



# SOCIAL SECURITY

The Commissioner

January 21, 2015

Ms. Carolyn N. Lerner  
Special Counsel  
U.S. Office of Special Counsel  
1730 M Street, NW, Suite 300  
Washington, DC 20036-4505

Dear Ms. Lerner:

Thank you for your September 3, 2014 letter in which you requested the Social Security Administration (SSA or agency) conduct an investigation and prepare a report regarding allegations of National Hearing Center (NHC) Senior Case Technician Jason Smeltzer. We take our responsibility to the public we serve very seriously, and appreciate your concern and patience while we undertook this review.

Mr. Smeltzer alleged that the agency may have violated 5 U.S.C. § 1213 (i.e., provisions relating to violations of law, gross mismanagement, and waste of funds). More specifically, Mr. Smeltzer sought an investigation into whether:

- NHC employees in Albuquerque, New Mexico are improperly releasing claimant information and records over the telephone in violation of SSA policies and Federal regulations.

The Code of Federal Regulations (CFR) and Program Operations Manual System (POMS) outline the requirements for requesting and releasing information and records maintained by our agency, including specific requirements for verifying the identity of requestors and the claimant or beneficiary of record over the telephone. Our procedures require employees to ask callers for six items of information before providing account information to the caller. See 20 CFR § 401.45(b) (2) and POMS GN 03360.005(A)(1)(a) through POMS GN03360.005(A)(1)(c) [www.secure.ssa.gov/apps10/poms.nsf/lnx/0203360005](http://www.secure.ssa.gov/apps10/poms.nsf/lnx/0203360005).

Mr. Smeltzer alleges that agency employees improperly disclosed personal information at the Albuquerque NHC since 2010. He contends that because of his office's layout, he is able to hear and observe other case technicians and attorneys handling telephone requests, and employees regularly release information to telephone callers after obtaining only the caller's name and Social Security number. Mr. Smeltzer contends that agency employees have violated the above-referenced law and agency policy.

In response to your request, I asked our Office of the Inspector General (OIG) to complete an independent investigation into Mr. Smeltzer's concerns. As part of the investigation, OIG interviewed Mr. Smeltzer and other agency employees regarding his allegations. OIG also collected and reviewed documents related to Mr. Smeltzer's claims.

After completing its investigation, OIG issued the attached Report of Investigation (ROI) and investigative summary dated November 24, 2014. I have reviewed the ROI, agree with and approve its findings, and designate it and its accompanying exhibits as the agency's investigation of this matter.

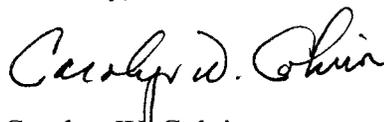
In summary, the agency finds as follows:

- Mr. Smeltzer did not present any proof or corroborating evidence to support his claim that employees were improperly handling phone inquiries;
- Neither Mr. Smeltzer nor any witnesses were aware of any complaints or concerns about the possible loss of personally identifiable information because of not following phone procedures. Note that Mr. Smeltzer maintained that loss was *likely*, but he was unable to provide any claimant names or other identifying information to support the allegation.
- The witnesses interviewed followed appropriate procedures for obtaining necessary information from telephone callers.
- Mr. Smeltzer's former supervisor, Sharon Rogers, responded to Mr. Smeltzer's prior complaints about improper phone call procedures by sending two emails reminding employees of proper procedures for handling phone inquiries.
- Ms. Rogers provided the reminders to address Mr. Smeltzer's concerns, but she had no evidence that any employees had not followed proper procedures.

The investigation into Mr. Smeltzer's allegations did not reveal any agency conduct or practices in violation of law, rule, or regulation. Based on OIG's investigatory findings, I do not believe further action or a change in agency procedure is warranted.

If you have further questions, please do not hesitate to contact me or have your staff contact Dane Choe in our Office of the General Counsel, at (410) 965-9467.

