerns were whether the FBI was pursuing the case as aggressively as the Department thought they should. [ ] had

b6,7(c)

[ ] FBI resources assigned to the case.

] time frame to try to get more

(OUO) [ ] cannot recall discussions with [ ] about the suspect, on whether or not to leave the suspect in place. [ ] the FBI, CIA [ ] about the possible compromise issue. However [ ] recall having any discussions with [ ] about the suspect's access or clearance. [ ] knew in May 1996 that [ ] would have to get involved in the espionage case. [ ] that [ ]

limit or remove access of an espionage suspect at the lab. Therefore, in May of 1996 [ ] to understood that the FBI would be contacting [ ] to solicit [ ] leave the suspect in place.

[ ] (U)

(OUO) FBI [ ] did not recall many of the events involving [ ] investigation. However, [ ] remember one meeting [ ] at Department Headquarters that included [ ] recall the name of the official, or when the meeting took place, but that it was sometime before [ ] attendance. The only thing [ ] thought that possibly FBI [ ] may have been in suspect's access to sensitive information at LANL and how any change in [ ] might cause problems for the FBI investigation.

(OUO) [ ]

[ ] LANL with [ ] also attended the meeting. [ ] did not recall when this meeting occurred. [ ] recalled that during the meeting the FBI representatives told [ ] that this type of espionage investigation was very difficult to work and that it would not be resolved quickly. The FBI also told [ ] that the FBI considered LANL to be the "victim agency" and that LANL had to decide if the suspect could remain in [ ] position during the investigation, if [ ] had to be limited, or if [ ] clearance had to be suspended.

[ ] (U)

[ ] informed the Office of Inspector General that, as [ ] attended a meeting on [ ] where the FBI advised the attendees of the status of the KINDRED SPIRIT investigation. In addition to [ ] Also in attendance were four or five FBI Headquarters representatives.

b6,7(c)

(OUO) [ ] does not recall if [ ] was named specifically during the meeting.

[ ] (U)

[ ] informed the Office of Inspector General that in [ ] that [ ] informed by [ ] investigation. It was [ ] at [ ] was a suspect in what was referred to as the [ ] officials were to cooperate the time that the FBI was to keep [ ] to take no action to [ ] fully with the FBI during its investigation.

(OUO) [ ] stated that [ ] aware that [ ] personnel from the Department's Office of Counterintelligence conducted an inquiry, with assistance from LANL personnel, into the potential loss of [ ] and the resulting potential damage. In June 1995, [ ] on the inquiry. [ ] was of the opinion at that time that [ ] believed that [ ] was suspected in the release of [ ]

(OUO) According to [ ] did not totally agree with all the findings of the Department's inquiry. [ ] University of California personnel were not convinced that [ ] was responsible for the potential loss of information. As a result of the inquiry, [ ] and [ ] to closely review the information that was allegedly [ ] to conduct a damage assessment.

(OUO) [ ] recalled that the team issued its report in the September to November 1995 time frame. [ ] also recalled that there was considerable disagreement as to whether or not the potential loss of information and damage should be attributable to LANL or the Department's Lawrence Livermore National Laboratory (LLNL.)

(OUO) In 1996, [ ] and officials from the FBI's Albuquerque Office. [ ] was of the opinion, based on discussions which occurred during this meeting, that the University of California was not to do anything to [ ] believes that [ ] concerns about [ ] personnel, hallways, and discussions during this meeting. However, [ ] would not have strongly voiced this concern since the FBI was calling the shots.

(OUO) [ ] recalled a few discussions [ ] regarding the [ ] recalled nothing of significance. [ ] that in the 1995 to 1996 time period, [ ] and suggested that [ ] should do something about [ ] said it would have been [ ] who would have come [ ] if the Department wanted [ ] to do something about [ ]

b6,7(c)

(OUO) [redacted] began feeling uncomfortable with the FBI's strategy concerning the [redacted] because of lack of apparent progress. [redacted] clever ways to limit [redacted] access without [redacted] the University of California was still operating on the FBI's instructions not to [redacted] into the issues involving [redacted] said no one [redacted] was aware of concerns involving [redacted] at this time.

According to [redacted] one of the ways [redacted] identified to limit [redacted] access was to switch access to the vault [redacted] from a monitored access to a palm reader access. The plan was to implement this procedure and to drop many personnel from access at that time, to include [redacted] It was believed that this would not tip [redacted] off to anything. [redacted] said, unfortunately, the palm reader was not approved. The University of California personnel charged with requesting and justifying the palm reader, along with the Albuquerque Operations Office personnel charged with approving such a request, were unaware of any security issues. As such, the palm reader was determined by the Albuquerque Operations Office to be a convenience item rather than a necessity and the request was denied.

(OUO) [redacted] remembered that there were discussions with the FBI surrounding the issue of [redacted] access. University of California personnel urged that someone in the [redacted] or briefed on the matter. [redacted] got the go ahead from the FBI to [redacted]

(OUO) [redacted] could not recall discussing the [redacted]

[redacted] (U)

(OUO) The Office of Inspector General showed [redacted] a portion of the May 25, 1996, memorandum from [redacted]<sup>10</sup> In the memorandum, [redacted]

[redacted] would develop a "project" or series of projects for [redacted] Upon reviewing the document, [redacted] vaguely recalled a conversation regarding this issue, however, [redacted] recall specific details. [redacted] was not even sure if it was [redacted] the conversation. [redacted] said that to the best [redacted] recollection, it was decided not to develop a project or series of projects. [redacted] could not recall who made the decision or how [redacted] to know there was such a decision.

<sup>10</sup> (U) See the interview summary of [redacted] 28

b6,7(c)

(OUO) [ ] stated that [ ] participate in any such project. [ ] stated it would have been very difficult to identify projects for [ ] if asked. [ ] did not know [ ] daily functions or what work [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that in July 1996, two FBI agents from FBI Headquarters, as well as additional agents from the FBI's Albuquerque and Santa Fe offices, met with [ ] The [ ]

[ ] had direct FBI Headquarters involvement in the case. According to [ ] the reason the FBI chose to send out agents from Headquarters was to demonstrate to LANL and to the FBI Albuquerque office the importance of this case. [ ] learned about the details of the meeting from [ ]

(OUO) According to [ ] the meeting took place at LANL, and the purpose was to discuss the recently opened FBI investigation into [ ] possible involvement in the potential loss of the [ ] to the [ ] said that FBI management had no authority to take action against a LANL employee's access to sensitive material. [ ] that any potential action involving [ ] access to sensitive information had to be discussed with and approved by LANL management.

(U) [ ] was told the following information about the discussion concerning [ ] access to sensitive information that occurred at the July 1996 meeting with [ ]

- (U) The FBI agents explained to [ ] some basic information about how an espionage investigation is conducted;
- The FBI explained that since alleged espionage involving [ ] likely occurred in the [ ] the possibility of gathering sufficient evidence against anyone would be a difficult and lengthy process;
- The FBI described that it could take up to a year to develop probable cause in order to apply for a Foreign Intelligence Surveillance Act eavesdropping warrant;
- The FBI explained that if a Foreign Intelligence Surveillance Act warrant was obtained, it could take another year of electronic surveillance to develop sufficient evidence to bring charges of espionage against [ ]
- The FBI explained that when working espionage cases with agencies such as the Department of Energy and the Department of Defense, the FBI considers these agencies to be the "victim agencies." It is the FBI's position that it is up to the "victim agency" to

b6, 7(c)

make the final decision if the suspect continues to have access to sensitive information during the investigation;

- The FBI acknowledged that it had no authority to tell the Department to limit [ ] to sensitive information, or suspend his clearance;
- The FBI made it clear to [ ] that as the "victim agency," LANL had the final word on [ ] continued access to sensitive information; and,
- The FBI indicated a preference to leave [ ] current position at LANL. If [ ] was removed from [ ] current position, or [ ] was limited, [ ] likely become suspicious and stop any espionage activity. If this occurred, the possibility of gathering sufficient evidence against [ ] essentially disappear. It would then be very unlikely that anyone would ever know if [ ] supplied the [ ] to the [ ] and would not learn if [ ] continues to provide sensitive information to the [ ]

According to [ ] after the FBI presented its position, [ ] decided to maintain the status quo and [ ] decision was based on the FBI's position that [ ] the damage had likely already occurred [ ] would not work on any new projects and would not have access to new information.

[ ] stated that neither LANL nor Department officials ever came to the FBI after the [ ] to inform the FBI that they could no longer [ ] in place. [ ] stated that the FBI always maintains that the "victim agency" has the final word involving matters of access and clearance. [ ] said that the FBI understands that the agency has the final word, and only requests that the agency give the FBI a 30-day advance notice before taking any action. The 30-day notice is requested so the FBI can plan on how it wants to conduct a confrontational interview of the suspect.

[ ] (U)

(OUO) [ ] stated that [ ] involvement with the loss of nuclear technology to the [ ] began when [ ] at Department of Energy Headquarters in the summer or early fall of 1995. The purpose of the meeting was a general discussion, led by [ ]

Other attendees at the meeting were: [ ]

[ ] was also present, but [ ] not certain.

b6, 7(c)

(OUO) [ ] stated that the FBI opened an espionage investigation involving [ ] At that time, [ ] told not to conduct any investigative activity until a meeting was held with [ ]

[ ] During January and February 1997, [ ] on the case and [ ]

(OUO) [ ] attended the [ ] meeting at [ ] The purpose of the meeting was for FBI Headquarters personnel from the National Security Division to meet with [ ] investigation, and, hopefully, to obtain [ ] this meeting, but was not involved in the presentation of the case. [ ] was not involved in the subsequent discussions with [ ] The [ ]

[ ] but whose last name [ ] could not recall. [ ] thought that there may have been one or two [ ] at the meeting.

(OUO) [ ] said that [ ] and that a likely suspect was [ ] explained the need for LANL to assist the FBI investigation by [ ] in place. [ ] asked if [ ] should be removed from the sensitive area where [ ] not be removed so they could successfully conduct the investigation. [ ] did not recall any discussion about limiting [ ] access to sensitive information at LANL. [ ] did not recall the FBI informing [ ] that the FBI considered LANL to be the "victim agency," and that LANL had to decide if they could 'live' with [ ] remaining in place while the FBI conducted the investigation. [ ] that at the conclusion of the meeting, after [ ] asked questions, [ ] decided to leave [ ] in place "to assist the FBI."

(OUO) [ ] did not recall any other meetings with Department, LANL or FBI personnel after [ ] during which [ ] access to sensitive information was discussed. [ ] vaguely recalled a discussion [ ] with [ ] did not recall when this discussion took place, but thought that

66,700

[ ] had mentioned that the Department was considering ways to limit [ ] possibly via a palm reader. [ ] recollection of this event was very unclear [ ] could not recall to what it pertained. Up until [ ] [ ] was not aware of any other discussions about [ ] [ ] had any contact with FBI Headquarters or Department personnel about [ ] access.

(OUO) In addition to interviewing [ ] the Office of Inspector General reviewed internal FBI documents [ ] According to one memorandum, [ ] [ ] at LANL. Also in attendance [ ]

[ ] In attendance for [ ] During the meeting, [ ] [ ] that LANL would provide whatever support would be necessary for the FBI to successfully investigate this matter. [ ] was told by [ ] that the FBI had a bona fide espionage case and that it would be a long term investigation. [ ] were told that because of this, the FBI's interest and investigation would need to be tightly held. [ ] was asked for a list of individuals who might be aware of the Departmental review of information which predicated the FBI espionage matter. [ ] that [ ] would provide such a list. [ ] that as far as [ ] concerned, the only people who knew about the FBI investigation were those in the meeting.

(OUO) According to the documentation, [ ] at the appropriate stages of the investigation. [ ] the FBI had the authority for Foreign Intelligence Surveillance Act coverage. [ ] need to advise someone from [ ] at the appropriate time as the case developed.

On [ ] that [ ] had met that day with [ ] [ ] indicated that [ ] recently talked with [ ] [ ] indicated that during [ ] Department higher-ups had been briefed on KINDRED SPIRIT and that there were many concerned people at Department Headquarters. [ ] indicated that [ ] wanted to [ ] access. [ ] also stated that [ ] had wanted to invite a representative from the [ ] to the [ ] meeting. However, [ ] prevailed upon [ ] not to invite anyone from that division.

(OUO) [ ] told [ ] that if access were limited, FBI investigative efforts to identify [ ] committing espionage at LANL would be seriously hampered. [ ] that [ ] with [ ] and indicated [ ]



b6.7(c)

[redacted] would not suggest any recommendations to [redacted] that would [redacted] access without getting prior FBI approval. [redacted] assured that LANL would not do anything without coordinating with the FBI.

Also on [redacted] that an issue had arisen that was not directly related to the KINDRED SPIRIT investigation. [redacted] said that the [redacted] had asked for help to identify procedures to tighten control to access to the [redacted] that [redacted] to provide security for classified documents. [redacted] wanted to make this information available to [redacted] even though this project had been in the works for a period of time.

(OUO) On [redacted] telephonically contacted [redacted] to discuss a matter reported by [redacted] earlier in the day. [redacted] that [redacted] chain of command immediately regarding this development. [redacted] suggested that perhaps FBI Headquarters could write a letter to Department Headquarters [redacted] that the FBI was conducting an espionage type investigation and cooperation was needed. [redacted] would discuss this with [redacted] and take care of this matter.

(OUO) On [redacted] that LANL would not [redacted] access without coordinating with the FBI. [redacted] that discussions were under way to provide a badge reader with limited access for the [redacted] [redacted] advised that if a badge reader with limited access were put in place it could jeopardize the FBI investigation. Therefore, [redacted] that no action would be taken without first coordinating with the FBI.

(OUO) On [redacted] learned that [redacted] In essence, the [redacted] not to pull any clearances for [redacted] According to [redacted] to share the information regarding the visit by [redacted] that at no time were any discussions focusing on the [redacted] clearance. [redacted] that FBI officials perhaps got their information incorrectly. The only issue being discussed between [redacted] according to [redacted] was [redacted] access.

(OUO) [redacted] that discussions between [redacted] dealt with [redacted] access as discussed by [redacted] was told that at no time were there any discussions between [redacted] regarding the [redacted] clearance.

(OUO) On [redacted] told [redacted] that [redacted] met that day with [redacted] According to [redacted] recently talked with [redacted]

[ ] learned from [ ] that [ ] regarding the [ ]  
[ ] said that according to [ ] had no problem  
with limiting access to the [ ]

(OUO) From the July 3, 1996, meeting to November 5, 1996, the FBI undertook a number of investigative steps to include, in part, (1) interviews of scientists from Department Headquarters

[ ] that the compromise took place at LANL; and, (2) research into whether Foreign Intelligence Surveillance Act authority would be necessary to conduct a search of [ ] computer at LANL, or whether such a search could be conducted on LANL's authority.

(OUO) On November 13, 1996, the FBI decided that a Foreign Intelligence Surveillance Act order would be the needed authority to surveil [ ] computer.

[ ] (U)

[ ] informed the Office of Inspector General that [ ] briefed on the KINDRED SPIRIT issue sometime during July 1995. [ ] not recall the specific date or who provided the briefing. From what [ ] recall, the following personnel were also present: [ ]

[ ] and possibly [ ] recalled that the briefing was just an overview of a potential problem involving a possible compromise of Department weapons data to the [ ] was also informed that there would be a continued effort to conduct an analytical evaluation to determine more information.

[ ] recalled that [ ] next briefed on KINDRED SPIRIT on or about [ ] were there. [ ] could not recall the identities of the other attendees. [ ] that [ ] provided most of the briefing but others (names not recalled) also provided input. [ ] informed that several suspects had been developed through an analytical evaluation inquiry conducted by the DOE's Office of Counterintelligence and the FBI, and that one suspect was more prominent than the others. [ ] informed that the suspect, whose name was not provided, was located in a sensitive area at LANL, and that the matter was being referred to the FBI for investigation. [ ] was told that the FBI wanted the suspect left in place while the FBI conducted its investigation.

(OUO) [ ] to leave the suspect in place. [ ] that the suspect was being left in place with access to sensitive information. [ ] that the decision to leave the suspect in place was not [ ] to make. [ ] was told in the briefing that the FBI had requested the suspect be left in place. [ ] took this to mean the FBI "directed" rather than "requested" that the suspect be left in place. [ ] had no authority to override the decision of the FBI, even if [ ] felt that it was not in the best interests of national security to leave the suspect in place. Therefore, [ ] the suspect in place at LANL with no change in access or clearance.

(OUO) According to [ ] never made a decision to leave the suspect in place. [ ] that anyone could think that [ ] would say that [ ] made the decision to leave the suspect in place. [ ] that [ ] about this issue earlier this year and that [ ] not understand how others could mis-characterize [ ]

(OUO) Regarding who briefed [ ] on the "FBI decision" to leave the suspect in place, [ ] not recall who told [ ] information during the [ ] that [ ] but that others were also making comments and providing input. Regarding any discussion about the FBI's "victim agency" policy to request a suspect be left in place, [ ] said that the OIG would have to ask whoever the FBI told that to [ ] never before heard of that terminology. [ ] never had any direct contact with the FBI on this matter while [ ]

(OUO) Regarding any discussions to limit the suspect's access to sensitive information, [ ] had not been involved in any such discussions. [ ] that the FBI had "directed" the suspect be left in place which meant that the Department could not reassign the individual to a less sensitive position. [ ] concerns about the steps that the Department should take to ensure something like that would not happen again. However, [ ] told in the briefing that the Department could not take any steps because it might tip off the suspect.

[ ] have any follow-up meetings on the KINDRED SPIRIT matter. [ ] occasionally briefed on the status of pending security matters, which would have included the KINDRED SPIRIT matter but only in general terms on the status of the case. [ ] did not recall ever again discussing the suspect's access or clearance.

[ ] (U)

(OUO) The Office of Inspector General showed [ ] a portion of the [ ]

b6,7(c)

memorandum from [redacted] <sup>11</sup> In the memorandum, [redacted]

[redacted] Upon reviewing the document, [redacted] would develop a "project" or series of projects for [redacted] regarding this matter. [redacted] was never aware of any discussion [redacted] said [redacted] did not discuss this issue [redacted] before, during, or after [redacted] Washington, DC, and [redacted] did not participate in such a project, nor did [redacted] if such a project was attempted or completed by others.

[redacted] (U)

[redacted] informed the Office of Inspector General that [redacted] with the FBI on the China matter sometime around June 1996 while [redacted] could not recall the date of the FBI meeting, the date of the Department's Administrative Inquiry results, or the date the matter was referred to the FBI. [redacted] those present at the [redacted]

[redacted] the FBI investigation was discussed during the meeting. [redacted] this was a "rules of the road" type meeting in which the FBI discussed what the Department could do to effectively support the FBI investigation. [redacted] issues regarding the suspect's access and clearance were discussed. [redacted] stated that the FBI wanted the investigation to be conducted on a "non-alert" basis, and that the Department should therefore take no action against the suspect without coordination with the FBI. [redacted] said the FBI would work hard on the case, and that they would try to gather evidence via electronic coverage under the Foreign Intelligence Surveillance Act. [redacted] said that it was necessary to keep information related to the case "tightly held." It was decided that the [redacted] would have to know what was happening so that they could provide necessary support.

(OUO) [redacted] recalled that during the next couple of months, [redacted] on several occasions about the status of the FBI investigation. [redacted] that the FBI was still working on the investigation.

[redacted] attended a meeting at Department Headquarters in the late summer or early fall [redacted] (not recall) in which the suspect's access and clearance were discussed. [redacted] were present. [redacted] may have also been in attendance, but [redacted] recall. During this meeting, the possibility of assigning the suspect [redacted] to a new project was discussed. [redacted] was looking into [redacted]

[redacted] this was to occur on a "non-alert" basis by changing the access list for the vault and eliminating the suspect and others from the vault access list. [redacted] not know at the

<sup>11</sup> (U) See interview summary for [redacted]

06,700

time but recently heard that a "palm reader" was being considered, but never installed, in the vault area. [ ] thought the matter was being taken care of, but [ ] followed up on it. [ ]

[ ] Though [ ] was aware of all the key issues taking place at the time in the Office of Nonproliferation and National Security.

(OUO) [ ] said that when [ ] that the things [ ] would move on and be completed. [ ] that the suspect's access would be reduced through a new job assignment and by the suspect's name being removed from access to the vault along with others. [ ] were aware of [ ] suggestions on this matter.

[ ] and [ ]

[ ] was also present during this meeting. During the meeting, there was a discussion on how to reduce the suspect's access to sensitive information at LANL while on a "non-alert" basis. [ ] that LANL may want to consider some kind of reassignment to limit the suspect's duties to another area but to do so without "tipping off" the suspect. It was mutually decided that the Department would discuss the matter with LANL management and return to the FBI with possible options on what could be done. The FBI wanted to be a part of the approval process for any LANL actions involving the suspect.