Sincerely,



Carolyn W. Colvin  
Acting Commissioner



Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: November 24, 2014

Refer To: OSC File No. DI-14-3174

To: David Black  
General Counsel  
Social Security Administration

From: /s/ Michael Robinson  
Assistant Inspector General for Investigations  
Office of the Inspector General, Office of Investigations

Subject: Whistleblower Case – ELP-15-00002-D (OSC File No. DI-14-3174)

**CONFIDENTIAL**

The Social Security Administration, Office of the Inspector General, Office of Investigations (SSA/OIG/OI) Dallas Field Division has completed the investigation into the whistleblower allegations at the SSA/ODAR, National Hearing Center, Albuquerque, NM.

**BACKGROUND**

On September 3, 2014, the Honorable Carolyn N. Lerner, Special Counsel, Office of Special Counsel (OSC), referred a whistleblower disclosure to the Honorable Carolyn W. Colvin, Acting Commissioner of the Social Security Administration (SSA). The referral alleged that employees of the SSA, Office of Disability Adjudication and Review (ODAR), Office of the Chief Administrative Law Judge (OCALJ), National Hearing Center (NHC), Albuquerque NHC, might have engaged in a violation of law, rule, or regulation and abuse of authority. According to the information received, Jason Smeltzer, an SSA Case Technician/Legal Assistant in the Albuquerque NHC, made these allegations.

The OSC requested that the SSA investigate the whistleblower's allegation and report the findings to the OSC within 60 days of the Agency's receipt of the OSC referral letter. Specifically, the OSC requested investigation of the following allegation:

- *National Hearing Center employees are improperly releasing claimant information and records over the telephone in violation of SSA policies and federal regulations.*

The SSA, Office of General Counsel (OGC) requested that the OIG conduct an investigation into the allegation. On October 16, 2014, the OI Dallas Field Division, El Paso office, received the

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whistleblower allegation asserting that the staff and management of the NHC located in Albuquerque, NM, was violating disclosure policy via the telephone, which would violate 20 CFR § 401.45 and POMS GN 03360.005.

## FINDINGS

On October 22, 2014, the OIG interviewed Mr. Smeltzer along with Legal Assistant Diana Whay, Case Manager Sam Woodward and Legal Assistant Bryan Younkin. Mr. Smeltzer previously provided these names to the OIG as potential witnesses. In addition, Acting Chief Administrative Law Judge (CALJ) Barry Robinson and Former Chief ALJ Raul Pardo were interviewed. Sharon Rogers, Mr. Smeltzer's former supervisor, was interviewed on October 23, 2014.<sup>1</sup>

Mr. Smeltzer indicated that because of the configuration in the NHC, he is able to hear and observe other case technicians and attorneys servicing telephone requests and alleged that employees regularly release information to claimants over the telephone after only obtaining the caller's name and SSN, rather than obtaining all six items of information required to verify their identity.

During Mr. Smeltzer's interview, he did not present proof or corroborating evidence to support his allegations. In addition, neither Mr. Smeltzer, nor any of the witnesses interviewed, were aware of any complaints of possible loss of PII or unauthorized disclosure of personally identifiable information (PII). Mr. Smeltzer asserted that there was a *likely* loss of PII but could not provide any specific claimant names or other information to substantiate the allegation. The only evidence Mr. Smeltzer provided during the interview was that in his opinion, when he overheard NHC employee telephone conversations with claimants, the proper telephone identification verification protocol was not followed.

The witnesses interviewed outlined their procedures, which varied, for identifying claimants on the telephone; however, each had a protocol they followed depending on the information being sought from the caller.<sup>2</sup>

Further, Mr. Smeltzer's former supervisor, Sharon Rogers, provided two emails that she sent to employees as reminders of protocol, based on Mr. Smeltzer's complaints. Ms. Rogers advised that she did this in response to his complaint, not because she believed that employees were acting outside of policy.

Along with this memorandum, you will find copies of the OIG Reports of Investigation and supporting documents. While the information contained in this document is sensitive, please do

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<sup>1</sup> Reports of Investigations documenting the witness interviews are attached.

<sup>2</sup> See attached Reports of Investigation for more information regarding the employees' allegations regarding Smeltzer.

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not feel constrained with regard to its use for legitimate Agency purposes. In light of the sensitive nature of this information, I suggest that you maintain a list of those SSA officials to whom this information is disseminated.

If you should have any additional questions regarding this investigation, please contact me at (410) 965-8240.

Cc: Chad Bungard, Counsel to the Inspector General

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U.S. OFFICE OF SPECIAL COUNSEL  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

The Special Counsel

September 3, 2014

The Honorable Carolyn W. Colvin  
Acting Commissioner  
Social Security Administration  
6401 Security Boulevard, Suite 300  
Baltimore, MD 21235

Re: OSC File No. DI-14-3174

Dear Acting Commissioner Colvin:

Pursuant to my responsibilities as Special Counsel, I am referring to you for investigation a whistleblower disclosure that employees at the Social Security Administration (SSA), Office of Disability Adjudication and Review, National Hearing Center in Albuquerque, New Mexico, are engaged in conduct that may constitute a violation of law, rule, or regulation and an abuse of authority. I received this allegation from Jason Smeltzer, a senior case technician at the National Hearing Center, who consented to the release of his name.

In brief, the allegation to be investigated is as follows:

- National Hearing Center employees are improperly releasing claimant information and records over the telephone in violation of SSA policies and federal regulations.

#### Background

The Code of Federal Regulations (CFR) and SSA Program Operations Manual System (POMS) outline requirements for requesting and releasing information and records maintained by SSA, including specific requirements for verifying the identity of requestors and the claimant/beneficiary of record over the telephone. See 20 CFR § 401.45 and POMS GN 03360.005. It is stated in both the CFR and POMS that medical records are not to be released over the telephone. 20 CFR § 401.45(b)(2) and POMS GN 03360.005(a)(1)(A). Other information and records may be released over the telephone if the individual requesting the information is the claimant/beneficiary of record or has been authorized by the claimant/beneficiary of record to access the information. Employees are required to ask the caller for specific information to establish the identity of the claimant/beneficiary of record: the individual's name, Social Security number, complete

The Special Counsel

Acting Commissioner Carolyn W. Colvin

September 3, 2014

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mailing address, date of birth, place of birth, and at least one other item of information available in the system of records. POMS GN 03360.005(A)(1)(c). If the individual requesting access to information is not the claimant/beneficiary of record, additional information must be provided to verify the identity of the requestor and determine whether they are entitled to receive the information or records requested. POMS GN 03360.005(B).

Mr. Smeltzer alleges that employees at the National Hearing Center are improperly releasing information and records to individuals making requests by telephone. He indicated that because of the layout in the National Hearing Center, he is able to hear and observe other case technicians and attorneys handling telephone requests. He alleges that employees regularly release information to claimants over the telephone after only obtaining their name and Social Security number, rather than obtaining all six items of information required to verify their identity. In addition, he observed employees release information to third parties, such as claimants' spouses, without properly determining they have been authorized by the claimant to receive information and without obtaining all six items of information required to verify the claimant's identity. Further, Mr. Smeltzer alleged he witnessed employees improperly fax medical records to individuals who request them solely via the telephone. This conduct is in violation of 20 CFR § 401.45 and POMS GN 03360.005, and jeopardizes both the privacy and security of individuals' records maintained by SSA.

Mr. Smeltzer indicated that the improper disclosure practices have been ongoing at the National Hearing Center since he started working there in 2010, and he reported his concerns to his supervisor on numerous occasions. Mr. Smeltzer last noted his concerns about these practices in an October 2013 e-mail to Supervisory Case Manager Shannon Rogers. Because of the negative response he received in response to his e-mail, he has not raised the issue with management since that time. See OSC Exhibit No. 1.