(OUO) According to [ ] to take action on this issue by contacting LANL management. When queried as to whether or not [ ] on the results of [ ] with [ ] or that [ ] was to take action, [ ] said that [ ] not recall. [ ] that [ ] not follow-up on this matter [ ] because [ ]

[ ] on anything when [ ]

[ ] did not need to know, but as the [ ] have known. [ ] did not tell [ ] opinion that when [ ] should have kept [ ] apprised of the status of the matter.

b6, 7(c)

[redacted] (U)

(OUO)

[redacted] informed the Office of Inspector General that [redacted] not recall ever attending any meetings where the FBI discussed the [redacted] said that sometime in 1997, [redacted] generally that there was an FBI investigation focusing on an [redacted] left in position. [redacted] that the individual was being left in position because the FBI wanted him through newspaper articles. [redacted] said that to the best of [redacted]

[redacted] (U)

(OUO)

[redacted] informed the Office of Inspector General that [redacted] The purpose of the [redacted] on the newly opened FBI espionage investigation involving the [redacted] clearly recalled the meeting and everybody who was present. [redacted]

(OUO)

[redacted] had discussed this espionage case. They both agreed that the only way to gather evidence against [redacted] was, if acceptable to [redacted] in place.

At the [redacted] on the newly opened espionage investigation of [redacted] that the FBI acknowledged that LANL was the "victim agency" and that any decisions they made about how to handle [redacted] were up to LANL and that the FBI would go along with those decisions. [redacted] provided additional information about the investigation and [redacted] as follows:

- The subject of their investigation [redacted] is under investigation. This was to be done by limiting the number of LANL employees who were aware of the investigation or the need to keep the investigation closely held; and,
- [redacted]

[redacted] stated that by making these requests [redacted] not telling [redacted] what to do. [redacted] the FBI knew that they (FBI) had no authority over matters of access and clearances at Department facilities and that those decisions were ultimately made by the "victim agency." [redacted] was attempting to communicate to [redacted] that if the espionage investigation was to be successful, and if LANL could live with [redacted] remaining in place, what was needed was to keep the investigation closely held and keep [redacted]

(OUO) [redacted] responded by asking what justification [redacted] use for [redacted] in place. [redacted] responded to [redacted] in the following way:

- The FBI was trying to solve an espionage case that likely happened over 10 years ago and the only way to gather sufficient evidence was through electronic surveillance of [redacted]. The only way to gather sufficient evidence against [redacted] via electronic surveillance was to keep [redacted] current position, unaware that [redacted] under investigation. If [redacted] would be fired or have [redacted] at LANL altered in a significant way, [redacted] and the likelihood of gathering any evidence would diminish. If that happened, it was highly likely that no one would ever learn who provided the [redacted] to the [redacted].

- [redacted] did not believe there was any justification to fire [redacted] at this time because there was no evidence, as of that date, that [redacted] had, in fact, provided information to the [redacted]. [redacted] stated that LANL could not rely on the FBI to provide grounds for firing [redacted] because, as far as the FBI was concerned, no grounds to fire [redacted] would likely file a law suit against [redacted] were fired at this time. [redacted] laughed at this last statement and indicated that [redacted]

- [redacted] had worked on the [redacted] and that firing [redacted] would not do a lot of good, since [redacted] likely retained a lot of information [redacted]

[redacted] stated that [redacted] it clear to [redacted] that an espionage investigation such as this one would likely take at least a couple of years to complete. [redacted] that it could take at least one year to develop sufficient evidence to apply for a Foreign Intelligence Surveillance Act warrant. If the Foreign Intelligence Surveillance Act warrant was obtained, it could take another year to develop sufficient evidence to bring charges of espionage against [redacted]. If sufficient evidence were not obtained during this year, the FBI would likely at that point have enough information to conduct a confrontational interview of [redacted]

(OUO) At the conclusion of the discussion, [redacted] agreed to keep [redacted] in place and to keep the investigation of [redacted]

b6, 7(c)

(U)

[redacted] informed the Office of Inspector General that [redacted] at LANL where FBI Headquarters officials briefed [redacted] on the newly opened espionage investigation of [redacted]. At this meeting, the FBI officials made it clear that they understood that [redacted].

The FBI officials told [redacted] that they considered LANL to be the "victim agency" in this espionage case, and that the FBI policy was that the victim agency makes the final decision concerning whether to leave a suspect in place. [redacted] performed a risk assessment and determined that [redacted] could not remain in place, and if that was [redacted] decision, the FBI would pursue the investigation under those conditions. If, however, [redacted] could live with leaving [redacted] in place, the FBI would conduct their investigation on a non-alert basis. [redacted] said that it was made clear to [redacted] that the FBI would prefer to work espionage cases on a non-alert basis with the suspect in place, but that the final decision in this matter was to be made by [redacted].

[redacted] stated that at the [redacted] the FBI officials also informed [redacted] of several previous FBI investigations involving [redacted] made the decision at the [redacted] for the FBI to conduct the investigation on a non-alert basis with [redacted]. According to [redacted] also knew that [redacted] on the investigation at any time.

(U)

(OUO) [redacted] informed the Office of Inspector General that [redacted] access to sensitive information had been reduced during 1996 by LANL. [redacted] explained that during mid-1996, [redacted] a plan with LANL officials and the FBI to restrict [redacted] access from the [redacted] knew from discussions [redacted].

[redacted] wanted to [redacted] access to sensitive information while [redacted] was being left in place for the FBI investigation.

(OUO) [redacted] provided the Office of Inspector General with a copy of a [redacted] memorandum [redacted] Office of Inspector General review of the memorandum revealed that it had been prepared following the conclusion of [redacted] that the Department needed to ensure that any administrative actions taken in the [redacted] were vetted with the FBI. According to the memorandum:

- (OUO) No preparations for any administrative actions that might be required by future investigations had been taken as of [redacted].
- (OUO) The FBI was to assume overall responsibility of the case;



- (OUO) The FBI specifically requested that no such action be taken pending their assumption of the case;
- The FBI suggested that the Department might consider reassignment of the subject to a special project along the lines of the "Ames" case;
- (OUO) [redacted] asked that options be identified for such a special assignment;
- (OUO) [redacted] for such an assignment;
- The chain of communications would involve the links between officials at (1) Department Headquarters, specifically the Office of Nonproliferation and National Security and the Office of Defense Programs, and FBI Headquarters; and, (2) LANL, the local FBI office, and probably the Department's Albuquerque Operations Office; and
- (OUO) The Department could address options for improving protection of National Security Information and Restricted Data, although this was the responsibility of the Office of Safeguards and Security Affairs (NN-50), and they had yet to be briefed on the matter as of [redacted]

[redacted] informed the Office of Inspector General that LANL put together a plan to change the access procedures to the [redacted]. Under the existing procedures at the time, anyone with [redacted] proposed to install an electro-mechanical device to control vault entry, to then cut out access to many [redacted] being one who no longer had access. At the time [redacted] thought that this was a good idea because the [redacted]

[redacted] (U)

(OUO) [redacted] informed the Office of Inspector General that [redacted] aware of [redacted] in the early 1980's [redacted] in 1995, and [redacted] aware of the subsequent referral to the FBI and the FBI investigation.

(OUO) [redacted] confirmed that [redacted] in attendance when the [redacted] on the case on [redacted]. Also present were [redacted]. The meeting was held so the [redacted] that they had accepted the case and to ask for LANL's cooperation in working this case. According to [redacted] there was no discussion relating to whether [redacted] should [redacted] in place. The FBI instructed [redacted] to do nothing to alert [redacted] assignments and access were not discussed.

(OUO) [redacted] stated that after the meeting, [redacted] told [redacted] was not comfortable with the results of the Department's Administrative Inquiry and that, normally, the FBI would not open a case if they did not have any more evidence than what was revealed in the

b6,7(c)

Administrative Inquiry. However, because of the serious nature of the issue, the FBI agreed to work the case. [ ] the same reservations about the results of the Administrative Inquiry.

(OUO) Sometime after the [ ] provided [ ] with monthly badge reader information and telephone records related to [ ] On [ ] that the case was not progressing. According to [ ] had other assignments and did not seem to have time to work on this case.

(OUO) [ ] stated that on [ ]

[ ] concerns that the FBI case was not progressing. [ ] again talked with representatives from the Albuquerque Field Office and was [ ] to work including a high profile espionage case.

[ ] (U)

As the [ ]

KINDRED SPIRIT investigation in 1996 by Mr. Don McIntyre, now deceased. [ ] briefed on the began maintaining a KINDRED SPIRIT file. [ ] that [ ] contained very few documents for the years [ ] but contained significantly more information for the period from [ ] had no direct involvement in the matter until [ ]

**2. Individuals Responsible for Decisions Relating to [ ] Security Clearance, Access, and Work Assignments (April 15, 1997 - October 15, 1997) (U)**

(U) This section begins with an overview of events from April 15, 1997, to October 15, 1997, and follows with the results of Office of Inspector General interviews with key Department, LANL, and FBI personnel.

**(a) Summary (U)**

(OUO) The Office of Inspector General learned that the Department's and LANL's May-July 1996 decision to maintain [ ] clearance and access, and control [ ] through redirected work assignments, were re-affirmed in an [ ] with Department, LANL, and FBI officials present. Attendees at this meeting from the Department and LANL

included [

] Meeting topics included:

- (OUO) [ ] work activities would be controlled through project reassignment; and,
- [ ] FBI recruitment of [ ] to assist them with monitoring [ ]

(OUO) Although this meeting has been characterized as a meeting in which the May-July 1996 decisions were "reaffirmed," the Office of Inspector General's inquiry did not identify any meaningful actions taken by LANL or follow-up by the Department. Available information indicates that [ ] without any notable actions to restrict or modify [ ] work assignments. The Office of Inspector General did not identify any witnesses or documents which provided a definitive explanation as to why the May-July 1996 decision had not been carried out by the time of the April 1997 meeting.

In late April 1997, [

] was recruited by the FBI to serve as [

FBI met with [ ] ideas for [

] Over the following weeks, the [ ] Also, during the meetings,

] work project assignments were discussed.

(OUO) In the Fall of 1997 (specific date undetermined), [ ] met with the local FBI case agent and decided that [ ] work project assignment to less sensitive work within a new project. Shortly thereafter, [ ] new work assignments. However, the Office of Inspector General's inquiry identified this as the first significant implemented action to [ ] since the initial May-July decisions and the April 1997 meeting. [ ] security clearance and access to [ ] remained unchanged.

(OUO) [

In July 1997, prior to [

KINDRED SPIRIT and the [ ] more of these briefings.

] on [ ] were present at one or

b6,7(c)

(OUO) On [ ] [ ] stated that, during the course of this meeting, [ ] Department representatives that:

- (OUO) The FBI's attempt to obtain Foreign Intelligence Surveillance Act Court approval on the [ ] investigation was unsuccessful;
- (OUO) The Department should not leave [ ] in place for the FBI; and,
- (OUO) The Department should do what is necessary to prevent further access by [ ]

(OUO) [ ] informed the Office of Inspector General that [ ] meeting at the Department in which [ ] were present in addition to [ ]

**(b) Interviews (U)**

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ] learned about the espionage case at LANL in the fall or early winter of 1995 while serving as the [ ] that the FBI was investigating the case. [ ] did not know the suspect's name at the time.

(OUO) [ ] that in 1996 [ ] on the espionage matter given to

[ ] was held on [ ] (date unrecalled) and other Department employees who attended [ ] During the meeting, the LANL espionage case was described as a special access program where information was provided only on a "need to know basis."

(OUO) [ ] in April 1997. The [ ] with additional information about the LANL espionage case but, according to [ ] there was no mention of a suspect's name. From the [ ] not know in which division the suspect worked, and had no knowledge as to whether the suspect had a history with the FBI. [ ] said that [ ] the same matter to [ ] had no knowledge as to how much other information [ ] had about the LANL espionage case.

<sup>12</sup> [ ] does not recall attending this meeting. However, an FBI [ ] a scheduled attendee.

(OUO) According to [redacted] after [redacted] April 1997, [redacted] on this important issue. [redacted] took place, however, and [redacted] mentioned it to [redacted] sometime later. Eventually (exact date not recalled), [redacted] espionage case.

(OUO) [redacted] that after [redacted] and [redacted] also may have been present. After the [redacted] wanted to read all the information on the case. [redacted] and that everything was to go through [redacted]. According to [redacted] on the LANL espionage case. [redacted] could only provide briefings on the LANL espionage case, outside the Department building, if [redacted]

(OUO) [redacted] (specific date unrecalled). The purpose of the briefing was to insure that the Department of Justice was aware of a very serious espionage case. Also in attendance were the [redacted] and several other Department of Justice officials. During the meeting, the [redacted] stated that those in attendance had to work harder on this serious case. The [redacted] concerning this investigation. [redacted] recalled the [redacted] in reference to supporting the investigation. According to [redacted] there was no discussion during the meeting with the [redacted] about access and clearance issues at LANL.

(OUO) [redacted] stated that [redacted] attend the [redacted] with the FBI in which [redacted] access and clearance. [redacted] added that if [redacted] discussed at this meeting the need by the Department to take action against the suspect at LANL, no one from the Department who attended the meeting ever discussed [redacted] what the Department should do.

(OUO) [redacted] with the FBI at the Department of Energy [redacted] the meeting attendees included [redacted] [redacted] may have also attended the meeting. According to [redacted] sat in the back of the room and did not say anything. [redacted] stepped out of the meeting a couple of times to handle other matters.

(OUO) [redacted] estimated that discussions by [redacted] comprised ninety percent of the conversation that took place at the meeting [redacted] said the discussion was generally about PDD 61, and the need to improve the Department's counterintelligence program.

[ ] said that the counterintelligence program at the Department was a problem, and that the Department needed both the FBI and CIA to assist in implementing PDD 61. [ ] said there may have been some discussion about the LANL espionage matter, but [ ] not recall. More specifically, [ ] not recall any discussion about the suspect's access to classified information at LANL.

(OUO) [ ] does not recall a meeting involving [ ] that purportedly occurred immediately following the [ ]

(OUO) [ ] stated that [ ] no significant involvement in the LANL espionage matter after this time. [ ] was not involved in the events that occurred in 1998 and 1999, which culminated in [ ]

(OUO) [ ] said that the procedures to remove someone's clearance are outlined in the Code of Federal Regulations, specifically 10 CFR 710, and that the ultimate authority to remove a clearance rests with the manager of the local Department Operations Office. [ ] stated that, in [ ] the procedures in place at the Department involving the security clearances are very diffused and dysfunctional. [ ] explained that several components of the Department have varying areas of responsibility in determining Department policy. [ ] understanding of the process is as follows:

- (OUO) The Office of Security Affairs is responsible for writing and interpreting the security policy;
- (OUO) The Office of Defense Programs implements the security policy;
- (OUO) The local Operations Office Manager has the authority and is responsible for removing a security clearance, but normally works closely with the laboratory director; and,
- (OUO) The Office of Environment, Safety and Health is responsible for evaluating the security policies in effect in the Department.

(OUO) With regard to [ ] concerning access and clearance matters involving [ ]

- (OUO) After the [ ] on this espionage investigation. The FBI was in charge of the investigation; [ ] was working with the FBI and was [ ] was not involved, and was not briefed on what was happening.
- (OUO) [ ]
- (OUO) The FBI did not want the suspect removed from [ ] at LANL because [ ] was removed, the FBI could not "catch [ ] could not recall a specific FBI

agent who said this, but felt that everything [ ] indicated that the FBI wanted the suspect in place so as "not to blow the investigation."

- (OUO) [ ] recall discussions at any time about limiting the suspect's access to sensitive information at LANL.
- (OUO) If [ ] told to take action against the suspect with respect to [ ] access and clearance, [ ] would have taken such action as directed.
- (OUO) If [ ] [ ] would have been reprimanded because no one ever [ ] [ ]
- (OUO) [ ] [ ] had no authority to remove [ ] [ ] access and clearance.
- (OUO) During 1997 and 1998, the Department was [ ] [ ] not recall any discussions during the investigation about removing that suspect's access or clearance.
- (OUO) [ ] never previously involved in access and clearance issues in an ongoing FBI espionage investigation.
- (OUO) [ ] appropriate action involving [ ] [ ] is not aware of anything that [ ] could have done differently.
- (OUO) All of the information involving this investigation was closely held and information was only shared with people who had a need to know. [ ] [ ] on this investigation, and did not easily share information with others above [ ] [ ]
- (OUO) [ ] not recall [ ] [ ] ever mentioning the need to remove [ ] [ ] clearance.

(OUO) [ ] did not know when the Office of Security Affairs was notified about the LANL espionage matter. [ ] said that the Office of Security Affairs was "NN-50" and organizationally aligned under NN. [ ] that during late-1998, [ ] [ ] and to coordinate clearance suspension actions.

(OUO) [ ] [ ] December 1996, nor January 1997, about the status of the LANL espionage investigation. [ ] [ ] did not recall any conversations with [ ] [ ] about the access and clearance issues.

(U)

b(6,7)(C)

[redacted] informed the Office of Inspector General that [redacted] visited LANL on [redacted]. The visit primarily involved the KINDRED SPIRIT case.

According to [redacted] wanted to meet with FBI and LANL personnel who were involved in the matter to facilitate getting the case moving towards completion. Additionally, [redacted] had indicated through [redacted] wanted to make changes in the [redacted]. Apparently, [redacted] wanted to talk about the changes since they would have an impact on KINDRED SPIRIT, and [redacted] not want to make any changes on [redacted] without first coordinating with the FBI.

According to [redacted] attended an [redacted]

[redacted] (OUO) [redacted] recalled that [redacted] which would provide [redacted] to another job involving less access to classified material. [redacted] was concerned, however, that the move [redacted] wanted to coordinate with the FBI. [redacted] explained that the [redacted]

[redacted] also explained that [redacted] and that were less sensitive than the new codes.

(OUO) [redacted] recalled that at the time, [redacted] believed that the initial decision to leave [redacted] in place, with [redacted] and clearance unchanged, had been made by others in coordination with the FBI prior to [redacted]. [redacted] did not know who made those decisions, or when they were made.

(OUO) According to [redacted] it was decided at the [redacted] would be "more alerted" [redacted] not assigned to the [redacted] and that this project would be less sensitive than the projects [redacted] been working on recently. [redacted] said the FBI agreed.

[redacted] was still concerned about [redacted] so [redacted] the FBI about the status of their investigation. [redacted] said that as soon as they could, they would attempt to obtain electronic coverage under a Foreign Intelligence



Surveillance Act court order for [ ] home and office. The FBI still had to conduct additional investigative activity in order to get the necessary information for the Foreign Intelligence Surveillance Act application. Since there were also concerns about [ ] ability to travel, it was recommended that the FBI [ ] to notify the FBI on impending travel and if any questionable events occurred. The attendees also discussed [ ] application to [ ]

[ ] that after the [ ] at LANL, senior Department management should have known that (a) the FBI wanted the Department to keep [ ] in place, (b) attempts were being made to limit [ ] access to the [ ] were not as sensitive as other projects on which [ ] could have worked; (d) the FBI was attempting to monitor [ ] with assistance from LANL management; (e) the FBI said they would run a swift case; and (f) the FBI had no information on which the Department could base suspension or revocation action.

[ ] stated that after [ ] a memorandum outlining the results of the visit. Both [ ] thought the FBI investigation was going to start showing results. However, over the next several months, it appeared as if nothing was happening. According to [ ] sometime during the Summer of 1997, the FBI learned that [ ] and while there placed a charge of \$500 on [ ] The FBI suggested that the money could have been used for a plane ticket to the [ ] but no one knew for sure. Neither [ ] heard anything else about the case from the FBI for some time following this event. [ ] was maintaining contact within FBI Headquarters, which reportedly stated it was close to a wire tap. [ ] believes this never came to fruition.

[ ] did not know at the time, but heard recently, that the FBI had sent a Foreign Intelligence Surveillance Act request to the Department of Justice on two occasions, but that the requests were not approved. According to information provided to him by [ ] contacts continued reassuring [ ] the FBI was close to obtaining electronic coverage of [ ]

[ ] recalled having [ ] pertained to the KINDRED SPIRIT investigation. The first two meetings occurred in [ ] on the LANL espionage matter and the KINDRED SPIRIT investigation. Regarding access and clearance issues, [ ] recalls that [ ] on those occasions that the suspect was still in place, but that [ ] access had been reduced through job assignment to the [ ] said the next two meetings occurred sometime later in 1997. At these meetings, [ ] on several issues, including KINDRED SPIRIT. [ ] said these meetings included discussion about the apparent lack of action or progress on the FBI investigation. [ ] not recall whether or not access or clearance issues were discussed during these meetings.

b6,7(c)

[ ] stated that [ ] with [ ] present during the Department's [ ] and others. As a result, [ ] regarding KINDRED SPIRIT. [ ] recalled that following each meeting, [ ] (OUO) Regarding the [ ] attended the meeting [ ]

information during recent Congressional testimony. [ ] provided expanded testified that, during [ ]

the time [ ] that if [ ] could not recall hearing this information from [ ] at [ ] to see either [ ] at that time [ ] said such direction did not occur.

(OUO) With respect to the [ ] did not attend. [ ] were present. [ ]

that [ ] testified before a Congressional hearing that [ ] learned during April 1999 officials to remove [ ] had told Department information. [ ] does not recall [ ]

[ ] to contact Security Affairs. [ ] did not [ ] such instructions. [ ] would have written a memorandum [ ] had on other matters in the past.

(OUO) [ ] does not know why [ ] from what and the statements [ ] made to Congress. [ ] opinion that if [ ] should have shared that information with [ ] at the time.