\* \* \* \* \*

The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if I determine that there is a substantial likelihood that one of the aforementioned conditions exists, I am required to advise the appropriate agency head of my determination, and the agency head is required to conduct an investigation of the allegations and submit a written report within sixty days of your receipt of the allegations. 5 U.S.C. § 1213(c)

The Special Counsel

Acting Commissioner Carolyn W. Colvin  
September 3, 2014  
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Upon receipt, I will review the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). I will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

In this case, I have determined that there is a substantial likelihood that the information the whistleblower provided to OSC discloses a violation of law, rule, or regulation and an abuse of authority. I am referring this information to you for an investigation of these allegations and a report of your findings within 60 days of your receipt of this letter. OSC will not routinely grant an extension of time to an agency in conducting a whistleblower disclosure investigation. However, OSC will consider an extension request where an agency concretely evidences that it is conducting a good faith investigation that will require more time to successfully complete. By law, this report should be reviewed and signed by you personally. Nevertheless, should you delegate your authority to review and sign the report to the Inspector General, or other agency official, the delegation must be specifically stated and must include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5). The requirements of the report are set forth at 5 U.S.C. § 1213(e) and (d). A summary of section 1213(d) is enclosed. Please note that where specific violations of law, rule, or regulation are identified, these references are not intended to be exclusive. As you conduct your review of these disclosures and prepare your report, OSC requests that you include information reflecting any dollar savings, or projected savings, and any management initiatives related to these cost savings, that may result from your review.

As a matter of policy, OSC also requires that your investigators interview Mr. Smeltzer at the beginning of the agency investigation when, as in this case, the whistleblower consents to the disclosure of his name. As the originator of the complaint, Mr. Smeltzer can provide additional information and an explanation of his allegations, thereby streamlining the agency investigation.

At the outset, or during the course of your investigation, your investigative team may have questions regarding the statutorily mandated report you will deliver to OSC under 5 U.S.C. § 1213. OSC attorneys are available at any time in person or by telephone to discuss OSC's statutory process, expectations for credible, consistent, and complete reports, and for general assistance. Please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 254-3604 to initiate this process.

Further, in some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to 5 U.S.C. § 1213 allege retaliation once the agency is on notice of their claims. I urge you to take all appropriate measures to ensure that those

The Special Counsel

Acting Commissioner Carolyn W. Colvin

September 3, 2014

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who report wrongdoing, are suspected of reporting wrongdoing, or who take part in investigations of alleged wrongdoing are protected from such retaliation and from other prohibited personnel practices. I also urge you to inform those charged with investigation of the allegations that retaliation is unlawful and will not be tolerated.

As required by 5 U.S.C. § 1213(e)(3), I will send copies of the report, along with any comments on the report from the whistleblowers and any comments or recommendations from me, to the President and the appropriate oversight committees in the Senate and House of Representatives. Unless the report is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, OSC will place a copy of the report in a public file in accordance with 5 U.S.C. § 1219(a). To prevent public disclosure of personally identifiable information (PII), OSC requests that you ensure that the report does not contain any sensitive PII, such as Social Security numbers, home addresses and phone numbers, personal e-mail addresses, dates and places of birth, and personal financial information. OSC does not consider names and titles to be sensitive PII requiring redaction. Agencies are requested not to redact such information in reports provided to OSC for the public file.

Please refer to our file numbers in any correspondence on these matters. If you need further information, please contact Ms. McMullen. I am also available for any questions you may have.

Sincerely,



Carolyn N. Lerner

Enclosures

cc: The Honorable Patrick P. O'Carroll, Inspector General

Enclosure

Requirements of 5 U.S.C. § 1213(d)

Any report required under subsection (c) shall be reviewed and signed by the head of the agency<sup>1</sup> and shall include:

- (1) a summary of the information with respect to which the investigation was initiated;
- (2) a description of the conduct of the investigation;
- (3) a summary of any evidence obtained from the investigation;
- (4) a listing of any violation or apparent violation of law, rule, or regulation; and
- (5) a description of any action taken or planned as a result of the investigation, such as:
  - (A) changes in agency rules, regulations or practices;
  - (B) the restoration of any aggrieved employee;
  - (C) disciplinary action against any employee; and
  - (D) referral to the Attorney General of any evidence of criminal violation.

In addition, we are interested in learning of any dollar savings, or projected savings, and any management initiatives that may result from this review.

To prevent public disclosure of personally identifiable information (PII), OSC requests that you ensure that the report does not contain any sensitive PII, such as Social Security numbers, home addresses and phone numbers, personal e-mail addresses, dates and places of birth, and personal financial information. With the exception of patient names, OSC does not consider names and titles to be sensitive PII requiring redaction. Agencies are requested not to redact such information in reports provided to OSC for inclusion in the public file.