[ ] (U)

b6, 7(c)

(OUO) When interviewed by the Office of Inspector General [ ] stated that in early 1997, [ ]

[ ] According to

[ ] to determine the progress of the FBI investigation.

(OUO) [ ] traveled to LANL and attended a [ ]  
[ ] with the FBI and others. [ ] a memorandum [ ]  
[ ] said that others present at the

Meeting included [ ]

[ ] said that in addition to finding out the  
status of the FBI investigation, [ ] were concerned about  
[ ] access to classified information. According to [ ] the attendees understood that  
there was no evidence that [ ] had committed any crime, and that [ ] clearances could  
not be pulled for suspicion of wrongdoing. [ ] explained that doing so would violate a  
person's rights, and that it could also "blow the case" the FBI was conducting.

(OUO) According to [ ] the discussions at the meeting centered around what actions  
could be taken. [ ] a potential solution to the  
access issue. [ ]

[ ] the FBI concurred with limiting [ ]

[ ] also said the attendees agreed that the FBI should consider other additional  
steps. Use of human source coverage to monitor [ ] to ensure [ ] did not receive new  
work assignments, or request access to other sensitive information, was discussed. The FBI  
decided to [ ] to limit [ ] work assignments and to monitor  
[ ] access to other areas. The FBI stated it would also consider gathering the information  
necessary to initiate technical surveillance of [ ] at home and work under the Foreign  
Intelligence Surveillance Act. The participants also discussed several other possible actions  
regarding how the FBI investigation could be pursued. At the end of the meeting, [ ]  
[ ] said the FBI would begin to aggressively pursue the investigation.

b6, 7(c)

(OUO) [ ] to wait for "something to happen" on the FBI investigation.

With respect to changes in [ ] would be moving offices or have [ ] had no knowledge that such action was being considered, that it had occurred, or that [ ] continued to have access to a separate [ ] heard that the separate [ ] of the weapons.

(OUO) Regarding any physical security changes to the separate [ ] had no knowledge that any changes were being contemplated or whether or not they had been made.

(OUO) [ ] continued to monitor the FBI investigation after the [ ] at LANL. [ ] that the FBI was working on.

However, over the next several months, it appeared that the FBI investigation was not moving forward as fast as [ ] it should. [ ] learned that the FBI had not filled the vacancy in the Santa Fe office after [ ]

[ ] that this could have contributed to a delay in the FBI investigation since travel to LANL from Albuquerque took about four hours. [ ] should have been receiving calls from [ ] on any progress being made by the FBI, but [ ] commented that [ ] routinely heard from [ ] that the FBI was doing something on the case, but it seemed to be proceeding slowly. It was [ ] that the FBI continued to attempt to gather information for Foreign Intelligence Surveillance Act surveillance coverage. [ ] apprised of the status, or lack of progress, on the FBI investigation.

(OUO) [ ] stated that approximately six to eight months after the [ ] at LANL, [ ] told someone at the Department that [ ] could not recall specifically from whom, or when, [ ] this information. [ ] it may have occurred sometime during [ ] and the Counterintelligence Office was moving towards its own separate organization. [ ] heard it before the actual conduct of [ ] did not believe [ ]

b6, 7cc)

(OUO) When queried by the Office of Inspector General as to what action [ ] heard about [ ] [ ] took no action. [ ] that it was [ ] at the time, that [ ] the last person to hear the information. [ ] from discussions with [ ]

(OUO) [ ] opinion that if [ ] they should have informed [ ] said that as the [ ]

[ ] added that the Office of Energy Intelligence and the Office of Counterintelligence had no authority to make clearance determinations. [ ] that they could advise Department management of facts and circumstances so that appropriate action, if warranted, could be taken.

(OUO) [ ] stated it was [ ]

reiterated that [ ] and, therefore, was not responsible for notifying [ ] of clearance concerns, or to take any other action except to notify [ ] management of clearance concerns.

(OUO) The Office of Inspector General reviewed an [ ] regarding a synopsis of the April [ ] at LANL. According to the memorandum [ ] informed those present that [ ] planning to realign personnel and work assignments [ ] In preparation for the realignment,

According to the memorandum [ ] determined that [ ]

According to [ ] (based on the information provided by [ ] decided that it would be illogical not to assign [ ] because (a) [ ] and (b) it would arouse [ ] It was decided that, at a minimum, the FBI would to provide source coverage of [ ] access to, and work

b(6), 7(c)

accomplished on [ ] Further, the FBI would initiate action to have  
[ ] duty and home telephone activities monitored.

According to the memorandum, it was also suggested that FBI Headquarters could attempt  
to obtain authority from the Foreign Intelligence Surveillance Act Court to place technical  
surveillance coverage on [ ] work place and residence.

The Office of Inspector General also reviewed an undated memorandum from [ ]

In summary, [ ] with FBI officials on [ ]

According to [ ] the FBI requested that [ ]

The FBI suggested that [ ]

[ ] which would be temporarily more important than beginning work on [ ]

According to [ ]

[ ]

(U)

(OUO) [ ]

[ ] the Office of Inspector General that [ ]

[ ]

[ ] stated that when [ ]

[ ] access to sensitive information with [ ]

[ ] that when the

investigation began, the FBI had clearly informed LANL about the standard FBI policy concerning  
"victim agencies" in espionage investigations. The FBI policy conveyed to LANL, according to  
[ ] was that the "victim agency" had to assess the risk to national security and decide if they  
could tolerate leaving the suspect in place while the FBI conducted a non-alert investigation. [ ]

[ ] in this case, LANL agreed to leave the suspect in place and  
that LANL was going to control [ ] access through job assignments and [ ]  
[ ] in monitoring [ ] activities. [ ]

added that it was decided that  
FBI agents would maintain a low profile at LANL during the investigation so as not to draw

b6,7cc

attention to the investigation. [ ]

(OUO) [ ] reiterated that when [ ] in the investigation in [ ] all the decisions had already been made concerning [ ] continued access to sensitive information at LANL while the FBI conducted the investigation. The decision had been made to keep [ ] but limit [ ] access by having [ ]

[ ] (U)

(OUO) According to [ ] FBI investigation was very slow during the April 1997 to October 1997 time frame. [ ] in an attempt to understand the status of the investigation, and to try and get the FBI moving. This [ ] was based upon LANL's preparations to begin work on a new project. This project involved the [ ] wanted to get an understanding of what should be done with [ ] were of the opinion that [ ] investigation. [ ] which would have a minimal impact on the FBI's [ ] also wanted to be able to [ ] As a result of this meeting, the [ ]

[ ] was to talk about the case and discuss what to do about [ ] In attendance at the meeting were [ ]

[ ] request. During the [ ]

[ ] It was discussed that it would definitely alert [ ] The attendees of the meeting all agreed that it was best to leave [ ]

[ ] It was decided that [ ] work and access to information without alerting [ ]

[ ] that the first time [ ] aware of any discussions by the FBI about curtailing or limiting [ ] at this meeting that it wanted to control and direct [ ] access with LANL's assistance. The FBI also committed to providing additional resources to the investigation to get it moving. The FBI stated that it approved of [ ] being briefed into the [ ] issue. The FBI reiterated that it did not want any changes made to [ ]

b6,7(c)

To [ ] recollection, the FBI never told [ ] what to do with [ ] The FBI always implied that LANL should do what it should to be comfortable with [ ] but do not do anything that would alert [ ] about the investigation. As a result, [ ] focus of work never changed.

(OUO) [ ] of the results of the meeting of which [ ] approved. The next day or so after the [ ] assignments were not changed after the [ ] until December 1998.

(OUO) Approximately two months prior to [ ] with the Office of Inspector General, [ ] that there was an in-person conversation between [ ] in the Fall of 1997. During the conversation, [ ] to tell LANL that the FBI would not stand in the way of LANL taking action against [ ] since the FBI case was not going anywhere. [ ] would impact the FBI's case. [ ] would the FBI case. [ ] believes that [ ] simply forgot to tell [ ] about the conversation. [ ] was unaware of any change in position by the FBI prior to [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that shortly after [ ] was briefed on the [ ] was not briefed on the specifics of the investigation. [ ] was being left in place. [ ] stated that [ ] that the Department and LANL had been briefed and concurred with the decision. [ ] did not ask, nor was [ ] as to the details (e.g., who had been briefed, where, when, how, etc.).

(OUO) [ ] was informed by [ ] [ ] did not have any specifics relating to the date, time, or place of either conversation or meeting.

[ ] (U)

[ ] informed the Office of Inspector General that [ ] first became aware of the KINDRED SPIRIT matter, and the [ ] in general, in 1996. [ ] that on [ ] Also present from the [ ]



b6, 7(c)

[ ] said this was the first time [ ] been briefed on the case by

(OUO) According to [ ] pertained to initiatives designed to accomplish more significant structural changes within the Department's counterintelligence program. During the course of the meeting, FBI officials raised the issue of [ ] access. At the time, the Department of Justice had not approved Foreign Intelligence Surveillance Act coverage of [ ] were concerned as to "what to do next." [ ] were concerned as to what should be the next logical investigative step.

(OUO) [ ] was to communicate to [ ]

[ ] said there were no objections; no dispute.

(OUO) [ ] was to discuss counterintelligence operations at the Department. One topic included [ ]

[ ] provided the Office of Inspector General [ ] to which [ ] during the meeting. [ ] in part, [ ]

[ ] said there was no argument or dispute during the meeting with respect to what [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that by at least early 1997, [ ] held discussions regarding [ ] access. It was also at this time that [ ]

[ ] explained that this was due to the fact that

b6, 7(c)

[redacted] continued to have full access to FBI personnel.

[redacted] recalled that in 1997, the FBI wanted to start digging deeper into [redacted] was also discussed involving [redacted] home and work computer. [redacted] recalls that [redacted] looked around and found a closet containing computer hardware that would have facilitated a wiretap at LANL. [redacted] on this plan of action, requested that [redacted] before anything occurred at LANL so that [redacted]

(OUO) [redacted] explained that during this period [redacted] appeal the issue. It was [redacted] that the FBI and [redacted] were in close contact.

(OUO) [redacted] was aware of an [redacted] did not attend this meeting but was briefed on it. It was [redacted] that discussed during this meeting were the intricacies involving [redacted] assignment and access. [redacted] a consensus was reached by all in attendance to leave [redacted] with continued access, but to work to modify [redacted] It was also decided to [redacted] which was done.

(OUO) [redacted] was unaware that a Department memorandum was prepared highlighting the topics discussed during the meeting. [redacted] expressed [redacted] that no one at LANL received a copy of the memorandum contemporaneous with when it was prepared. [redacted] has since reviewed the memorandum. [redacted] said that according to the memorandum: (1) counterintelligence and FBI officials made the decision to keep [redacted] (2) [redacted] was only suspected of security concerns; (3) there was no indication that all evidence pointed to [redacted] and (4) given the FBI instructions, the University of California tried to come up with something to limit [redacted] access. [redacted] believes that [redacted] made it clear that [redacted] continued [redacted] and that [redacted] access to its hallways and personnel conducting discussions.

(OUO) [redacted] was unaware of any meetings or discussions in which the FBI articulated a change in the FBI's position with respect to [redacted] access and clearance. [redacted] unaware of an [redacted] and Department personnel. [redacted] was also unaware of an [redacted] with the local FBI and [redacted] in which a change in the FBI's position was discussed.

(OUO) [redacted] said that, more recently, [redacted] met with local FBI officials in [redacted] was aware that the FBI may have discussed with [redacted] might do with [redacted] believes the FBI was not

b6, 7(c)

exactly clear on its position involving [ ] assignments or access. [ ] said that since [ ] did not believe that the [ ] access, and due to [ ] may not have thought to [ ] on this meeting, and [ ] may not have been accessible to [ ]

(OUO) [ ] said that upon [ ] had already [ ] Prior to [ ] needed to get a briefing from counterintelligence officials in a serious security issue involving [ ]

(OUO) [ ] had general discussions with [ ] regarding the broader issue of [ ] interacted with anyone from the Albuquerque Operations Office, nor would [ ] considered it, since [ ] unaware of anyone there being [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ] became aware of possible [ ] at LANL on or about [ ] in the Department's Forrestal Building. [ ] attendees including [ ]

(OUO) [ ] could not recall [ ] name being discussed at the briefing, although the name [ ] was mentioned.<sup>13</sup> [ ] that discussion took place relative to "an individual" under surveillance that may have referred to [ ] was not sure. [ ] not recall any issues discussed at the meeting regarding [ ] access or clearance. [ ] stated that to the best of [ ] no discussion occurred regarding the [ ]

(OUO) [ ] explained that the meeting's discussion concerned suspicions with respect to "an individual" and the subject was being closely monitored by the FBI. [ ] had the impression the FBI was in charge of the investigation and Department and LANL personnel were coordinating with the FBI. [ ] not recall any discussion relative to the FBI directing the Department with respect to what actions to take or not to take. [ ] was concerned about "everything [ ] at the meeting, but did not recall specific concerns about the assignment of a Department employee, and potential harm the suspect may cause, being discussed.

(OUO) [ ] did not recall any discussion relative to the suspect's potential access to classified or secret information, or how the Department, FBI or LANL were handling the situation.

<sup>13</sup> The name [ ]

[ ] clarified that the briefing primarily related to [ ] A slide presentation was given which covered historical methodology and data relating to [ ] espionage activities. [ ] did not make any recommendations about any investigation. [ ] immediately took action following the meeting to see that [ ] would be briefed on the next business day.

(OUO) [ ] was briefed on or about the following Monday. Participants were [ ] The briefing was basically the same as the [ ] with [ ] the primary topic of discussion. [ ] did not recall [ ] name being stated. In addition, [ ] did not recall any issues specific to the individual "under surveillance," or [ ] or clearance, being discussed. [ ] could not recall any discussion relative to the individual's access.

(OUO) [ ] stated that, at the conclusion of the briefing, the Secretary directed that [ ] make arrangements to brief senior government officials "outside the DOE." [ ] stated that briefings were subsequently arranged with [ ]

[ ] did not intend to delegate total responsibility for the issue to [ ] knowing the aforementioned senior Department officials were involved in the matter.

(OUO) [ ] stated that [ ] in this proximate time period. [ ] presentations were much the same as the first briefing [ ] attended, with a focus on [ ] commented that following [ ] had indicated the issue should be immediately reviewed by the CIA. [ ] did not recall any other actions requested from the agency briefings.

(OUO) [ ] stated that [ ] did not attend the briefing with [ ] was made aware that [ ] provided a briefing sometime between July and October 1997. [ ] had the understanding that [ ] were present for that briefing.

(OUO) [ ] could not recall [ ] name being mentioned during any of the briefings [ ] nor were [ ] or clearance activities discussed. [ ] stated that [ ] not recall any discussions within the Department at that time regarding necessary action to curtail, suspend, or change anyone's access or clearance.

b6, 7(c)

(OUO) [ ] a subsequent meeting coordinated by the FBI in [ ] included [ ] described attendance as "large," recalling that attendees specifically stated that [ ] not aware of certain [ ] referenced, or commented upon at the meeting. [ ] did not recall comments by [ ] relative to the status of any individual investigation, or of any espionage cases at LANL, or in regard to [ ] did not know how [ ] for the meeting, but estimated approximately [ ]

(OUO) According to [ ] the focus of the meeting centered around "working cooperatively to develop appropriate counterintelligence response and capability, suitable to address concerns and issues raised by [ ] with regard to [ ] objectives and methodology." [ ] did not recall any "post" meeting comments or discussions involving the Department representatives.

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that decisions regarding [ ] employment and access status. [ ] had the lead responsibility and authority to make management has to remove a person for cause, or have reasons for removal. [ ] stated that line

(OUO) In late March 1997, probably [ ] attended a meeting with [ ] They provided [ ] with an in-depth briefing on the [ ] investigation. [ ] was never made aware of any evidence against [ ] assumed there was compelling evidence, but not compelling enough to do anything specific. [ ] remembers "being very surprised" that [ ]

(OUO) [ ] said that when [ ] matter, they stressed two items: (1) do not talk to anybody about this, and (2) keep [ ] in place. [ ] understood that the reason for leaving, [ ] in place was that [ ] could possibly do something to reveal [ ] about this matter. [ ] never talked directly with [ ] about the investigation. [ ] may have made side comments about the investigation when they met in the hall. [ ] primary concern was how to protect information. [ ] said that [ ] it would be difficult to protect information from [ ]

[ ] about using the palm reader as a way to monitor or prevent [ ]

b6, 7(c)

development information. If the decision was to prevent [redacted] then a class of individuals, including [redacted] never heard back from either [redacted] on the palm reader idea. [redacted] there were no changes made to the vault access during [redacted]

(OUO) [redacted] stated that as part of [redacted] for any unusual activity, [redacted] would immediately call [redacted] when an issue came up that [redacted] believed was out of the ordinary. [redacted] recalled two things that "clicked." One was a request [redacted] made to [redacted] This request seemed unusual to [redacted] because this was outside the normal scope of [redacted] of the request, obtained details on the conference, and determined

b6, 7(c)

that [ ] did not have a need to attend the conference. [ ] The other incident involved [ ]

(OUO) [ ] said there was never an instance where [ ] informed that [ ] had access to information to which [ ] not supposed to have access. It was [ ] impression at the [ ] the FBI was very close to having the information they needed. However, as time went on and nothing happened [ ] the threat was more reduced. [ ] but felt the urgency was lessened.

[ ] was briefed about the [ ] believed that [ ] and to keep [ ] from working on [ ] worked on any projects other than [ ]

According to [ ]

[ ] never had any "hint" that was an option. [ ] was never informed by the FBI or others to remove [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that in the spring of 1997, the FBI learned that [ ] had requested permission to have a [ ]

[ ] were unclassified, and requested a meeting with LANL and the Department. [ ] no one from FBI Headquarters attended this meeting held on [ ] thought the following individuals who attended this meeting included [ ]

(OUO) [ ] stated that the FBI attempted to get a Foreign Intelligence Surveillance Act warrant on three occasions. The first attempt was denied in August 1997, the same day [ ] met with Department officials. After this denial, [ ] approached the [ ] and asked for a reconsideration of the initial denial. The initial denial was upheld. A third request for a Foreign Intelligence Surveillance Act warrant was made in December 1998 after the results [ ] were known. Again the request was denied.

(OUO) [ ] attended an [ ] at the FBI that dealt with the counterintelligence reforms under discussion at the Department. [ ] recalled the

b6,7C9

following individuals also attended this meeting [ ] and possibly [ ]  
[ ] stated that [ ] previously heard [ ] of the  
espionage problems facing the Department, and [ ] made the  
presentation during the [ ] meeting.

(OUO) According to [ ] at some point during the meeting, [ ]  
concern about doing anything with respect to [ ] access to sensitive information because of  
the FBI investigation. [ ] responded that the Department  
should [ ]

[ ] also stated that the Department had to come with a  
plan on what the Department wanted to do regarding the counterintelligence problem. [ ]  
[ ] did not recall any response by [ ]

(OUO) [ ] that after the [ ] meeting involving [ ]  
[ ] thought it was [ ] receive word from the Department that  
there would be a change in the Department's position concerning [ ] access to sensitive  
information. [ ] said a change in the Department's position would have required a change in the  
investigative strategy, and likely would have required a confrontational interview of [ ]  
However, the Department never indicated that they now wanted [ ] access, so the  
FBI investigation continued, and the status quo remained.

(OUO) [ ] stated that the FBI's position concerning [ ] was established during the  
[ ] and this position did not change until [ ] a  
FBI administered polygraph in [ ] The position of the FBI was that any decision  
concerning [ ] access and clearance were the responsibility of the Department or LANL, the  
"victim agency." [ ] did not feel that any of the events that transpired between July 1996  
and February 1999 constituted a change in the FBI's position.

(OUO) [ ] also stated that the FBI's position concerning their preference that [ ]  
remain in place did not change. [ ] at the onset of the investigation, the FBI  
informed LANL that if LANL could live with the status quo, namely keeping [ ] in place, the  
FBI could pursue the espionage investigation as outlined during the [ ] at LANL  
with [ ] However, if LANL at any point could not continue to allow [ ] continued  
access, LANL should immediately communicate that information to the FBI so appropriate action  
could be taken.

(OUO) In [ ] any feeling by agents in the FBI's [ ] that the  
FBI's position changed after [ ] was inaccurate and was  
perhaps a misunderstanding or a "corruption of the message."



b6,7(c)

(OUO) [ ] stated that during the course of the [ ] had periodic meetings and briefings with Department officials, namely [ ] In addition, [ ] with various FBI officials about the investigation. [ ] stated that during these meetings with Department officials, there was no discussion about [ ] access and clearance. [ ] said that the Department officials never indicated to [ ] that there was concern about continuing to allow [ ] access to sensitive information.

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that sometime in [ ] that there was some kind of security issue involving [ ] At the time, [ ] provided no details or explanations. [ ] was very concerned about this matter. [ ] to handle the situation since [ ] had the specific details.

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that prior to the [ ] meeting at LANL, the FBI was accumulating information for probable cause for the application to the Foreign Intelligence Surveillance Act Court requesting a Title III wiretap on [ ] Prior to this time, [ ] and there had been no changes in [ ] access or clearance.

(OUO) [ ] attended the meeting on [ ] Also present during the meeting were [ ] because the Department was concerned about the progress of the FBI's investigation of [ ] for the meeting.

(OUO) According to [ ] the purpose of the meeting was to discuss the status of the FBI's investigation of [ ] for possible espionage. [ ] told the FBI that [ ] had submitted [ ] if

there was enough information to obtain technical coverage of [ ] that there was not enough information to request such coverage. It was decided by consensus that [ ] would be kept in place in the [ ]

(OUO) [ ] that [ ] with the monitoring of [ ] it was decided by the group activities within [ ]

(OUO) The Office of Inspector General reviewed an internal FBI memorandum, dated [redacted] following the [redacted] The memorandum summarizes the meeting. According to [redacted]

[redacted] wrote that it was agreed that:

- (OUO) [redacted] would not be restricted as far as [redacted] normal duties at the lab were concerned;
- (OUO) [redacted] would go into effect as previously planned;
- (OUO) [redacted] activities; and
- (OUO) [redacted]

(OUO) [redacted] spoke with [redacted] informed the Office of Inspector General that on [redacted] Also present during the meeting were [redacted]

indicated that [redacted] to classified information and computers. [redacted] away from the [redacted]

(OUO) On [redacted] meeting, [redacted] them on [redacted] access to classified information from [redacted] During the [redacted]

(OUO) On [redacted] discuss the status of [redacted] activities. [redacted] to [redacted]

[redacted] not in a position to do any more damage. [redacted] indicated that [redacted]

(OUO) [redacted] wherein a decision was made to have [redacted] for the purpose of changing [redacted]

[redacted] that on [redacted]

[redacted] had met with officials from Department of Energy Headquarters

b6,7(c)

to discuss security issues at the Department's laboratories. In particular, the Department officials briefed [ ] on counterintelligence problems and internal security problems at the Department's laboratories. During the meeting, the Department officials mentioned that they had not taken any action regarding security at the laboratories due to the [ ]

[ ] when making any decisions about [ ] access or clearance. [ ] meeting with the Department, the FBI's position regarding [ ] clearance had changed. The FBI's policy now was that they would support the removal of [ ] or the removal of [ ] clearance. [ ] recalled that [ ] about this issue.

(OUQ) [ ] summarized this conversation and a subsequent conversation with [ ] The internal FBI document is dated [ ] The Office of Inspector General reviewed this document. According to the document, [ ] in part, that:

Referred to FBI

reference  
to FBI

L

J

(OUO) [redacted] informed the Office of Inspector General that as a result of the FBI's change in policy, it clearly moved the responsibility to the Department regarding what to do about [redacted] clearance or access. [redacted] does not know why [redacted] of the FBI's change in policy regarding [redacted] clearance or access.

(OUO) [redacted] the Office of Inspector General that on [redacted] During the meeting, [redacted] informed [redacted] of the FBI's change of position regarding [redacted] clearance. [redacted] that the FBI would support the removal of [redacted] or the removal of [redacted] clearance. [redacted] that the FBI would support whatever decision was made with regard to [redacted] employment and clearance. According to [redacted] kept them involved with the [redacted]

(OUO) The Office of Inspector General reviewed an internal FBI document dated [redacted] and [redacted] which summarizes [redacted] The document states, in part:

0  
FBI

L

J

TO  
FBI

b6  
1(c)

(OUO) When interviewed by the Office of Inspector General, [redacted] after this meeting through [redacted] It was [redacted] understanding after the [redacted] the Department was not going to do anything regarding [redacted] clearance status.

(OUO) Several months prior to the Office of Inspector General interview, [redacted] had a conversation with [redacted] that it was [redacted] decision to leave [redacted] in place and [redacted] told [redacted]

(OUO) To the best of [redacted] access and clearance status did not change. According to [redacted] was kept in place in the [redacted]

[redacted] was questioned by the Office of Inspector General about whether or not [redacted] be kept in place, [redacted] would not answer whether or not it was a requirement that [redacted] be kept in place, on advice from [redacted] LANL. [redacted] the FBI was a fact finding agency only. [redacted] this was a question for [redacted]

[redacted] (U)

[redacted] informed the Office of Inspector General that on [redacted] and informed that [redacted] had to be briefed on an important matter. [redacted] subsequently arranged for a briefing on [redacted] at which time [redacted] was informed of the KINDRED SPIRIT case. According to [redacted] the briefing in the presence of [redacted] was also present.

<sup>14</sup> (U) [redacted] was present during the Office of Inspector General's interview with [redacted]

b6, 7(C)

(OUO) During the [ ] that a LANL employee was under investigation by the FBI for possible espionage. [ ] not recall whether or not [ ] informed of the individual's name during the briefing. [ ] not provided any specific information about the individual's duties or responsibilities during the briefing.

(OUO) [ ] recalled that [ ] have been told during the [ ] that the individual suspect had not [ ] had access to sensitive information. [ ] believed [ ] also told that the individual had been [ ] recalled that [ ] may have been informed that the individual's [ ] had been limited. [ ] said it [ ] understanding at the time that the FBI was still trying to build a case against the suspect and that the FBI did not want to arouse [ ]

(OUO) [ ] did not recall [ ] this information. [ ] however, that [ ] were the only [ ] with information regarding the case. [ ] also said it was possible that [ ] this information.

(OUO) [ ] said that after the [ ] needed to be briefed on a very important matter. [ ] had to be put on [ ] for [ ] to consider.

[ ] on the KINDRED SPIRIT case on [ ] During the course of the briefing, those in attendance discussed the options developed by [ ] According to [ ] these options ranged from those which were the least intrusive to those which were the "most draconian." Some of the options discussed included (1) briefing senior level people outside the Department on the case; (2) developing a more effective counterintelligence program at the labs; (3) imposing more requirements on foreign visitors; (4) requiring polygraphs for those with Special Access Program access; and (5) developing a collaborative relationship with the FBI on counterintelligence issues. [ ] explained that the options [ ] and subsequently discussed at the [ ] did not focus on a particular individual. According to [ ] the Department was working collaboratively with the FBI on the KINDRED SPIRIT case and it was a law enforcement matter.

(OUO) [ ] advised that at the conclusion of the [ ] senior officials outside the Department be briefed on the matter to obtain their advice and counsel on how to proceed, including [ ] [ ] said there were no objections from the rest of the attendees.

b6, 7(C)

[ ] in attendance when [ ] that [ ] did not focus specifically on the [ ] on [ ] targeting of the laboratories, of which the KINDRED SPIRIT investigation was a part.

(OUO) [ ] recalled that during the course of [ ] the FBI had been unsuccessful in getting Foreign Intelligence Surveillance Act coverage on the individual suspect and that the suspect no longer had to be treated on a non-alert status. According to [ ] the Department did not have to keep the suspect in place. [ ] the Department should remove the suspect. [ ] what, if anything, the Department should or should not do.

(OUO) [ ] stated that [ ] It was [ ] frustration that the FBI did not get Foreign Intelligence Surveillance Act coverage. [ ] did not leave the meeting thinking the Department needed to do something about the specific case. According to [ ] with new information, [ ] believed that action had already been taken to limit the suspect's access.

(OUO) [ ] after the meeting. According to [ ] recently testified that [ ] to the Office of Inspector General that this conversation occurred. [ ] not been told by [ ] to contact [ ]

(OUO) [ ] could not recall briefing anyone about [ ] however, [ ] not believe [ ]

(OUO) [ ] never discussed [ ] comments with [ ] assumed at the time that [ ] the appropriate officials at LANL and at the Department's Albuquerque Operations Office.

(OUO) [ ] in a meeting with [ ] does not recall discussing any specific espionage matter at this meeting. [ ] said the meeting focused on getting the Department to develop a counterintelligence program.

(OUO) [ ] talking points. [ ] does not recall, however, if [ ] the talking points verbatim or paraphrased. [ ] said [ ] no recollection of a follow-up meeting involving Department officials after the [ ]

b6, 7(c)

According to [ ] was more than just [ ]

the case. [ ] for information regarding

regarding the suspect's access or clearance, [ ] with concerns

[ ] was responsible for [ ] at the Department. Although [ ] aware of FBI activity on the case, [ ] not recall any discussions or conversations pertaining to the suspect's access or clearance.

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ] became aware of the [ ] in a meeting held at LANL at the end of [ ]

that [ ] was suspected of transferring weapons data to the [ ] During this [ ] told by the FBI [ ] The FBI also told [ ]

(OUO) [ ] was told by the FBI not to tell anyone about the [ ] to work with the FBI on considering ways to limit [ ] access, to [ ] report any suspicious activity by [ ] and to call the FBI if necessary. [ ] is of the opinion that the FBI or Department personnel drove the decisions, and that LANL was there to provide technical advisement to the decision makers. According to [ ] the consensus was that [ ] should be left in place.

(OUO) [ ] that [ ]

[ ] could not recall, regarding the [ ] after the [ ] the meetings occurred approximately every three or four weeks. [ ] may have been present at some of these meetings.

(OUO) According to [ ] the FBI wanted to know what [ ] Specifically, the FBI was interested in personal information pertaining to [ ] the types of projects [ ] and what types of information [ ] had access to in the early 1980's. [ ] that the FBI was trying to become more familiar with the [ ] and that the FBI seemed concerned with [ ] continued access to classified information.



106,700

(OUO) [ ] participated in discussions with the FBI about [ ] in the context of the FBI's investigation. [ ] what could be done to limit [ ] access without raising [ ] suspicion, including advice on changing

(OUO) [ ] conveyed the [ ] to the FBI. [ ] explained that the policy applies to [ ] According to the policy, staff members can talk to each other about classified information without administrative approvals or provisions. [ ] it is understood that staff members would only ask for information that they need to know in order to do their jobs. [ ] these interactions occur daily, but would usually occur with only a narrow set of people. [ ] an explanation would typically be offered by a staff member, if he/she were requesting information from somebody with whom he/she did not normally interact.

According to [ ] was working on [ ] During [ ] meetings with the FBI from the end [ ] In the fall of 1997, [ ] At the meeting, the decision was made to have [ ]

[ ] but which by itself would be nonsensitive in nature.

(OUO) [ ] did not have a lot of daily interaction with [ ] was self-motivated; [ ] get an assignment and go do it. [ ] did not seek out contact for unspecified or unnecessary information, and [ ] went directly to the source when [ ] information.

[ ] would not have known about the spontaneous contacts [ ] may have had within [ ] staff member asked for [ ] had contact with a weapons designer using the [ ] During [ ] having access, or trying to have access to, information outside the scope of [ ] According to [ ] did nothing really suspicious while [ ]

[ ] said that standard operating procedures used by the vault custodians would have prevented [ ] access to the vast majority of information in the vault since [ ] would have had no legitimate need for the information. However, as a [ ]

[ ] added that the vault custodians do not recall [ ] accessing the vault or asking for information beyond the scope of [ ] was not aware of log procedures

b6,7(c)

that may be used by the vault custodians to document who uses the vault and what documents are reviewed.

[ ] (U)

[ ] informed the Office of Inspector General that [ ] This was the [ ] at  
knew of this matter. [ ]  
this briefing.

According to [ ] the KINDRED SPIRIT case was part of an overall briefing regarding persons under investigation.

For example, [ ] that people from these countries might engage individuals in informal conversations, develop friendships, and count on an individual's ethnicity to be loyal to their respective governments. [ ] did not indicate during the briefing that there was a visible penetration of the laboratories.

(OUO) According to [ ] during the [ ] that the FBI had people under surveillance. [ ] does not recall whether or not [ ] name was specifically mentioned.

[ ] according to [ ] the FBI told the Department not to do anything to tip off the suspect of the KINDRED SPIRIT case, or others under investigation. [ ] accepted what [ ] the FBI knew what it was doing. [ ] got a very clear impression that the KINDRED SPIRIT case, in addition to the other investigations, was very confidential and highly classified. [ ] that neither the Department, nor LANL, should take action against the suspect of the KINDRED SPIRIT case because the individual was under investigation.

[ ] did not provide a lot of detail as to what the suspect of the KINDRED SPIRIT case was alleged to have done. [ ] not recall whether or not specifics were discussed regarding the suspect's job, duties, or assignments. [ ] that the suspect was employed at LANL, had access to sensitive information and was engaged in questionable activity.

(OUO) [ ] subsequently learned at a closed classified U.S. Senate Committee hearing in 1999 that the FBI had [ ] under surveillance for years. [ ]

(OUO) [ ] decided that the suspect would be left in place. In addition, [ ]

b6, 7(c)

[ ] and others. It was also decided that [ ] would also be responsible.

(OUO) [ ] at the time that senior officials outside the Department had received [ ] was not aware of any comments [ ] may have made with respect to the LANL suspect's access and clearance. [ ] recall if [ ] comments for the first time from [ ] about it in the newspapers. [ ] recently told [ ] that the FBI investigation of [ ] had problems, and that the Department no longer needed to keep [ ] in place because of the FBI. [ ]

[ ] at the time that the FBI was not able to do a wiretap and, therefore, could not proceed with their investigation.

[ ] recalled meeting with [ ] sometime in October 1997 to discuss the PDD 61. [ ] said attendees include [ ] and officials from the FBI and CIA. [ ] does not recall KINDRED SPIRIT being discussed at this meeting. More specifically, [ ] referring to any talking points during the meeting.

[ ] recalled being told by either [ ] sometime after the initial [ ] that the suspect of the KINDRED SPIRIT case had been moved and no longer had access to sensitive information. [ ] recalled being told words to the affect

[ ] limits had been imposed in such a way to avoid suspicion by the suspect. [ ] was being finessed; that [ ] not suspect that [ ] being moved; and that [ ] no longer going to be a problem. [ ] had been handled; that the FBI's involvement had ended; and that [ ] was no longer under investigation.

(OUO) [ ] that had [ ] been told this, [ ] would have had concerns about [ ] access. [ ] that [ ] learned that [ ] was not removed and continued access to sensitive information. [ ] that [ ]

removed. [ ] or that [ ] to be [ ] that [ ] access or clearance should be [ ] revoked, suspended, or limited.

(OUO) [ ] recently learned that [ ] was still under investigation. [ ] that if that was the case, [ ] that the Department should take any action it deems necessary.

66, 700

(OUO) [ ] the Department's [ ] have the ability to limit a person's access or revoke or suspend a clearance. [ ] should have given [ ] believed such action were necessary. [ ]

[ ] to fire someone.

(OUO) [ ] had no involvement with the [ ] recently read about it in the newspaper.

(OUO) [ ] with respect to the LANL espionage matter. According to [ ] with LANL and FBI officials. [ ] thought something more needed to be done.

(OUO) [ ] belief that there was a break down in communication, albeit unintentional. [ ]

[ ] was still in place so if this was a problem they should have done something." [ ]

[ ] did not get the right information that [ ] was still a problem. [ ]

[ ] could have then picked up the phone and told [ ] [ ]

[ ] (U)

[ ] informed the Office of Inspector General that on [ ] considered to be the first complete briefing on the KINDRED SPIRIT matter while serving as [ ] that on that date, [ ] a briefing on alleged espionage at LANL. [ ] from that briefing that a suspect had been identified, that the person was at LANL, and that the FBI was investigating. [ ] not think that [ ] the suspect's identity, history, or past involvement with the FBI if there was any. [ ] recalled a follow-up meeting with [ ]

[ ] that [ ] at the time.

b6,7(c)

[ ] recalled that on [ ] with several people on the KINDRED SPIRIT matter. The team of experts who were reviewing the issue were meeting to discuss their findings. [ ] recalled that [ ] then that a specific suspect had been identified and that the FBI was investigating [ ] recalled this because [ ] to them to consider [ ] not recall all who were at the meeting, nor does [ ] hearing the suspect's identity.

(OUO) [ ] on the espionage at LANL matter. However, [ ] not recall who was present and could not recall any specifics of the information briefed.

(OUO) [ ] did not recall attending any other briefings about the espionage at LANL matter after the [ ]

[ ] (U)

(OUO) [ ]

Department employees were also present: [ ] In addition to [ ] the following

[ ] because of the growing public and press concern about the China matter. Both agencies were under a lot of pressure because of how the [ ] matter was handled. [ ] described the meeting as a coordination meeting to determine where each agency stood on the key issues of the LANL espionage matter. During the meeting, [ ] with Department officials. [ ] basically the following:

- (OUO) At this stage of our investigation (1997) "we [FBI] have nothing prosecutable;"
- (OUO) The FBI would like to continue the investigation; and,
- (OUO) It is up to the Department if the Department feels they need to take action against the suspect at LANL.

(OUO) [ ]

[ ] (U)

(OUO) [ ] recalled that after [ ] there were further discussions involving the FBI, LANL counterintelligence officers and [ ] concerning how to deal with [ ] through job assignments, including involving [ ]

[ ] All of these actions

b6, 7(c)

involving [ ] were to be done on a non-alert basis [ ] learned that [ ] was really never limited. When asked why [ ] was never limited, [ ]

(OUO) [ ] that the FBI never changed its position during the investigation concerning [ ] access to sensitive information. The FBI's position in espionage investigations was constant, namely that the FBI would like to keep a suspect in place, but the ultimate decision as to whether [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ] sometime in January 1996 by [ ]

have compromised some classified information regarding [ ] might [ ] could not recall if [ ] provided any other specifics during the call.

(OUO) [ ] several local officials about an upcoming visit by [ ] This included [ ]

have been a compromise of classified information relating to [ ] that there might [ ]

(OUO) [ ] could not recall whether or not [ ] at the time the Department's Administrative Inquiry was underway and that [ ] specifically, was a suspect. [ ] received a copy of the Department's inquiry report but did not review it extensively since [ ] as to the findings.

[ ] stated that on [ ] at LANL regarding the KINDRED SPIRIT investigation. Those in attendance included [ ]

[ ] could not recall if [ ] was present at the meeting.

(OUO) [ ] stated that what [ ] most about the meeting was that LANL wanted to inform [ ] was the subject of an FBI investigation, and that [ ]

that [ ] was going to be transferred because the current project [ ] recalled the discussion [ ]

b6,7(c)

[redacted] could not recall where [redacted] was going to be transferred, or if it was still in a classified area.

(OUO) [redacted] said that [redacted] access was discussed during the meeting in general terms. [redacted] those in attendance discussed what [redacted] might be exposed to that could be damaging. [redacted] said FBI officials did not give any direction as to how LANL should proceed. At no time during the meeting did [redacted] the FBI request that [redacted] not be transferred, nor did [redacted] anyone asking if a transfer would interfere with the FBI investigation.

(OUO) [redacted] expressing concern that they did not want [redacted] transferred to a position which gave [redacted] access to new classified information. According to [redacted] to be kept in place to limit further damage. The group agreed by consensus to leave [redacted] in place and that more damage would be done if [redacted] was moved.

(OUO) [redacted] did not have any further involvement concerning [redacted] clearance status or access until [redacted]

[redacted] (U)

(OUO) [redacted] informed the Office of Inspector General that [redacted] attended a meeting at the FBI on [redacted] Attendees included [redacted]

[redacted] that included several ongoing espionage cases and security problems at the Department's laboratories. During the briefing, [redacted] the Department needed to cut off the access of espionage suspects to sensitive information. [redacted] the Department needed to put together a plan concerning how the Department would fix the security problems at the national laboratories. [redacted] the Department had not taken action against [redacted] because of the FBI investigation. [redacted]

[redacted] the Department should not use the FBI investigation as a reason not to do anything about [redacted] access. [redacted] if the Department felt it had to take action against [redacted] access to sensitive information at LANL, the Department should do so, and the FBI espionage investigation should not prevent that action from being taken.

(OUO) [redacted] provided the Office of Inspector General with a copy of an FBI [redacted] regarding the counterintelligence reform initiatives that were being developed at the Department. The memorandum references a meeting "this week" involving [redacted] was ready to move forward quickly

b6,7(c)

on implementing needed changes. The memorandum concludes with a section entitled "Status of DOE Immediate Steps to Prevent Further Compromises." This section reads as follows:

(OUO) [ ]

TO  
FBI

(OUO) [ ] informed the Office of Inspector General that on [ ]

[ ] that the Department was aware of what [ ]  
[ ] about [ ] access to sensitive information at LANL. [ ]  
[ ] the Department was looking at ways to limit [ ] access without  
hurting the FBI's investigation. [ ] did not indicate what options the Department was  
considering concerning limiting [ ] access.

(OUO) [ ] that after the meeting, [ ] via telephone with [ ]  
[ ] that the  
Department's "equities" were at risk in this case, that the Department must decide what they want  
to do concerning [ ] access, the FBI will support the Department's decision, and the  
Department should not use the FBI investigation as a reason not to do anything about [ ]

TO  
FBI



b6, 7(c)

(OUO) [ ]

[ ] On the same day, [ ] determined by contacting LANL officials (identities unknown) that [ ] was not working on anything new and that LANL was going to [ ] away from any new codes or design work. [ ] there was no point in restricting [ ] On the same day, [ ]

(U)

(OUO) [ ]

[ ] informed the Office of Inspector General that because it appeared the FBI investigation was not moving, [ ] to LANL to meet with LANL counterintelligence personnel and the FBI agents who were working on the case. [ ] that a meeting was held on [ ] that there were several people at the meeting but [ ] not recall all who were present. [ ] that at the meeting, it was decided by those present to [ ] in place in the [ ] access would be reduced by having [ ] said that the decision to do this was made by [ ]

(OUO) [ ]

[ ] that it was [ ] from [ ] that the FBI wanted [ ] left in place but had no objection to having [ ] access reduced if it could be artfully done so as to not tip [ ] off to the investigation. [ ]

[ ] and were something that [ ] had worked on for several years in the past. In return, the FBI agreed to take a number of steps to try to aggressively pursue the case. [ ] that the results of the [ ] meeting were documented in a memorandum [ ]

(OUO) [ ]

[ ] that because of the information [ ] about LANL's proposal to change access to the vault, [ ] access to sensitive information had been restricted. [ ] were aware of these proposed changes at the time. [ ] that by the time of the [ ] meeting at LANL when [ ]

[ ] that this was in addition to the other actions taken during 1996. [ ] that it was not until early this year (1999) that [ ] that access changes to the [ ] were never made. [ ] with LANL to ensure that the vault access changes were implemented. [ ] access had been restricted in 1996 by the changes proposed for vault access. [ ] stated that [ ] with LANL to ensure that the proposed changes to [ ]

b6,7(c)

actually implemented. [ ] assumed that LANL had implemented the changes as discussed and approved by the FBI.