<sup>1</sup> Should you decide to delegate authority to another official to review and sign the report, your delegation must be specifically stated.

Oliver, Johanna

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From: Smeltzer, Jason <Jason.Smeltzer@ssa.gov>  
Sent: Thursday, August 14, 2014 12:14 PM  
To: Oliver, Johanna  
Subject: RE: OSC File No. DI-14-3174

Good morning Johanna,

I apologize for the delay, the email I sent while we were on the phone was held because it contained the claimant's info. I sanitized the email and have included the transcript below. Thank you again for your time and consideration.

Most Respectfully,

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

:::See Below:::

-  
-  
-  
-

From: Smeltzer, Jason  
Sent: Thursday, October 17, 2013 1:09 PM  
To: Rogers, Shannon  
Subject: RE: VE for Green Bay

Shannon,

I will make the changes. However, I want it to be stated that I formally object to the alteration of US Government/Social Security files without **written consent** from the citizen/claimant. I do not believe that it is legally correct to alter a government system without proper access and disclosure permissions. I want it noted in my 7B that I object to management directives that conflict with PII laws, and agency access/disclosure requirements. I disagree with Judge Robinson's interpretation. The agency's access and disclosure policies **specifically state that written consent is required**. Entering onto the record, (as far as the CFR, HALLEX, and policy-net are concerned), is not enough to grant a third party unlimited access and disclosure rights to a claimant's record. Consider the same situation with an attorney/non attorney representative. We could not alter the case without a 1696. Again I request that further guidance be obtained from Margaret Lee or another MSS. Furthermore, I believe education and training in proper access and disclosure is necessary in the ABQNHHC.

v/r

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

Access/Disclosure

<http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

Ex Parte Communications:

<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

Post Hearing Evidence:

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-5/51-post-hearing-development/>

**From:** Rogers, Shannon  
**Sent:** Thursday, October 17, 2013 12:44 PM  
**To:** Smeltzer, Jason  
**Subject:** RE: VE for Green Bay

Not a bother. I've attached an email I received from Judge Robinson regarding the disclosure issue.

I've also added my ROC with Mr. L to the file.

**From:** Smeltzer, Jason  
**Sent:** Thursday, October 17, 2013 9:38 AM  
**To:** Rogers, Shannon  
**Subject:** RE: VE for Green Bay

Sorry to be a bother,

However, upon reviewing the correspondence with Mr. L and referencing the access and disclosure policies; I'm not certain that updating the file would even be legally correct. Mr. L is not an authorized representative nor is anything on the SSID or MBR indicating the claimant has authorized Mr. L to act on his behalf. Would you please check with our MSS (if we have one) and get back to me on this one? Thanks again!

Jason

Access/Disclosure

<http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

Ex Parte Communications:

<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

Post Hearing Evidence:

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-5/51-post-hearing-development/>

**From:** Rogers, Shannon  
**Sent:** Thursday, October 17, 2013 8:51 AM  
**To:** Smeltzer, Jason  
**Subject:** RE: VE for Green Bay

Good morning Jason:

Yesterday, I began reviewing scheduled hearings for November and noticed that [Name Removed] is still on the docket for hearings on 11/19-21. Did he change plans and decide to stay scheduled as the VE? Please let me know the status on this so we can begin making other arrangements, if needed. Please note, on August 5<sup>th</sup>, Diana indicated that [Name Removed] would be available on 11/20 and she provided you with a list of VEs she regularly works with. Maybe [Name Removed] is still available? See attached.

I noted some other cases that require your attention to further develop the record.

- I spoke with Mr. L who informed me that he did receive a voicemail from you and returned your call, also leaving a voicemail. In Mr. L's voicemail he stated he provided one source with an address, as Ms. V didn't have any other sources to provide: Brown County Outpatient, 3150 Gershwin Dr., GB, WI 54311. Mr. L also provided a current address for the claimant because the one we have in CPMS goes to her *old* house where her *ex-husband* lives. Her new address is: [REDACTED] Mr. L said the phone number listed as the claimant's is his and can stay the same. He is also asking what MER we have for the claimant. Please move this case back to POST and initiate the MER request to Brown County Outpatient. Again, the 827 is expired.