(OUO) [ ] that after [ ] on the LANL espionage matter in [ ] the lack of progress on the FBI investigation. [ ] that this occurred following [ ] that the FBI had not lived up to its [ ] to aggressively move forward on the case. [ ] had somehow been reduced and that there was increased monitoring of [ ] However, [ ] that [ ] were not keeping

[ ] apprised of the actions that the FBI and LANL were taking on the case. [ ] that during the [ ] to find out what was happening. [ ]

(OUO) [ ] that at the time [ ] was not aware that the FBI had not obtained Foreign Intelligence Surveillance Act coverage of [ ] learned only recently that the FBI's initial Foreign Intelligence Surveillance Act coverage request for electronic surveillance of [ ]

[ ] that after [ ] on the LANL espionage matter [ ] the same briefing that [ ] added that after hearing the briefing, [ ] From that time on, [ ] rather than to [ ]

(OUO) [ ] attended an [ ] on this case. [ ] was also present. [ ] also may have been present. [ ] that during the meeting, [ ]

that the Department had to "reduce [ ] access to sensitive classified matters." [ ] on the FBI investigation and that the Department should "take whatever action was appropriate." [ ] there was "difficulty" in getting Foreign Intelligence Surveillance Act coverage.

(OUO) When re-interviewed by the Office of Inspector General, [ ] that after the meeting, on [ ]

[ ] had no authority to take such action and that the matter should, therefore, be referred to the Office of Security Affairs. [ ]

b6, 7(c)

on these developments, and

that

(OUO) the Office of Security Affairs on the matter regarding

access and clearance. that after the

did not was

unaware if had briefed Security Affairs.

(Office of Safeguards and Security) on counterintelligence-related matters.

that when

should be notified,

under previous instructions from

(OUO) Regarding any regulatory guidance to notify the Office of Security Affairs of any administrative inquiry or other action taken by the Office of Counterintelligence that might have an impact on security matters was not aware of any Department order that required that Security Affairs be notified. that Security Affairs had to be notified if formal suspension or clearance revocation action needed to be taken, but not simply if an administrative inquiry was being initiated.

(OUO) opinion that the Department the FBI could have been "more clear" in their message to Department officials about what should be done.

During an interview with the Office of Inspector General,

In October 1997,

on the need for counterintelligence reform at the Department.

meeting.

was also going to be at the

but that

to the meeting, which was to be held in

[ ] room early to [ ]  
[ ] Approximately ten minutes into [ ]  
[ ] arrived. When [ ]

[ ] and attended the briefing. [ ]

[ ] These personnel included [ ]

[ ] that the purpose of the meeting was for [ ]  
[ ] for the counterintelligence reform that the Department needed to  
accomplish. [ ] that during the course of the meeting, [ ] brought up the  
KINDRED SPIRIT case. [ ] that regarding [ ]

[ ] that the Department should [ ]  
[ ] that no one else made any comments about the  
KINDRED SPIRIT case.

(OUO) [ ] that at the end of the meeting, [ ]  
[ ] stayed in the conference room and continued talking after [ ]  
[ ] left the conference room and did not hear what the Department  
officials were discussing.

[ ] that this was the last time that [ ]  
[ ] on the matter.

[ ] that [ ]

[ ] Before being appointed, [ ] sometime during  
October 1997 on KINDRED SPIRIT, [ ] on the access and  
clearance concerns relating to [ ] that had been mentioned by [ ]  
did not take notes during the briefing and [ ] did, either. After  
the [ ]  
with [ ] [ ] had no further contact

[ ] recalled that sometime during [ ]  
[ ] LANL on KINDRED SPIRIT. [ ]

[ ] was going to be the [ ] should visit LANL and [ ]

b6,7(c)

[ ] on the access and clearance issues, to include comments made by [ ] that after [ ]

[ ] on the security clearance issues. When queried if [ ] said that it was [ ] could not recall the date of the briefing but said that it occurred sometime during the Spring of 1998. [ ] that after [ ] be responsible for KINDRED SPIRIT and that [ ] involvement with it.

(OUO) When queried as to whether Department officials briefed LANL personnel about [ ] did not notify LANL or the Albuquerque Operations Office. [ ] added that after the [ ] and that [ ] not tell [ ] recently heard that [ ] was told [ ] during October 1997. [ ] know at the time what action, if any, [ ] took as a result of hearing the information.

(OUO) [ ] added that at the [ ] that as such, [ ] that [ ]

DOE's  
see if  
taken  
intelligence

┌

┐

10  
Cant  
Sale

└

┘

under  
Belgium

[redacted] (U)

b1  
1(c)

(OUO) [redacted] informed the Office of Inspector General that [redacted] that new cutting edge technology involving the [redacted] was going to be implemented in the near future. [redacted] concerns that [redacted] had to do something with [redacted] because it would look strange to [redacted] could not work on [redacted]

meeting was scheduled.

(OUO) [redacted]

[redacted] During the meeting, the attendees discussed how to handle the situation with the [redacted] It was decided that [redacted] would continue to work on [redacted] and Counterintelligence would brief [redacted]

b6, 7(c)

[redacted] work to the [redacted] written synopsis of the [redacted] informed the Office of Inspector General that [redacted] meeting, and [redacted] concurs with its contents. [redacted]

(OUO) On [redacted] In addition, [redacted] kept in touch with [redacted] work assignments. According to [redacted] it seemed like everything worked fine and that there were no problems involving the control of [redacted] work assignments.

(OUO) [redacted] Foreign Intelligence Surveillance Act request. [redacted] in putting an electronic device on [redacted] at LANL in the event the Foreign Intelligence Surveillance Act request was approved. On [redacted] subsequently put [redacted] with FBI representatives.

[redacted] subsequently called to schedule a meeting with [redacted] the meeting to advise [redacted] about three issues, two of which pertained to KINDRED SPIRIT. Specifically, [redacted] the FBI would not stand in LANL's way if LANL wanted to remove [redacted] requested information.

(OUO) [redacted] should be kept in place. According to [redacted] be kept in place. [redacted] it would do to the FBI's case to remove [redacted] replied that it would make it more difficult. [redacted] discussed what grounds LANL had to remove [redacted] and determined that they had nothing new since the [redacted] therefore, [redacted] to make the decision. No one in the lab was pressuring [redacted] Everyone was comfortable with the earlier decision.

(OUO) [redacted] believes, but cannot specifically recall, whether [redacted]



b6, 7(c)

[ ] believes that [ ]

] about the [ ]

(OUO) According to [ ]

] did not specifically recall informing [ ]

[ ] (U)

[ ] The chief topics covered in the talking points were [ ] centered around restructuring of the Department's counterintelligence program. A related counterintelligence issue concerned the FBI's KINDRED SPIRIT investigation, of which [ ] had been made aware. [ ] certain Department officials (no names specified) at a meeting in [ ]

] checked on the progress of the FBI KINDRED SPIRIT case and learned the status of the subject's position at LANL had remained unchanged. [ ] therefore, asked [ ] point of discussion concerning KINDRED SPIRIT in the talking points for the [ ] understanding that [ ] that Department officials understood that they did not have to withhold action against KINDRED SPIRIT on account of the FBI investigation.

According to [ ] on the KINDRED SPIRIT talking point at the October 15th meeting. [ ] were to the effect of "simply advising" Department participants that the Department should not regard the law enforcement intervention as holding your authority to act. The comments were made in the context of concerns over the suspect's continued access to sensitive information. [ ] on the suspect's access or activities, and [ ] to clarify to the Department that [ ] not want to subjugate their authority for action in this particular case.

(OUO) [ ] believed that before the [ ]

] recalled those at the meeting included [ ] not recall any particular [ ] about the suspect's access or openly [ ] at some point after the meeting if

individual responding [ ] acknowledging them. [ ]

[redacted] any notes of the meeting. [redacted] not but forwarded a copy of the [redacted]

3. *Individuals Responsible for Decisions Relating to [redacted] Security Clearance, Access, and Work Assignments (October 16, 1997 - December 23, 1998)* (U)

(U) This section begins with an overview of events from October 16, 1997, to December 23, 1998, and follows with the results of Office of Inspector General interviews with key Department, LANL, and FBI personnel.

(a) **Summary** (U)

(OUO) The Office of Inspector General inquiry identified no notable changes to [redacted] security clearance, access, or work assignments during this period.

(b) **Interviews** (U)

[redacted] (U)

(OUO) [redacted] informed the Office of Inspector General that in October 1997, when [redacted] LANL's Counterintelligence Office about a potential espionage issue at LANL. [redacted] This was the first time [redacted] knew about the investigation. [redacted] was one of the employees under suspicion. From the briefing, it did not appear to [redacted] that the FBI had a lot of concrete evidence. [redacted] was under suspicion because [redacted] the FBI was trying to gain enough information to obtain the needed permission to place a wiretap on [redacted] did not think to ask about [redacted] assignments and access, and [redacted] did not discuss who had made the decision to [redacted] in place. However, from the information that was briefed [redacted] it was not clear that there was anything more than a suspicion about [redacted] that the information on [redacted] was old, and that the FBI was working the case.

(OUO) According to [redacted] that no one else could be present for the briefing. This was when [redacted] of the potential loss of the [redacted] suspected of passing the information. This was the first time [redacted] not to discuss the investigation with anyone and to keep it [redacted] did not give [redacted] any directions to [redacted] in place. It was [redacted] that the Department's Office of Counterintelligence was working with the FBI on the case. [redacted] if there were other people who could have released the information.

b6,7(c)

[redacted] had looked at the other people and determined that [redacted] had the most opportunity to access the information. [redacted] also never had the impression that there was any on-going problem, and that the potential loss had occurred [redacted]

(OUO) [redacted] was unaware of any issues or concerns with respect to [redacted] clearance or access, or [redacted] had no discussions with anyone about these issues at that time.

(OUO) According to [redacted] [redacted] was not aware of any discussions about limiting [redacted] access or curtailing [redacted] [redacted] never knew of a "change in the FBI position." [redacted] did not have any discussion with anyone about limiting [redacted] access or [redacted] [redacted] could not remember how [redacted] may have read it in the newspaper.

(OUO) [redacted] has never had any discussions regarding the FBI investigation of [redacted] some discussions about the [redacted]

[redacted] was aware of the FBI's [redacted] from the early 1980's, but [redacted] aware of a connection to [redacted] [redacted] been told this, [redacted] a "flag would have gone up" and [redacted] have been more concerned and asked more questions about [redacted]

(OUO) When asked if the FBI provided sufficient information for the Department or LANL to determine that [redacted] was likely to cause, or had caused, damage to national security or compromised classified material, [redacted] When asked if the Department or LANL had reason to believe, based on investigative results to date, that [redacted] posed a threat and, therefore, should have [redacted]

(OUO) [redacted] that if everyone thought this was such a serious matter, [redacted] This included Department counterintelligence personnel and FBI representatives. [redacted] if the Department thought [redacted] to limit [redacted] access or assignments, [redacted] LANL would have received a call from the Department saying [redacted]

(OUO) [redacted] an update on what was happening with the FBI's attempt to obtain approval for a [redacted]

66,700

wiretap. [redacted] that the FBI was still working on it and had not received the approval yet. It was always [redacted] from the beginning that the FBI had a weak case.

(OUO) [redacted] received [redacted] FBI briefing on [redacted] where the case was, on the actions the FBI was taking, and on the actions the FBI had planned. [redacted] was also present. [redacted] that one of [redacted] cell phone reception was interrupted and that the interruptions seemed to occur at the same time. The FBI was concerned [redacted]

[redacted] that the FBI was trying to keep [redacted] of the FBI developments.

(OUO) [redacted] that [redacted] somewhat concerned that [redacted] even from [redacted]

(OUO) According to [redacted] there was a long gap between the March 1998 contact with the FBI and [redacted] next contact with the FBI. [redacted] and ask for updates. On [redacted]

[redacted] that the FBI was going to [redacted] that [redacted] A day or two after the operation,

[redacted] (U)

[redacted] informed the Office of Inspector General that [redacted]

[redacted] periodic briefings on the KINDRED SPIRIT case from [redacted] that the FBI was running the case, that [redacted] FBI officials [redacted] had been kept in place for the benefit of the FBI case, and that the access which [redacted] investigation. [redacted] seemed satisfied at the time with the status of the FBI was being properly handled. [redacted] a comfort level that [redacted]

(OUO) [redacted] understood from FBI officials that the FBI was making several attempts from the March to September 1998 time frame to [redacted] and that [redacted] had been transferred.

(OUO) At a meeting with [redacted] discussed pretexts by which the individual suspect could be interviewed. [redacted] was under the impression that the FBI would conduct such an interview.

b6,7(c)

During the same time period, the FBI was briefing the "Cox Committee" on the KINDRED SPIRIT investigation. From these briefings, [redacted] had greater access to classified documents and facilities than [redacted]. Specifically, [redacted] found out in [redacted] still had access to people and information within [redacted].

(OUO) Also in [redacted] In a meeting with [redacted] learned that up until the August 1997 meeting, the FBI had said to keep the suspect in place. [redacted] the Department in 1997 word to the effect [redacted] that the suspect should have been removed following the [redacted] meant that the Department could remove the suspect from access, revoke the suspect's clearance, etc., without affecting the investigation.

(U) [redacted] that prior to [redacted] [redacted] said FBI officials also never shared with [redacted]

[redacted] (U)

(OUO) [redacted] on all of the various offices of the Department that were part of the Office of Nonproliferation and National Security. One of those offices was the Office of Energy Intelligence. [redacted] the operation and function of the Office of Energy Intelligence. During the briefing [redacted] did not present a detailed briefing of the LANL espionage case, but only informed [redacted] There was no mention of a known suspect, and [redacted] did not make any comments regarding the suspect's security access or clearance. [redacted] provided this briefing, but thought it was in November 1997. [redacted] had no further discussions with [redacted] on any access or clearance concerns regarding the LANL espionage suspect. After Presidential Decision Directive 61 went into effect on April 1, 1998, the Office of Energy Intelligence was no longer part of the Office of Nonproliferation and National Security.

(OUO) The Office of Security Affairs is a part of the Office of Nonproliferation and National Security and [redacted]

[redacted] While working [redacted] that there was also an espionage case going on at LANL. [redacted] did not provide a lot of details but told [redacted] the FBI was investigating the case and did not want the suspect removed from [redacted]

66,700

(OUO) [ ] was not involved in the discussions and decisions involving access to classified information and subsequent [ ] in early 1999. [ ] was involved in those matters.

(OUO) With respect to the [ ]

[ ] on what was discussed at that meeting. Both [ ] said that the [ ] was all in the context of PDD 61 and that this was important for Department management and required a reorganization plan. [ ]

[ ] was discussed at the meeting. There was no discussion at the meeting about [ ] access and clearance at LANL. [ ] that both indicated that [ ] said something about fixing a problem, but that it was in the context of a need to fix the security problems of the Department. [ ] not recall the dates on which [ ] on this issue.

[ ] (U)

(OUO) On [ ]

[ ] was under suspicion of espionage. [ ] did not provide any further details related to the espionage or the FBI's investigation. [ ]

[ ] was still in place at the request of the FBI.

(OUO) [ ] that according to LANL's Technical Management Rules, [ ] access to classified information that [ ] provided a two page copy of a LANL brochure entitled, "Worker Concerns," and a three page copy from the LANL Administrative Manual entitled, "Nondiscrimination, Equal Opportunity and Affirmative Action." [ ] cited sections in both documents that reference discrimination and harassment. [ ]

[ ] might be accused of discrimination. [ ] said it was not clear for a long while what was going on with [ ]

(OUO) [ ] had numerous discussions [ ] could not recall the specific dates on which these discussions occurred. [ ] specific date not recalled, that the [ ]

[ ] discussed [ ] could not recall the date of this discussion. [ ] access and put [ ]

b6, 7cc)

[redacted] in a position where [redacted] any further damage. [redacted] had a difference of opinion regarding which of the codes [redacted] were more important. [redacted]

[redacted] (U)

(OUO) [redacted]

[redacted] that the Department need not keep [redacted] in place for the FBI investigation to continue. [redacted] heard this in a meeting at the FBI from [redacted] could not recall all who were present at this meeting. [redacted] They were the only individuals present from the Department. The other attendees were FBI personnel. [redacted] wanted to discuss with the FBI the status of the FBI case had not been successful.

(OUO) [redacted] that it was [redacted] understanding that at this meeting, [redacted] also learned for the first time what [redacted] access to classified information. Since [redacted] was not part of any discussion on this case [redacted] had no first hand knowledge of what [redacted] might have conveyed to the Department in 1997 regarding [redacted]

(OUO) According to [redacted] aggressively tried to get the case resolved after the meeting in which [redacted] informed them of [redacted] it appeared up to that point the FBI investigation had not produced any evidence of espionage by [redacted] then pushed for a non-confrontational interview and [redacted] in order to resolve the allegations.

**4. Individuals Responsible for Decisions Relating to [redacted] Security Clearance, Access, and Work Assignments (December 24, 1998 - March 8, 1999) (U)**

(U) This section begins with an overview of events from December 24, 1998, to March 8, 1999, and follows with the results of Office of Inspector General interviews with key Department, LANL, and FBI personnel.

**(a) Summary (U)**

(OUO) The Office of Inspector General determined that the decisions to (a) [redacted] with FBI Headquarters and the FBI Albuquerque Field Office and with the knowledge and/or involvement of the following Department and LANL officials:

b(6,7(c))

(b) Interviews (U)

[redacted] (U)

(OUO) As stated previously, [redacted] informed the Office of Inspector General that the FBI's investigation seemed to go back into its "limbo" state.

[redacted] had received a call from [redacted] issue and what could be done. On

(OUO) [redacted] that on [redacted] received a call from [redacted] said that Department Headquarters wanted [redacted]

[redacted] and get the matter resolved. On the same day, [redacted]

[redacted] never obtained access to the area again and was never escorted in.



(OUO) [ ] stated that on February 2, 1999, LANL received a letter from the Albuquerque Operations Office stating that the Department had rescinded its request for temporary reassignment of [ ] and that LANL could put [ ] On February 9, 1999, LANL learned that the FBI had re-evaluated the [ ] and had determined there were indications of deception. [ ]

[ ] clearance. LANL followed up with a letter on February 18, 1999.

(OUO) [ ] the Department [ ]

[ ] was being deceptive because [ ]

[ ] knew that was not correct and questioned [ ]

[ ] was extremely concerned because of [ ]

(U) [ ]

[ ] talked with [ ]

[ ] and voiced [ ]

[ ] and with [ ] regarding [ ]

(U) [ ]

(OUO) [ ] informed the Office of Inspector General [ ]

[ ] but it was not successful. [ ] continued

to push FBI Headquarters to get the case resolved. During late 1998, [ ] learned from FBI Headquarters that [ ]

It appeared that [ ]

[ ] had not known that [ ] had received approval from LANL to go on foreign travel. [ ]

[ ] then decided that upon [ ] should be interviewed and polygraphed. [ ]

coordinated with FBI Headquarters and learned that the FBI was not ready to [ ]

[ ] received approval from the FBI to have the Department conduct the interview and administer the polygraph. [ ] reiterated that up to

this point, there was no evidence that [ ] had committed any crime, that there was only

circumstantial evidence that [ ] might be a suspect among others in this matter. [ ]

also reiterated that at no time did the Department tell the FBI that [ ] was the only suspect in the possible compromise of [ ]

(OUO) [ ]

[ ] that until the time that [ ]

[ ] that could be used to suspend or revoke [ ] security clearance.

When [ ]

FBI investigation of [ ] was continuing but to [ ] knowledge no evidence had been found to substantiate that [ ]

b6, 7(c)

[redacted] (U)

(OUO) [redacted] informed that [redacted] not learn about the issues pertaining to [redacted]

[redacted] attended a meeting at LANL. The meeting involved [redacted]  
[redacted] The meeting pertained to [redacted] not recall that any decisions about [redacted] were made at this time.

(U) [redacted] recalled that there were subsequent meetings with LANL management. These meetings included [redacted] These meetings were predominately about [redacted] and the FBI's involvement in the case.

(OUO) [redacted] recalled a meeting [redacted] During the meeting, [redacted] was on the telephone speaking with a Department employee about the [redacted] was being asked to [redacted] was attempting to obtain assurances that sufficient information existed to take the removal action. [redacted] on a letter from the Department for the removal of [redacted] The meeting and telephone call were subsequently followed-up with a letter from Department Headquarters.

(OUO) [redacted] recalled that [redacted]  
[redacted] It was also discussed that [redacted] access to classified information would be removed, however, [redacted] "Q" clearance badge. [redacted]

(OUO) [redacted] followed this meeting up with a [redacted] The letter was from [redacted] and it requested that the Department suspend [redacted]

(OUO) [redacted] believes that [redacted] speculated that it might have included the [redacted]

(U) [redacted] no knowledge of [redacted] specific assignment while working at LANL, nor the extent of access to classified information.

[redacted] (U)

(OUO) According to [redacted] there was discussion involving the FBI, LANL and [redacted]

b(6,7)(c)

Department officials about asking [redacted] to take a polygraph when [redacted] that from [redacted] in the field, it appeared to [redacted] as if the Department and LANL made the final decision that the Department would administer this polygraph to [redacted] not know at the time that FBI Headquarters officials made a strategic investigative decision in consultation with [redacted] that the initial polygraph would not be conducted by the FBI and that if a second polygraph was needed, the FBI would conduct it.

(OUO) [redacted]

[redacted] and so the FBI planned to interview [redacted] However, once it was known that [redacted] the FBI decided not to interview [redacted] at that time. [redacted]

[redacted] During this time, [redacted]

(OUO) [redacted]

[redacted] that sometime in [redacted]

[redacted] learned this information in February 1999 but was not certain as to the date. [redacted] said that [redacted] had [redacted] who informed [redacted] had contacted one of the employees (name unknown) [redacted] and asked this employee to provide [redacted] containing various documents. [redacted] employee got the box requested by [redacted] became suspicious of its contents. This employee therefore took the box to a derivative classifier who quickly determined that it contained a classified document that had not been marked as such. It was subsequently determined by the FBI that on at least one other occasion [redacted] and requested this person provide [redacted] a book that was in [redacted] did provide this book to [redacted] did not know if [redacted] made any other attempts to obtain documents or other material from [redacted] did not know if the same [redacted] was involved in both incidents, or if different individuals were involved. [redacted] did not know what investigative activity the FBI or LANL counterintelligence officers had taken regarding these incidents.

(OUO) The FBI decided to [redacted] [redacted] who agreed to an interview. The interview was conducted by [redacted]

(OUO) After the results of the initial Department polygraph were analyzed, it was determined that some problems existed and the test was ruled "inconclusive." The decision was made by the FBI to polygraph [redacted] the results were analyzed and [redacted]

b6, 7(c)

[ ] Right around this time, [ ] office was searched. Numerous security violations were noted. The FBI again interviewed [ ]

[ ] that the FBI investigation learned that for at least [ ] about other LANL projects from other LANL employees while outside of the work location. [ ] said the FBI also discovered that [ ] learn from various scientific magazines about certain technical problems that various companies were having in the commercial world. [ ] solve these problems unbeknownst to these companies, by employing classified techniques used on [ ] at LANL. [ ] the solutions were unclassified, and [ ] that the companies involved could possibly work backwards on the unclassified solution to determine the classified process used by [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that in late [ ] The FBI and [ ] very little notice of the trip, and the FBI wanted to know why. [ ] to find out why [ ] had not informed [ ] of the trip. [ ] responded that as a [ ] was approved at the [ ] of the espionage issue. In early [ ]

[ ] matter to provided a greater warning of any upcoming [ ] According to [ ] adequate warning was received. This [ ]

(OUO) [ ] According to [ ]

[ ] It was initially decided that [ ] However, during the [ ]

After that [ ] had been questioned by the two individuals. [ ] said that this is one of the main reasons that [ ]

b6, 7(c)

(OUO) [ ]

[ ] made the decision to transfer [ ]

(OUO) [ ]

assessment on [ ]

[ ] Department and FBI officials did a quality control

[ ] and the decision was made that [ ]

[ ] was aware that [ ]

[ ] had meetings to discuss [ ]

[ ] status in early

1999.

(OUO) [ ]

[ ] recalled two occasions when [ ]

[ ] obtain a box of

information from [ ] old office. [ ]

[ ] did as requested but reviewed the contents of

the box before following through with [ ]

[ ] did

so to ensure that [ ] was not removing classified documents from a secured area into an open space.

[ ] had no knowledge of [ ]

[ ] identified several

documents [ ] believed to be classified. [ ] subsequently consulted with a classifier who confirmed

[ ] assessment. The box was retained and [ ]

(OUO) According to [ ]

[ ] subsequently contacted [ ]

regarding the incident. [ ]

[ ] in turn, notified the FBI. [ ]

coincidentally, the FBI began to [ ]

[ ] does not believe that this was a catalyst for the interviews; however, it was one of the reasons [ ]

(U) [ ] vaguely recalled a second incident. This incident involved [ ] acquisition of some mail. [ ] did not know any other details.

[ ] (U)

(U) As noted above [ ]

[ ] informed the Office of Inspector General that [ ]

(U) [ ] that prior to October 1998, [ ] was unaware of [ ]

comments. [ ] never told [ ] about [ ]

[ ] comments. [ ] said FBI

officials also never shared with [ ]

[ ] comments until October 1998.

(OUO) Upon [ ]

[ ] FBI officials that the

Department would like to conduct a non-confrontational interview and polygraph of the suspect.

b6,7(c)

The FBI agreed and [redacted] FBI officials were present during the polygraph and the FBI was satisfied with the results.

(OUO) According to [redacted] forwarded a copy of the Department's polygraph results to their own officials for quality control. [redacted] was not aware, at the time, that the FBI had done this.

(OUO) In a memorandum dated [redacted] According to the memorandum, the decision to remove [redacted] at that time [redacted] with this course of action, and [redacted]

According to the memorandum, the Department's actions regarding [redacted] were fully coordinated with the FBI's Albuquerque Field Office. The Office of Counterintelligence was to meet with representatives from FBI Headquarters to determine future investigation into this case. It was anticipated that the FBI would make every effort to resolve the investigation within 30 days.

(OUO) According to [redacted] the FBI continued to interview [redacted] over a period of weeks and, as a result, asked the Department in writing not to [redacted]

(OUO) [redacted] that in a memorandum [redacted]

According to the memorandum, [redacted] The memorandum went on to state that [redacted] was subsequently interviewed by the FBI and agreed to future FBI interviews. [redacted] wrote that until the matter was resolved, [redacted] would not be permitted access to [redacted] According to the memorandum, the laboratory was preparing a memorandum to the Albuquerque Operations Office requesting that [redacted] clearance be suspended until the matter was resolved. [redacted] concurred with the proposed action believing that it was in the best interest of the Department. [redacted]

(OUO) [redacted] in the memorandum that the FBI indicated that they believed any adverse administrative action at that time, beyond removal of [redacted] from access to classified information, would have been counter-productive to their investigation. [redacted] asked that the FBI confirm this opinion in writing.

(OUO) In a memorandum [redacted] was briefed on the ongoing FBI investigation of [redacted] Based on information developed during the investigation [redacted] was informed that [redacted] as soon as possible.

b6, 7(c)

(U) According to the memorandum, both the Office of Counterintelligence and the Office of Security Affairs [ ] for the following reasons:

- [ ] did not report this intelligence solicitation to either Security/Counterintelligence personnel or the FBI as required; and,
- (OUO) [ ] relevant counterintelligence questions on polygraph examinations administered by both the Department and FBI.

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ] not have any knowledge of [ ] At that time, [ ] was informed by [ ] that Department Headquarters had concerns with [ ] was unaware who at Headquarters had the concerns with [ ] said it was not discussed what the concerns were, just that there were concerns, and Department Headquarters wanted [ ] was present during this meeting, and they discussed whether or not [ ]

(OUO) [ ] that on or about [ ] Personnel Security File. [ ] said there was no actionable information relating to [ ] background documented.

(OUO) [ ] that to date, [ ] never been briefed as to the concerns regarding [ ] could not recall the specific date, [ ] that in early January 1999, specific date not recalled, [ ]

[ ] where it was stated that the FBI wanted to review the polygraph results conducted by the Department. [ ] that after the review of the Department's polygraph, the FBI conducted another polygraph [ ] nor the date in which [ ]

b6, 700

(OUO) [redacted] that on [redacted] that [redacted] received a letter from [redacted] until an investigation by appropriate agencies was completed. [redacted] in documenting a factual basis.

(OUO) According to [redacted] the memorandum on [redacted] The basis for the [redacted]

(OUO) In a letter dated [redacted] that the Department's Albuquerque Operations Office had directed the immediate suspension of [redacted] Title 10, CFR, Part 710 "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material," pending final resolution of [redacted] continued eligibility. [redacted] to obtain [redacted] access authorization (security clearance badge) and notify the Safeguards and Security Division at the Albuquerque Operations Office when this action was completed.

(OUO) According to [redacted] should have been reassigned to activities not involving access to classified information or special nuclear material. In addition, all requests for [redacted] to have continuing visitor access to other facilities should be canceled.

(OUO) In a letter [redacted] the immediate suspension of [redacted] According to the letter, the basis of the suspension was paragraph (a) of 10 CFR 710.8. [redacted] Department access authorization was suspended until further notice upon [redacted] receipt of the letter.

(OUO) In a memorandum dated [redacted] from [redacted] the authority to process the [redacted] for administrative review based on 10 CFR 710.8, paragraph (a). According to the attachment to this memorandum, the Department possessed information indicating that [redacted] committed, prepared, or attempted to commit, or aided, abetted or conspired with another to commit or attempt to commit any act of sabotage, espionage, treason, terrorism, or sedition. According to the attachment, entitled "Information creating a substantial doubt regarding eligibility for access authorization for [redacted] the bases for the preceding statement included [redacted]



b6,7(c)

[redacted] (U)

(OUO) [redacted] informed the Office of Inspector General that [redacted]

[redacted] was informed [redacted]

[redacted] had received a call from [redacted]

According to [redacted] the call was to inform [redacted] decided to have [redacted] interviewed and polygraphed due to [redacted] informed [redacted] was being requested from the Albuquerque Operations Office to offer a polygraph to [redacted] based on security concerns. [redacted] said those specific concerns were not related to [redacted] that the Albuquerque Operations Office was asked to provide the polygraph because [redacted] had taken the position they could not based on their contract. [redacted] did not know who at [redacted] had made the decision.

(U) [redacted] said that based upon the [redacted]

[redacted] to provide assistance in this matter, if needed. [redacted] and no action was taken.

(OUO) On [redacted] [redacted] to LANL to determine the status of the polygraph. [redacted] telephonically contacted [redacted] to make sure that the Albuquerque Operations Office had the authority to ask [redacted] to take a polygraph based on security concerns. [redacted] could not recall if [redacted] spoke with [redacted] directly, or if [redacted] spoke with [redacted] relayed the information. [redacted] that the Albuquerque Operations Office did have the authority to ask [redacted] to voluntarily submit to a polygraph. [redacted] at approximately 11:00 a.m. that [redacted] had agreed to take a polygraph. [redacted] was not present in the room at the time the polygraph was administered. [redacted] said that during the afternoon of [redacted] a telephone call from [redacted]

(OUO) [redacted] said that on the same day [redacted] later received a call from [redacted] did most of the talking. [redacted] wanted the following regarding [redacted]

[redacted] but wanted the request in writing.

b6, 7(c)

[ ] would not be allowed to return [ ]  
[ ] that written notification would be forwarded on December 23, 1998.

(OUO) On [ ] a letter [ ] referencing the  
Department's request on [ ] the letter [ ] for  
comment prior to finalization. [ ] did not change the content of the letter.

(OUO) On [ ] and  
[ ] the letter was coming. [ ] also sent copies to [ ]  
According to [ ] stated that [ ] an  
unclassified work area.

(OUO) [ ] did not have any further contact or discussions with regard [ ]  
until January 19, 1999. On that date, [ ] to find out  
the status of the [ ] because the 30-day deadline was fast approaching.

(OUO) On [ ] informed [ ] needed  
to speak with [ ] could give direction. On the same day,  
[ ] and advised that it was doubtful the issue would be resolved by  
January 23, 1999, and asked if that would be a problem. [ ]

(OUO) [ ] did not have any other interaction with regard to [ ] until  
[ ] when [ ] participated in a conference call with [ ]  
[ ] said that during the call,  
[ ] stated that in the absence of any new derogatory information, and if there were no  
objections, [ ] said that nobody voiced  
any objections.

(OUO) [ ] stated that as a result of the conference call [ ] a memorandum to  
[ ] could be reassigned to [ ] normal duties. According to a  
memorandum dated [ ]  
administrative reassignment was to be terminated immediately. According to the memorandum,  
[ ] was to return to [ ] normally assigned duties.

(OUO) Sometime between [ ] was informed by [ ] that  
the FBI had reviewed the results of the polygraph administered in December 1998 and had some  
questions regarding [ ]

(OUO) According to [ ]  
had been polygraphed by the FBI.

[ ] Based on this

b6, 7(c)

information [ ] had either [ ] determine if [ ] could not recall  
who [ ] was informed that [ ]  
informed [ ] Also on [ ]  
[ ] office was reviewing [ ]

(OUO) [ ] received a letter from [ ]  
[ ] Based on the request, [ ] the letter to the  
Office of Safeguard and Security who, in turn, issued a memorandum requesting [ ]  
clearance be suspended. [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ]  
sometime around Christmas 1998, while serving as [ ]

wanted [ ] clearance pulled. [ ] personnel  
security file. According to [ ] there was nothing in [ ] file to justify pulling [ ]

(OUO) According to [ ] background  
after [ ] was contacted by [ ] said there was a lot of confusion at the  
time within the counterintelligence community regarding [ ] access and clearance.

[ ] was sent to LANL to interface with [ ]  
The next day, [ ] to LANL to provide whatever  
assistance [ ]

(OUO) According to [ ] wanted someone from the Albuquerque Operations  
Office to polygraph [ ] However, the [ ]  
policy does not allow anyone from [ ]  
[ ] had discussions with [ ] about where to go with the process.

(OUO) On or about [ ] was preparing to have [ ]  
offer a polygraph to [ ] The polygraph would be provided by contractor employees from the  
Department's Office of Nonproliferation and National Security. They intended to first debrief  
[ ] According to [ ]  
[ ] recalled that on or about [ ]

b6, 7(c)

(OUO) [ ] said the FBI requested and was provided a copy [ ]  
The FBI performed a quality review of the results [ ]

(OUO) According to [ ] were dealing directly with [ ]  
[ ] received most of [ ]  
[ ] was never fully briefed by anyone on the [ ]

(OUO) On [ ] paid a courtesy visit to [ ]  
The purpose of the visit was to discuss with [ ] the roles, responsibilities,  
and lessons learned with regard to the [ ] On the afternoon of [ ]  
[ ] participated in a telephone conference call at [ ] The purpose of the  
conference call was to discuss [ ] Also participating in the  
conference call were [ ]

(OUO) [ ] also spoke with [ ] about bringing closure on [ ]

[ ] (U)

(OUO) [ ] that [ ]

[ ] to discuss moving [ ]  
[ ] not recall the date of this meeting. They decided to [ ]

[ ] On or about [ ]  
[ ] At this point, [ ]

(OUO) Some time in late [ ]

(OUO) Regarding [ ] that the Department, not LANL, pulls  
clearances. [ ] was very concerned because [ ] still had a "Q" clearance that allowed  
[ ] access to classified information outside [ ] However, as a precautionary measure,  
[ ] was not to have access to the vault.

b6,7(c)

(OUO) [ ] that on or about [ ]

[ ] Some time after this, [ ] in touch with [ ] participated in an interview of [ ] that was conducted by [ ] The interview was conducted at LANL. Both the [ ] was not happy with [ ] responses to the FBI's questions. [ ] did not think that [ ] was very forthright during the interview. After the interview, [ ] to the FBI and [ ] clearance be pulled.

(OUO) On [ ] be allowed to pick up a box of unclassified personal items from [ ] [ ] were asked to look at [ ] the personal papers contained [ ] that they were classified. [ ] about the classified documents found in [ ]

(OUO) On [ ] [ ] stated they found unmarked classified paper and electronic information "in spades" in [ ] stressed the point that until they determined on [ ] had committed several security violations, LANL had no reason to prevent [ ] a "3" on [ ] ("Q" cleared) and a right to work.

[ ] (U)

(OUO) [ ] stated that in December 1998 (date not recalled), the Department decided to interview and polygraph [ ] According to the Department, [ ] After the interview, the Department pre-polygraph and polygraph chart were sent to FBI headquarters for review. The FBI headquarters polygraph experts (names not recalled) determined that the results of [ ] polygraph were [ ] The FBI polygraphed [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ] initially received a classified briefing about the China issue in mid-1996 while serving as [ ] recalled that during the briefing, it was stated that

Department intelligence had determined that [ ]

[ ] Further, it was briefed that an investigation had been initiated and the Department was working with the FBI. [ ] said that during the briefing it was noted that [ ] had been identified but the name of the suspect was not provided during the briefing. [ ] later learned the identity of the suspect was [ ] did not learn the distinction between [ ]

(OUO) [ ] recalled a discussion [ ] about the espionage investigation of [ ] They discussed the need for the Department to possibly [ ] why the FBI had not obtained a Foreign Intelligence Surveillance Act warrant for [ ] that the FBI attempted but had been unable to get the warrant approved by the Department of Justice. [ ] by the FBI, and they discussed [ ] continued clearance [ ] not recall any details of those discussions.

(OUO) [ ] also discussed the LANL espionage matter with [ ] recalled that they had a general discussion about the possibility of pulling [ ] clearance at [ ] that the FBI was running the official investigation and that if the FBI wanted the Department to pull [ ] clearance, the FBI would ask the Department to take such action.

(OUO) [ ] explained that 10 CFR 710 was the legal authority that governs how the Department handles clearance and access issues in the Department. [ ] that there are several criteria that the Department can use to suspend a clearance and they are described in 10 CFR 710. It was [ ] that the Department probably had cause to suspend [ ] clearance simply because of the FBI espionage investigation, but that the fact [ ] under investigation would not be enough to revoke [ ]

(OUO) [ ] explained that according to 10 CFR 710.10, the local Department Director of Security will submit suspension of clearance matters to the local Department manager, who is the person having the authority to suspend a clearance. [ ] stressed that the local Operations Manager is the only individual who has the authority to suspend a clearance for Department field and contractor personnel.

(OUO) [ ] stated that in any ongoing FBI investigation involving the Department, it would be unprecedented for the Department to suspend a clearance without first consulting with the FBI agents conducting the investigation on the matter. [ ] a clearance would not normally be suspended if it would hurt an ongoing espionage investigation. [ ] felt that in this case,

b6, 7(c)

based on [ ] of the events at the time that had taken place, the risk involving national security was under control based on the actions taken by LANL.

(OUO) [ ] never had any intention of recommending to anyone that [ ] clearance should be suspended. [ ] that this statement was based on the fact that an FBI investigation was underway, the FBI had only circumstantial evidence of espionage against [ ] and no direct evidence; and the FBI [ ] had failed. Based on [ ] clearance. [ ] added that if an individual's clearance is suspended, a series of administrative requirements providing due process to the individual are then set in motion. [ ] said that when this due process procedure begins, the individual is immediately alerted, and any continued ongoing criminal or espionage investigation would be compromised.

(OUO) [ ] stated that [ ] in the newspapers within the past few months that [ ] had purportedly made statements in October 1997 regarding [ ] clearance and continued access to classified information [ ] said that [ ] not know if the Department should have pulled [ ] clearance based on what was stated by [ ] Based on what [ ] clearance and access situation, [ ] that there should have been greater cooperation between the counterintelligence staff at Department Headquarters and the Safeguards and Security Division at the Albuquerque Operations Office.

[ ] (U)

(OUO) [ ] stated that when [ ] about the case in [ ] was to resolve the case as quickly as possible. Through discussions with [ ] to allow Department and LANL to conduct the initial polygraph of [ ] subsequently informed of the Department's decision made on [ ]

(OUO) [ ] a letter dated [ ] to the Department requesting that the Department [ ] as an employee and not terminate [ ] under the FBI investigation. The Department agreed, and [ ] at that time.

(OUO) [ ] stated that continued access to sensitive information was always a critical factor that is addressed in espionage investigations. [ ] that the government agency that was affected by the suspected espionage activity, which is known to the FBI as the "victim agency" has to analyze and determine if continued access to sensitive information represents a threat to national security. [ ] stated that the victim agency must make this decision and the FBI's investigative strategy would be adjusted accordingly. [ ] said that the FBI would prefer

b6,7(c)

a suspect remain in place on a non-alert basis while the investigation is conducted. [redacted] again emphasized that the victim agency always has the last word in these cases and that the FBI prefers the suspect be left in place but does not demand this to happen.

[redacted] (U)

(OUO) [redacted] the Office of Inspector General that [redacted] direct knowledge of matters involving [redacted] and that any information [redacted] had been obtained second-hand through verbal briefings and discussions. [redacted] had no knowledge of issues relating to [redacted] specifically, until late 1998 to early 1999 (e.g. [redacted]). Prior to that time, [redacted] had attended several limited briefings where there were general discussions about Chinese espionage matters. [redacted] first became aware of issues relating to [redacted] access approximately [redacted]

[redacted] (U)

(OUO) [redacted] informed the Office of Inspector General that [redacted] aware that [redacted] was polygraphed by the Department on [redacted] said initial review of this exam revealed that [redacted]. However, upon quality assurance/control review by the Department and FBI polygraph supervisors, it was determined that an additional examination was required to resolve certain concerns. After [redacted] coordinated with the FBI, the FBI conducted the [redacted]

[redacted] The results of [redacted] The results were discussed and coordinated among the FBI, Department Headquarters and Albuquerque Operations Office counterintelligence and management officials, and LANL management and security personnel. As a result, [redacted]

[redacted] that the Department temporarily suspend [redacted] security clearance until the investigation was completed.

(OUO) [redacted] said because [redacted] in the LANL and Department decisions concerning [redacted] access and clearance. After [redacted] in pushing the FBI to complete its investigation of [redacted] in the determination as to whether [redacted] clearance or access should be changed. [redacted] under the impression that [redacted] access to classified information had been limited during the first stages of the FBI investigation. [redacted] that clearance and access were decisions that LANL had to make based upon the requirements of the on-going FBI investigation. [redacted] not know who within the Department should have been involved in any decision making process regarding [redacted] clearance and access determinations. [redacted] that though [redacted] been involved as a



b6, 7(c)

[redacted] on the other side of the investigation. [redacted] might have more information regarding who had authority and responsibility within the Department to make access and clearance decisions regarding [redacted] in this matter.

[redacted] (U)

(OUO) [redacted] informed the Office of Inspector General that [redacted] At that time, [redacted] received a call from [redacted] [redacted] could not recall who made the statement, but it was stated that [redacted] was for the purpose of planning an interview of [redacted]

(OUO) [redacted] that since [redacted] said that during the telephone call, it was determined that after the interview, [redacted] advised that the polygraph was to be administered by [redacted]

(OUO) On [redacted] The meeting was designed to discuss the strategy for interview and polygraph of [redacted]

(OUO) On [redacted] at the conclusion of the interview. [redacted] there were some security concerns and would like for [redacted] According to [redacted] thought polygraphs were intrusive. [redacted] in connection with an FBI investigation. [redacted] had passed that polygraph.

(OUO) [redacted] was introduced to the polygrapher. The polygraph was administered. [redacted] approximately thirty minutes later that during the pre-polygraph brief that [redacted] admitted to making foreign contacts, which [redacted] had not previously reported. [redacted] was debriefed regarding the contact and appropriate questions were asked during the polygraph regarding the contact. [redacted]

[redacted] were present to interview [redacted]

(OUO) On [redacted] recalled that [redacted] and possibly others. [redacted] said it was decided to [redacted] [redacted] said it was further decided to [redacted]

66,700

[ ] as well. [ ] said the transfer was accomplished to allow the FBI time to finish their criminal investigation.

(OUO) On [ ] met with [ ] During the meeting, [ ] to complete their inquiry.

(OUO) [ ] that the FBI interviewed [ ] According to [ ] the interview was a follow-up to the information obtained during the debriefing in December 1998.

(OUO) On [ ] participated in a conference call. [ ] said the participants were [ ] The purpose of the call was to discuss [ ] clearance status. It was decided during the call to return [ ] the intent to [ ] did not voice any objections. [ ] coordinated the decision with [ ]

(OUO) According to [ ] received a call from [ ] received a call [ ] that the FBI Polygraph Division had reviewed [ ]

(OUO) [ ] said that based on the FBI review of the Department's polygraph, the FBI decided to attempt to polygraph [ ] was polygraphed by FBI Headquarters. After the FBI reviewed the polygraph, it was determined that [ ]

(OUO) On [ ] letter to [ ] clearance be suspended. [ ] had made a prior verbal request to [ ] prior to [ ] written request.

(OUO) On [ ] clearance was suspended by the Albuquerque Operations Office. [ ] badge was taken and [ ] re-issued a new badge reflecting no clearance.

(OUO) On [ ] interviewed [ ] that [ ] was present at the request of [ ] and the FBI. [ ] clearance status remained the same.

(OUO) On [ ] was again interviewed by the FBI at the FBI's Santa Fe office. [ ] that during the interview, [ ] cooperation with the FBI.

(OUO) On [ ]

[ ] said this was done after consulting with [ ] and with the full knowledge of the FBI.

[ ] (U)

(OUO) The Office Inspector General interviewed [ ] and reviewed a chronology of events [ ] prepared in connection with KINDRED SPIRIT. The following information was derived from both [ ] interview and chronology.

(OUO) [ ]

[ ] received a call [ ] According to [ ] had received an earlier call from [ ] immediately. [ ] immediate action, so [ ] decided to interview [ ] Apparently, [ ] were to conduct the interview as a debrief upon [ ]

(OUO) According to [ ] wanted Department officials to ask [ ] would be willing to take a polygraph based upon some security concerns. It was decided that [ ]

assist. However, they were not to [ ] immediately and try to [ ]

(OUO) [ ] had a telephone conversation with [ ] later that day. [ ] had not yet returned to work. A decision was made to attempt the interview and polygraph on [ ] said that [ ] had demanded the interview and polygraph be conducted as early as possible. [ ] had learned that they, as [ ]

[ ] to take a polygraph. As a result, someone from the Department's Albuquerque Operations Office needed to request the polygraph. [ ] travel to LANL for the interview/polygraph on [ ] also briefed [ ] informed [ ] plans to go to LANL the following day. [ ] later that afternoon and [ ]

(OUO) On [ ] arrived at LANL at 8:30 a.m. and met with [ ]

[ ] about 9:00 a.m. to 9:30 a.m.

b6, 7(c)

for a debriefing. [ ] could not offer the polygraph until [ ] received permission from Department Headquarters, specifically from [ ] telephonically contacted both [ ] to determine if [ ] could be authorized to [ ] to take the polygraph based on security concerns by the Department's Albuquerque Operations Office. [ ] subsequently [ ] of the approval.

(OUO) [ ] was polygraphed from [ ] mentioned during this time period that in [ ] earlier discussion with [ ] regardless of [ ] did on the polygraph. [ ] if the Department would pull or suspend [ ] clearance so LANL could send [ ] relayed this request to [ ]

(OUO) Upon completion of the [ ] said that [ ] sent to get lunch and return later. At 4:00 p.m., [ ] received a call from [ ] said [ ] and they had asked [ ] if [ ] access for 30 days while the matter was examined. [ ] The access strip on the back of [ ] badge was to be modified and access was to be withdrawn.

(OUO) Sometime between [ ] of the FBI asked [ ] for help in obtaining the polygraph charts and video done by Wackenhut. According to [ ] wanted to review the charts. [ ] and determined that [ ] had given authorization to release the charts which were then in the possession of [ ]

(OUO) On [ ] telephonically contacted [ ] to inquire about [ ] clearance status because the 30 days were about to expire. [ ] was angry that the Department's Albuquerque Operations Office needed to know something immediately. [ ] what was happening. [ ] also wanted to review the FBI interview summary from a [ ]

(OUO) [ ] about [ ] conversation with [ ] asked [ ] to contact [ ] to determine if [ ] with the extension. [ ] that the additional week was acceptable.

(OUO) On [ ] in a conference call [ ] According to [ ] the group that in absence of any new information, [ ] that no one had any new information or objections.

66,700

According to [ ] stated there was no objection by the FBI's Albuquerque Field Office. A letter from [ ] was to be sent that day.

(OUO) On [ ] per [ ] that the FBI wanted to polygraph [ ], who confirmed the FBI did want to re-polygraph [ ]. Reportedly, after the local FBI picked up the polygraph charts from [ ] they were sent to FBI Headquarters and [ ]. The FBI Headquarters review resulted in questions. [ ]

[ ] that the local FBI wanted to polygraph [ ] as quickly as possible, and they hoped to do that during the week of [ ] that [ ] had already told [ ] however, LANL and Department Headquarters had some time as [ ] was completing work in [ ]

(OUO) On [ ] informed [ ] that [ ] agreed to take a polygraph. On [ ] learned from [ ] of the results.

(OUO) At approximately 3:45 p.m. on [ ] was contacted by [ ] indicated that [ ] had just received a call from [ ] regarding the suspension of [ ] clearance in light of the polygraph results. [ ] what was being done

(OUO) According to [ ]

[ ] could review the polygrapher's notes. [ ] said it would probably not be until the following Monday [ ] could review the material. [ ] had been in contact with the local FBI, and they were comfortable with this process.

(OUO) On [ ] spoke with [ ] at the extent and sensitivity of the information possibly divulged by [ ] based on a preliminary review of the notes of the polygrapher. As a result, they wanted [ ] clearance suspended immediately by the Department's Albuquerque Operations Office. However, [ ]

b6, 7(c)

(OUO) Later in the day, at approximately 11:30 a.m., [ ] spoke with [ ]

if clearance suspension would adversely affect the investigation. [ ] advised that the clearance decision was the Department's call, and it would not effect the FBI investigation.

(OUO) On [ ] and requested that LANL write a letter of facts to support clearance suspension. [ ]

[ ] requesting a suspension of [ ] appropriate Personnel Security individuals, [ ] As a result of the letter, [ ]

(OUO) [ ] was interviewed by the FBI on [ ] At the same time an informal search of [ ]

[ ] that were not properly classified. This later became, in part, the basis for [ ]

(OUO) [ ] was interviewed again by FBI personnel on [ ]

chose not to do so. [ ] the FBI

(OUO) On March 8, 1999, a letter from Department Headquarters to LANL recommended that [ ]

(OUO) From 1996 to May 1998, the only reporting requirements for counterintelligence that [ ] was aware of was Department Order 5670.3. According to [ ] that all laboratory counterintelligence personnel should interface directly with [ ] As of [ ]

[ ] To date, no directives have been issued which delineate how or when the Department's Operations Offices are to be notified about counterintelligence-related matters. [ ] has taken the position that if the FBI is involved in an ongoing criminal investigation, the Albuquerque Operations Office will hold in abeyance any action until the FBI notifies them that the criminal investigation has ended.

b6, 7(c)

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that in the [ ] assignment needed to be changed. [ ] assignment was shifted [ ]

[ ] said that in dealing with [ ]

(OUO) In the last week of [ ]

[ ] As listed on the original travel request, [ ] was scheduled to [ ] while on the trip. In addition, a company named [ ]

(OUO) [ ] thought there was a problem with the original travel request because, without prior authorization from both LANL and the Albuquerque Operations Office, [ ] Given the short notice provided by [ ] submission of the travel request, it was impossible to obtain the necessary approvals. Because of this problem, [ ]

(OUO) [ ] in order to discuss it. [ ] shared concerns about [ ] in addition to the short notice of the travel request given the required approval process. [ ] agreed that [ ] to try and get the travel request processed because [ ]

(OUO) One or two days before [ ] LANL Business Operations to confirm the approval process required for [ ] It was determined that paperwork from LANL and the Albuquerque Operations Office was required, which meant that either [ ] could not go on the trip or the travel request would have to be changed. From Business Operations, [ ] explained the situation and asked [ ] if the [ ] said that it could [ ] if [ ] The part about [ ] was subsequently whited-out. [ ] was [ ] not to accept reimbursement for any travel costs. After the changes had been made to the travel request, the request was accepted, and [ ] went on the trip.

b6, 7(c)

(OUO) [redacted] what had happened with the travel request. [redacted] was already aware of the travel request from [redacted] may have talked to [redacted] about the travel. [redacted] seemed okay with the fact that [redacted] went on the trip.

(OUO) [redacted] noted that for most travel, the traveler normally informs his/her Team Leader, but the formal approval occurs at the Group Leader level. [redacted] does not know if [redacted] was aware of [redacted] was not aware of any other trips by [redacted]

(OUO) [redacted]

[redacted] found a note from [redacted] subsequently talked with [redacted] provided further details that [redacted]

(OUO) On one occasion after [redacted]

[redacted] At all other times that [redacted] while somebody physically brought [redacted]

[redacted] (U)

(OUO) [redacted] informed the Office of Inspector General that [redacted] was briefed on the [redacted] matter in the spring of 1998 while serving as [redacted] believes this occurred in either April or May 1998. [redacted] conducted the briefing in [redacted] At this time, [redacted]

[redacted] had already been briefed. [redacted] that there was some concern with [redacted] access. [redacted] was to remain in place and that [redacted] was to do nothing to alert [redacted] of the pending FBI investigation. [redacted] stated that the FBI did not feel that they had a strong enough case to perform a sting operation and that the FBI had tried a few years earlier but had failed. LANL Counterintelligence personnel were working with the FBI. There was no discussion regarding a possible change in [redacted] focus of work. [redacted] was advised to keep them informed of any changes in [redacted] assignments, any travel that [redacted] may take, or meetings/conferences that [redacted] In addition, [redacted] had weekly informal meetings with [redacted] to keep [redacted]

(OUO) [redacted]

[redacted] not provided with the reason for the removal, and [redacted] involved in the decision to [redacted] subsequently informed [redacted] gathered [redacted] belongings into six boxes. [redacted] took several



06, 7(c)

personal notebooks [ ] believed contained technical information about [ ] the [ ]  
The notes in these books were [ ]  
information. Subsequent to [ ]

(OUO) [ ] recalled an incident in which [ ]  
[ ] to provide [ ] The purpose of  
the access was for [ ] access into the area  
based upon [ ] clearance. [ ] that it was unlikely that [ ] had any  
knowledge of the security issues with [ ] Everyone was told that [ ] was on a  
[ ] found out about [ ]

very awkward [ ] that this was  
believed that [ ] believes that both  
of potential access issues. [ ] of helping those people and not as a result  
area again. [ ] not believe that [ ]

[ ] (U)

(OUO) [ ] informed the Office of Inspector General that [ ] involvement regarding decisions made  
about [ ] access and clearance. [ ] involvement pertained to periodic briefings, a  
telephone call, and some limited discussions with Department Headquarters officials.

(OUO) Prior to [ ] In attendance  
were [ ]  
During the meeting, [ ] the  
Department was not doing a very good job with counterintelligence efforts at its laboratories and  
that the FBI was going to be brought in. This meeting was for information only.

(OUO) [ ] received periodic briefings from [ ] informed [ ] of conversations [ ]  
[ ] had  
some awareness that something was happening regarding the [ ] did not know the  
details. [ ] was mostly informed about what the Albuquerque Operations Office was  
being asked to do by Department Headquarters.

(OUO) Sometime in [ ] received a telephone call from [ ] had

b6,7(c)

received a telephone call from someone in the Albuquerque Operations Office (name unknown) informing LANL that they should move [ ]

[ ] subsequently telephoned [ ]

clearance was terminated sometime after this conversation; however, [ ] believe that [ ] "Q" conversation with [ ] was the catalyst for the clearance termination. The purpose of [ ] telephone call to [ ] was to relay the information [ ] had received from [ ] not know the specifics of the issues at hand. [ ] relied upon [ ] employees to properly handle the [ ]

(OUO) Subsequent to the telephone call, [ ] a meeting in [ ] on other matters when [ ] was invited to attend the meeting. The meeting primarily related to foreign visitors and assignments at Department laboratories. During the meeting, [ ] issue to other attendees; however, [ ] understand the specifics of the conversation because of the code. The attendees included Headquarters counterintelligence people and Department Laboratory directors whom [ ] could not recall. [ ] invitation and involvement in this meeting was for general informational purposes only.

(OUO) Also, subsequent to [ ] call from [ ] and asked that [ ] in hand and proceeded to brief [ ] It was only at this point that [ ] began to understand the serious nature of the [ ] managed to raise additional questions in [ ] such as what the FBI was doing with [ ] and why was [ ] being questioned. [ ] could not provide those answers. [ ] and that there was a lack of closure.

(OUO) [ ] recalled that sometime after [ ] received a telephone call from [ ] had a very interesting background. [ ] then referred [ ] to Department Headquarters for a briefing without providing [ ] with any additional information. [ ] was not aware of any Department, LANL, FBI or counterintelligence meetings held regarding the [ ]

(OUO) [ ] that [ ] that it was [ ] to ensure that [ ] was handled properly. [ ] Department staff, LANL employees, the Department's counterintelligence people and the FBI to ensure that this was done. [ ]

[ ] However, [ ] people working on the issue that were far more educated about [ ] complete confidence in the Department people working on the issue. When

b6, 7(c)

Department Headquarters directed the Albuquerque Operations Office to remove [ ] from classified access, the Albuquerque Operations Office did so immediately.

(OUO) [ ] was not directly involved in the termination of [ ] employment or clearance, however, [ ] was made aware of it. [ ] employment was terminated for violating [ ] The violations were based upon what [ ] understands was found during a search of [ ] it was odd that there was a lengthy amount of time between [ ]

(OUO) [ ] did not believe that [ ] received sufficient information from Department counterintelligence or the FBI regarding the [ ] indicated that by the time [ ] became aware of the issue, the FBI, counterintelligence and Albuquerque Operations staff were already aware of it. The Albuquerque Operations Office was already implementing what Department Headquarters and the FBI wanted, and [ ]

(OUO) [ ] that given the environment in which the Counterintelligence Office and the FBI operate, the matter was handled typically. By that, [ ] meant that they typically conduct their investigations and do not provide any information on their progress or findings to the affected office unless they feel it is necessary. In the meantime, the Department stands down because they have referred the matter to the FBI. The Department then provides assistance if requested. According to [ ] this type of arrangement is typical, and [ ] come to expect little more. [ ] contractor or Department Field Counterintelligence personnel typically discussed issues directly with Department Headquarters. [ ] believes that there have likely been a number of issues during [ ] that the FBI or counterintelligence has dealt with and [ ] not known about it. [ ] believes that better coordination with investigative and counterintelligence issues with Department field offices would help to resolve them in a more timely fashion.

[ ] (U)

As the [ ]

in the KINDRED SPIRIT investigation until the Department and LANL administered a polygraph [ ] this polygraph. [ ] that the Department's initial intent in [ ] was to administer this polygraph in Albuquerque in a controlled environment. However, [ ] for the polygraph so it was administered at LANL in what [ ]

(OUO) [ ] was subsequently surprised when [ ] about the prior relationship

b6,7(c)

and contact between [ ]

[ ] subsequently discussed this matter with [ ]

[ ] suggested that [ ]

[ ] and suggested [ ] further discuss [ ] concerns with the FBI. Someone at the FBI Headquarters then reviewed the [ ]

The FBI then administered [ ]

[ ] was asked if the Office of Counterintelligence ever notified the Office of Safeguards and Security about the KINDRED SPIRIT matter. [ ]

[ ] had some interaction, but [ ] did not know if [ ] on the KINDRED SPIRIT matter.

**C. Issue 3: Why [ ] Security Clearance and Access were not Curtailed During this Period (U)**

(OUO) The Office of Inspector General has formulated a number of observations with regard to the facts and circumstances found during the inquiry. These observations serve as possible answers to why [ ] security clearance and access were not curtailed during the period. Additionally, they address issues related to [ ] work assignments within [ ]

(OUO) The inquiry found that from the time [ ] the following occurred with respect to [ ] access, and work assignments:

- (OUO) The status of [ ]

- (OUO) The status of [ ]

- (OUO) The status of [redacted]

(OUO) The inquiry further disclosed that Department and LANL officials took no meaningful action regarding [redacted]

[redacted] It was learned that while temporarily [redacted] facility on one occasion; (2) had a [redacted] and, (3) attempted to have a box of [redacted] documents brought to [redacted] The box was discovered to contain one unmarked classified document and was, therefore, [redacted]

(OUO) We found indicators of inadequate communications at all levels. A misunderstanding of terms relating to "limiting" [redacted] access and "redirection" of [redacted] assignments may have contributed to delays in action, or inaction, by senior managers. Further, several senior level transitions were not structured so as to ensure that incoming Department and LANL officials were fully conversant with ongoing counterintelligence matters, including details of the history and status of [redacted] clearance, access, and work assignments. Finally, senior managers and other key personnel, apparently relying on their advisors or others, did not obtain sufficient confirmation that directed actions had, in fact, been appropriately executed.

(OUO) The inquiry also found indicators of systemic and long-term management deficiencies. The Department's management structure, during the time, was such that many participants contended that they had no direct responsibility for and, therefore, should not be held accountable for, decisions and actions relating to this matter. Additionally, senior officials did not ensure that the positions taken by the Federal Bureau of Investigation, with regard to the suspect's clearance, access and work assignments, were clear and fully understood. Certain senior officials with direct management responsibility for LANL were not aware of, nor did they seek, essential information on [redacted] in this matter and, specifically, on the status of [redacted] clearance and continued access within [redacted] Finally, senior officials with intelligence or counterintelligence responsibilities, who were also aware of the FBI's initial request to leave [redacted] position, may not have adequately reassessed the status of [redacted] access following [redacted] and the change in the FBI's position and, consequently, failed to respond in an appropriate and timely manner.

(U) Analysis during the course of the inquiry revealed that several Department and LANL officials had (1) a degree of responsibility regarding Department intelligence and counterintelligence matters, or programmatic security; (2) a degree of understanding with respect to the status of the FBI's

b(6,7CC)

request to keep [ ] position; and, (3) a certain level of knowledge regarding [ ] clearance, access, or work assignments. These individuals include:<sup>15</sup>

(U) Office of Inspector General has attempted to summarize the key issues, observations, and findings reached during the inquiry. The matters at issue in this report span several years, involve Department of Energy and federal law enforcement decision making at every level, and concern one of the most sensitive allegations of espionage in this Nation's history. As indicated in the report, a number of systemic deficiencies in the Department's organization and structure contributed to the problems noted. With respect to the particular actions of the above named officials, review of the details in the report and exhibits is crucial to a full evaluation of this matter.

---

<sup>15</sup> (U) This list is not intended to convey a hierarchy of responsibility for deficiencies. Rather, it is arranged in the following order: (a) senior Department management at Headquarters; (b) Department program officials at Headquarters; (c) Department field personnel; and (d) LANL personnel.

**VII. LIST OF EXHIBITS (U)**

- Exhibit A - Applicable Statutes, Laws, Procedures, and Guidelines (U)**
- Exhibit B - List of Department and LANL Personnel, with Corresponding Duties and Responsibilities (U)**

### Applicable Guidelines (U)

(U) This document provides a synopsis of statutes, laws, rules, regulations, procedures, and other guidelines pertaining to (1) the U.S. Department of Energy's intelligence and counterintelligence functions, activities and programs, and (2) personnel security and access to classified matters.

#### I. DEPARTMENT OF ENERGY'S (DOE) INTELLIGENCE FUNCTION (U)

(U) A series of statutes and Executive Orders provides legal authority for the conduct of intelligence activities. Key intelligence function documents include: (A) National Security Act of 1947; (B) Atomic Energy Act of 1954; (C) Executive Order 12333; (D) DOE's "Procedures for Intelligence Activities;" and (E) Supplement #5 to the DOE Procedures for Intelligence Activities.

##### A. National Security Act of 1947 (50 U.S.C. 413) (U)

(U) The National Security Act provides the basic organization of the United States national security effort. The Act addresses, in part, the requirement to report intelligence activities to Congressional intelligence committees.

##### B. Atomic Energy Act of 1954 (42 U.S.C. 2271) (U)

(U) The Atomic Energy Act addresses, in part, the investigative jurisdiction for criminal violations of the Act. Section 2271 reads:

(U) The Federal Bureau of Investigation of the Department of Justice shall investigate all alleged or suspected criminal violations of this Act.

##### C. Executive Order 12333 (United States Intelligence Activities), dated December 4, 1981 (U)

(U) Executive Order 12333, provides guidelines for the conduct of intelligence activities and the composition of the Intelligence Community.

(U) As the designated Senior Intelligence Officer (SIO), the Director of the Office of Intelligence, pursuant to Section 1.7 of Executive Order 12333, shall, in part:

1. (U) Report to the Attorney General possible violations of Federal criminal laws by employees and of specified criminal laws by any other person as provided in



procedures agreed upon by the Attorney General, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

2. (U) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation, and,
3. (U) Furnish the Director of Central Intelligence (DCI) and the National Security Council (NSC), in accordance with applicable laws and these Procedures, the information required for the performance of their respective duties.

(U) Additionally, pursuant to Supplement #2 to DOE Procedures for Intelligence Activities, the Director of Intelligence, as the SIO, is responsible for reporting to the Intelligence Oversight Board, the Director of the Central Intelligence Agency, the DOE Inspector General, and the Office of General Counsel, concerning any counterintelligence activities that may be unlawful or contrary to Executive Order 12333 or the DOE Intelligence Procedures.

**D. Department of Energy Procedures for Intelligence Activities, dated October 19, 1992 (U)**

(U) DOE's Procedures for Intelligence Activities (Procedures) were approved by the Attorney General and adopted pursuant to Executive Order 12333.

(U) The Procedures allow DOE Intelligence Components to conduct administrative inquiries and investigations to determine the existence of clandestine relationships, contacts with foreign intelligence services, and other hostile activities directed against DOE facilities.

(U) Pursuant to the Procedures, "As soon as the DOE administrative inquiry or investigation reveals clandestine activity or a relationship with foreign intelligence services, the DOE Intelligence Component must promptly advise the FBI. The FBI will conduct and coordinate all subsequent counterintelligence or criminal investigative activities regarding clandestine activities, suspect relationships or contacts with foreign nationals at DOE facilities. The FBI will determine whether:

1. (U) It will assume responsibility for continuing the investigation, and/or
2. (U) Request that DOE Intelligence Components assist the FBI in collecting additional information..."

(U) Additionally, the Procedures state that the Heads of DOE and DOE contractor elements that constitute or contain Intelligence Components shall in any case involving a breach of security regulations and guidelines by either DOE or non-DOE employees, recommend that the Director of Security Affairs take appropriate investigative action.

(U) The Procedures provide the following reporting requirements:

1. (U) Each employee of a DOE Intelligence Component shall report any questionable activity to the Director of the Office of Intelligence and to either the General Counsel or the Inspector General. The Director of the Office of Intelligence shall report any questionable activity to the General Counsel and the Inspector General.
2. (U) The Heads of DOE and DOE contractor elements that constitute or contain Intelligence Components shall report any questionable activity within the element to either the General Counsel or the Inspector General and to the Director of the Office of Intelligence.
3. (U) The General Counsel and the Inspector General shall promptly report to the President's Intelligence Oversight Board all activities that they have reason to believe may be illegal or contrary to Executive Order, Presidential directive or applicable DOE policy, including these Procedures.

**E. Supplement #5 to the DOE Procedures for Intelligence Activities, dated June 10, 1999 (U)**

(U) Supplement #5 to DOE Procedures for Intelligence Activities announced a reorganization of the Office of Counterintelligence and the Office of Intelligence pursuant to Presidential Decision Directive/NSC-61 (PDD-61), dated February 11, 1998. Pursuant to Supplemental #5, PDD-61 directed the establishment of an independent Office of Counterintelligence reporting directly to the Secretary of Energy and the re-establishment of an independent Office of Intelligence, also reporting directly to the Secretary. Supplement #5 further states that management responsibility for both offices have been delegated by the Secretary to the Deputy Secretary. Supplement #5 states that PDD-61 does not permit this responsibility to be further delegated.

## **II. DOE COUNTERINTELLIGENCE PROGRAM (U)**

(U) Key counterintelligence function documents include: (A) DOE Order 5670.3; (B) Counterintelligence Procedural Guide; (C) Intelligence Authorization Act; and (D) 1992 Memorandum of Understanding between the Federal Bureau of Investigation and Department of Energy; (E) Supplemental Agreement to the University of California Contract for the Management of the Los Alamos National Laboratory.

### **A. DOE Order 5670.3, Counterintelligence Program, dated September 4, 1992 (U)**

(U) The Order states that the Field Office Manager shall designate a Federal employee to serve as a Field Office Counterintelligence Program Manager (CIPM). The Order further states that the CIPM has direct access to the Field Manager for sensitive CI activities or issues. Pursuant to the Order, the CIPM is authorized to conduct inquiries and administrative investigations in the fulfillment of the CI mission. The Order states that when an inquiry or administrative investigation provides reason to believe that there may be a basis for an espionage investigation, the matter will be immediately referred to the Federal Bureau of Investigation.

(U) The Order states, in part, that the Director of Counterintelligence shall:

1. (U) Conduct counterintelligence inquiries and administrative investigations based on indicators of the existence or presence of espionage;
2. (U) Advise Office of Security Affairs and the cognizant Program Secretarial Officer (PSO) of CI investigation or inquiries into matters that might have a potential impact on DOE safeguards and security interests; and
3. (U) Establish and maintain liaison with SA-1 and PSO's to facilitate the exchange and discussion of information regarding CI and/or safeguards and security related activities which may fall within the purview of both offices.

(U) The Order further states that the Director of Security Affairs shall, in part,:

1. (U) Advise the Office of Intelligence of security investigations or inquiries into matters having a potential impact on DOE/CI matters.
2. (U) Administer the program for the conduct of preliminary internal investigations of unlawful disclosures of classified information.

(U) The Order states that the Field Office Counterintelligence Program Manager shall notify the Director of Intelligence within 24 hours of all incidents involving suspected or identified foreign intelligence activities and all incidents involving suspected or identified technical penetrations affecting persons or facilities under their jurisdiction.

**B. Counterintelligence Procedural Guide, dated November 1995 (U)**

(U) The DOE Counterintelligence Procedural Guide (Guide) contains detailed operating procedures for use by the DOE Counterintelligence Organization. The Headquarters Counterintelligence Division has established an operational organization consisting of three major components: the HQ element (HQ/ECI), i.e., Headquarters Energy Counterintelligence Division, which provides oversight, guidance and liaison at the national level; the CI Program Managers (CIPM) who provide oversight guidance at the Operations/Field level; and, the Contractor Counterintelligence Officers (CCIO) who are responsible for CI programs at the local facility level.

(U) The Guide requires that once CI identifies elements of espionage, then the CI office ceases any further inquiry, notifies the FBI, and then provides support to the FBI if requested.

(U) It should be noted that the Guide does not require CI personnel to coordinate CI matters with DOE Office of Safeguards and Security. However, DOE Order 5670.3 which is attached to the Guide, requires coordination between the Director of CI and the Office of Safeguards and Security.

(U) The Guide states that Administrative Inquiries (AI) are conducted to obtain information confirming or refuting allegations or information indicating a DOE contractor or federal employee may be or have been involved in or subject to covert collection of information by a foreign intelligence service. AIs can be conducted by CIPMs, CCIOs, or Energy CI personnel. One of their responsibilities while conducting an AI is to identify indicators of potential espionage. If indicators exist, it is their responsibility to immediately refer the case to the FBI and provide assistance as needed.

**C. Intelligence Authorization Act, "Coordination of Counterintelligence Activities," dated October 14, 1995 (50 U.S.C. 402a) (U)**

(U) Section 811 of the Intelligence Authorization Act requires DOE to immediately advise the FBI of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power.

**D. Memorandum of Understanding between the Federal Bureau of Investigation and the Department of Energy, dated October 7, 1992 (U)**

**Purpose (U)**

The MOU states that its purpose is to define procedures that are mutually acceptable to the FBI and DOE regarding the conduct and coordination of counterintelligence activities and investigations involving DOE programs, facilities, or personnel in the United States. Specifically, the MOU defines DOE's investigative

support to the FBI and provides procedures for coordinating FBI investigations of DOE referrals of alleged or suspected counterintelligence activities.

DOE Assistance to FBI (U)

The MOU states that DOE will assist the FBI foreign counterintelligence investigations and activities to the extent of their authorization under Executive Order 12333 and the Atomic Energy Act of 1954, as amended, by notifying the FBI promptly of information or allegations of counterintelligence significance regarding past or present DOE personnel. The MOU states that this may include, but is not limited to the following:

1. Any statement, conduct or other behavior by present or former DOE personnel, or other individuals about whom DOE obtains information, which indicates that the individual is, or may be, an agent of a foreign power, or a target of a foreign power, or any other entity, foreign or domestic, attempting to illegally obtain classified or sensitive DOE information.
2. Any information or allegation which reasonably indicates that present or former DOE personnel, or other individuals about whom DOE obtains information, have made or have attempted an unauthorized contact with an agent of a foreign power.
3. Any information or allegations regarding the targeting and/or compromise of DOE information and/or facilities by a foreign power or their agents.

The MOU states that when a DOE administrative investigation discloses information or allegations of possible intelligence activity or unauthorized contact on the part of DOE personnel with a foreign power, the matter will be promptly referred to the FBI. It further states that if the FBI declines primary investigative jurisdiction, DOE may elect to continue to pursue necessary leads as appropriate to resolve the allegation or facilitate administrative sanctions.

The MOU states that "This MOU is not intended to affect DOE's authority to conduct administrative investigations or inquiries related to DOE personnel or facilities. While the DOE may take appropriate administrative, disciplinary or other action at any time in connection with a DOE employee whose activities are reported to the FBI, DOE will coordinate with the FBI in advance of any intended action, to avoid prejudicing any ongoing or planned FBI investigative effort or criminal prosecution."

### FBI and DOE Coordination (U)

The MOU states that the point of contact for coordination of referred matters will be the Office of Counterintelligence, DOE, and the Intelligence Division, FBI. The MOU further states that the FBI will "keep DOE informed of pertinent developments in DOE referred cases being investigated by the FBI." The MOU states that following a DOE referral to the FBI, DOE will fully coordinate all future investigations or administrative action related to the referred information with the FBI.

The MOU states that FBI field offices will continue to conduct liaison with DOE field offices and needs and requests for assistance and/or technical services will be conducted at a local level unless circumstances dictate otherwise.

The MOU states that both agencies will mutually exchange information or allegations concerning agents of foreign powers whose conduct indicates an attempt to obtain information regarding DOE personnel, facilities and/or programs. The DOE and the FBI's headquarters and field offices may directly request and receive information of the other regarding foreign powers' intelligence activities directed at DOE.

The MOU states that "In matters of extreme sensitivity, the dissemination of the information within the receiving agency may be subject to restrictions agreed to between the parties."

### **E. University of California Contract to Manage the Los Alamos National Laboratory, dated October 1, 1997 (U)**

(U) A Supplemental Agreement (Supplement) to the University of California Contract for the Management of the Los Alamos National Laboratory became effective October 1, 1997. The Supplement requires the Contractor Counterintelligence Officer to immediately report counterintelligence concerns to the DOE Headquarters Counterintelligence Division [NOTE: The Supplement does not provide specifics on counterintelligence procedures.]

### III. PERSONNEL SECURITY AND ACCESS TO CLASSIFIED MATTERS (U)

(U) Key security function documents include: (A) 10 Code of Federal Regulations 710; (B) DOE Order 472.1B; and (C) DOE Order 471.2A, Information Security Program.

#### A. 10 Code of Federal Regulations, Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material," date July 8, 1994 (U)

(U) The Code of Federal Regulations (CFR) identifies security regulations that pertain, in part, to the: (1) suspension of access authorization; and (2) the responsibilities of the Local Operations Office Director of Security, the Operations Office Manager, and the Director, Office of Safeguards and Security, when information is obtained which may create a question as to an individual's eligibility or continued eligibility for access authorization.

(U) The CFR provides, in part, the following examples of "derogatory" information that may create a question as to an individual's eligibility:

1. (U) Committed, prepared or attempted to commit, or aided, abetted or conspired with another to commit or attempt to commit any act of sabotage, espionage, treason, terrorism or sedition.
2. (U) Failure to protect classified matter or safeguard special nuclear material or violated or disregarded security or safeguards regulations to a degree, which would be inconsistent with the national security.

(U) The CFR states that once derogatory information has been established, the Local Director of Security will authorize an interview of the individual or request other appropriate actions. If the question as to eligibility is not resolved, the Local Director of Security will submit the matter to the Operations Manager (Manager). A decision by the Manager shall be rendered within 10 days of receipt. If the Manager agrees that derogatory information is present and that appropriate attempts to resolve the derogatory information has failed, the Manager shall forward the individual case history to the Director, Office of Safeguards and Security, with a request to conduct an administrative review. If the Manager believes derogatory information has been favorably resolved, then the Manager shall grant access authorization to the individual.

(U) The CFR further provides that following the Manager's decision, the Director, Office of Safeguards and Security, may take one of the following options: (1) authorize the granting of access authorization; (2) began the administrative review process; or (3) take other action as the Director, Office of Safeguards and Security, deems appropriate. The Director, Office of Safeguards and Security, must make one of these options within 30 calendar days of receipt of the case unless an extension is granted.

(U) Pursuant to the CFR, if the question as to the individual's continued eligibility for access authorization is not resolved in favor of the individual, the Local Director of Security will submit the matter to the Manager with a recommendation that the individual's DOE access authorization is suspended pending a final determination. Within two working days of receipt of the recommendation to suspend, the Manager shall review the matter and authorize continuation or suspension of access authorization. The access authorization of an individual shall not be suspended except by the direction of the Manager. This authority may be delegated to the Acting Manager. The Manager shall immediately notify the Director, Office of Safeguards and Security, of the action and the reason(s). The Manager shall also submit a request for authority to conduct an administrative review proceeding within 10 calendar days of the suspension. A duplicate copy of the explanation shall be supplied to the Personnel Security File, and the Director, Office of Safeguards and Security.

(U) The CFR states that upon suspension, the individual, his employer and any other DOE Operations Office or known government agency where the individual holds an access authorization, shall be notified immediately. The notification shall be in writing to the individual and shall specify in general terms the reason(s) why the suspension has been effected. Pending final determination of individual's eligibility, the individual shall not be afforded access to classified matter, special nuclear material, or unescorted access to security areas that require the individual to possess a DOE access authorization. The Manager shall, within 10 calendar days of the suspension date, submit a request for authority to conduct an administrative review proceeding, accompanied by an explanation of its basis.

(U) The CFR states that the Manager shall prepare a notification letter, approved by the local Office of Chief Counsel or the Office of General Counsel for Headquarters cases, for delivery to the individual within 30 days. The letter shall provide, in part, that: (1) reliable information has created a substantial doubt concerning the individual's eligibility for access authorization; and (2) eligibility can be regained either by the Manager based on information in the case file, or by personal appearance before a Hearing Officer.

**B. DOE Order 472.1B, Personnel Security Activities, dated March 24, 1997 (U)**

(U) The Order states, in part, that the Head of Headquarters Elements shall provide written notification to the Director of Safeguards and Security of the condition within two working days of becoming aware of derogatory information.

(U) The Director of Security Affairs renders final determinations to grant or deny, reinstate or revoke DOE access authorization under 10 CFR 710.

(U) Attachment 1 to DOE Order 472.1B (Attachment) prescribes requirements, restrictions, and other procedures necessary for DOE contractors with regard to personnel security activities. The Attachment states, in part, that contract officials are to verbally notify DOE officials followed by a written notification within 10 working days of when



made aware of information of personnel security interest. The information must be characterized as reliable and relevant and create a question as to the individual's access authorization eligibility as exemplified in 10 CFR 710.

(U) The Attachment states that the cognizant DOE office shall notify the contractor in writing when an employee's access authorization is suspended or denied. Upon receipt of such notification, the contractor is responsible for ensuring that the individual is precluded from access to classified matters.

**C. DOE Order O 471.2A, Information Security Program, dated March 27, 1997 (U)**

(U) The Order establishes an Information Security Program for protection and control of sensitive information. The Order requires the Director of Energy Intelligence to coordinate with the Office of Security Affairs concerning security issues, to include espionage and possible or potential compromise of intelligence-related information.

**List of Personnel, with Corresponding Duties and Responsibilities**

This document lists individuals from the U.S. Department of Energy (Department) and Los Alamos National Laboratory (LANL) involved in the key events outlined in Office of Inspector General inquiry I99HQ010. Positions, titles, and general duty descriptions were obtained during interviews with these officials and a review of selected personnel records, and cover the period May 1996 to March 1999.

**L U.S. DEPARTMENT OF ENERGY HEADQUARTERS**

b6,7(c)

Duties: [

Duties: [

<sup>1</sup> An April 1, 1998, reorganization changed NN-35 to the Office of Counterintelligence (CN-1).

b6,7(c)

┌  
└

┐  
└

└

Duties as ┌

┐

Duties as ┌

┐

┌

┐

┌  
└  
Duties┐

┐  
└  
┐

┐  
└  
Duties as┐

┐  
└

┐

Duties as

b6, 7(c)

[  
Duties: [

]

]

[  
Duties:  
Duties: [

]

]

]

b6, 7(c)

Duties as

Duties as

Duties as

Duties as [

b6, 7c

[ ] ]

Duties: [

[ ] ]  
[ ] ]  
[ ] ]

Duties: [

[ ] ]  
[ ] ]

Duties: [

b(6,7(c))

[ ]

L ]

Duties: [

[ ]

L  
Duties: [

] ]  
 ]  
 ]

]



b6, 7(c)

[ ]  
[ ]  
[ ]

] ]

Duties: [ ]

[ ]  
[ ]

]

Duties as [ ]

]

Duties as [ ]

]

[ ]  
[ ]

]

<sup>2</sup> An April 1, 1998, reorganization changed [ ]

] ]

[ ]

] Office

Duties: [ ]

] ]

**II. U.S. DEPARTMENT OF ENERGY, ALBUQUERQUE OPERATIONS OFFICE**

[ ]

] ]

[ ]

] ]

Duties as [ ]

Duties as [ ]

] ]

[ ]

] ]

] ]

[ ]

] ]

b6, 7(c)

Duties as [

]

Duties as [

]

[  
[

]

]

Duties as [

]

Duties as [

]

]

b6, 7(c)

[

]

[

]

[

]

• Note: [

Duties: [

]

]

b6, 7(C)

[ ]

[  
Duties: [

III. U.S. DEPARTMENT OF ENERGY, LOS ALAMOS NATIONAL LABORATORY (LANL)

[

[  
Duties: [

[ ] ]

[  
Duties as [

[ ] ]

b6, 7(c)

Duties: [

[ ]

]

[

]

Duties: [

[

]

Duties: [

[

]

[

Duties as [

]

]

b6, 7(c)

Duties in the Office of Energy Intelligence: [

[ ]

[

Duties: [

Duties: [

]

[

[

]

b(6,7)(c)

[

]

Duties: [

]

Duties: [

]

[ ]

[

]

Duties: [

]

[ ]

[

]

Duties: [

]



b(6,7)(c)

[ ]

[  
Duties: [

[ ]

[  
Duties: [

[  
Duties: [

]