Please let me know if you have any questions

Thanks,  
Shannon

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**From:** Smeltzer, Jason  
**Sent:** Friday, September 20, 2013 3:54 PM  
**To:** Rogers, Shannon  
**Subject:** RE: POST

Shannon,

Unfortunately, Mr. L has not contacted us with the MER information yet. The post hearing instructions indicated that Mr. L, (the Social Worker), and the claimant would be contacting us with the information. Just to follow up I did leave a message with the Social Worker and placed a ROC in the file. Per EBP Section 5.1 (J)(2) I will be sending a close out letter if the claimant/Social worker fails to provide us with the information we require to request the additional MER. I do have a concern about providing Mr. L with the claimants medical record information. This situation presents an access/disclosure issue because the Social Worker is not specifically authorized to request information that would affect the claimant's Social Security claim without the claimant present. I'm hoping that Mr. L has something signed by the claimant with the MER sources as instructed by ALJ 2998.

Thanks

Jason

References:

Access/Disclosure

<http://dsef-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

Ex Parte Communications:

<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

Post Hearing Evidence:

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-5/51-post-hearing-development/>

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**From:** Rogers, Shannon  
**Sent:** Friday, September 20, 2013 3:11 PM  
**To:** Smeltzer, Jason  
**Subject:** POST

Good afternoon Jason:

Have you been able to make contact with the claimant's social worker for this case, [SSN REMOVED] ? If so, please add a CPMS remark and include the phone number you called.

Thank you,

*Shannon Rogers*  
Supervisory Case Manager  
SSA ODAR ABQ NHC  
201 3rd Street NW, Ste. 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax

ROI EXH. 1

Office of the Inspector General  
Office of Investigations  
Social Security Administration

REPORT OF INVESTIGATION

**TITLE OF CASE:** unknown

**CASE NUMBER:** ELP1500002D

**PROGRAM CATEGORY:** 938 - OCIG WHISTLEBLOWER

**PERIOD COVERED:** 10/10/2014 TO: 10/16/2014

**RELATED CASE NUMBERS:** N/A

**REPORTED BY:** BIANCA MENDEZ

**FIELD DIVISION:** DALLAS

**OFFICE:** EL PASO

**STATUS OF CASE:** INITIAL REPORT

**SYNOPSIS:**

Albuquerque, NM SSA National Hearing Center Legal Assistant Jason Smeltzer alleged that the SSA Office of Disability Adjudication and Review (ODAR) National Hearing Center (NHC) employees are improperly releasing claimant information and records over the telephone in violation of SSA policies and federal regulations. Smeltzer believes that NHC management may attempt to retaliate against him as a result of his allegations.

**ALLEGATION OR REFERENCE TO MOST RECENT REPORT:**

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This case was opened based on SSA/OIG Office of Counsel to the Inspector General (OCIG) whistleblower allegation D15000233, submitted by SSA/OIG, Criminal Investigations Division (CID) Special Agent (SA) David Voland, Baltimore, Maryland, on or about October 16, 2014. The Allegation was created based on information provided by Confidential Source (CS) - 201535665. CS 201535665 was later identified as SSA NHC Senior Case Technician/Legal Assistant Jason Smeltzer and Smeltzer authorized his name to be released as part of the SSA/OIG official investigation. Smeltzer alleged that the SSA ODAR NHC employees are improperly releasing claimant information and records over the telephone in violation of SSA policies and federal regulations.

## **INVESTIGATIVE ACTIVITY:**

### **BACKGROUND**

According to the U.S. Office of Special Counsel, Washington, D.C., the Code of Federal Regulations (CFR) and SSA Program Operations Manual System (POMS) outlines requirements for requesting and releasing information and records maintained by the SSA, including specific requirements for verifying the identity of requesters and the claimant/beneficiary of record via telephone (reference 20 CFR § 401.45 and POMS GN 03360.005). Both the CFR and POMS reflect medical records are not to be released via telephone. Other information and records may be released via telephone if the individual requesting the information is the claimant/beneficiary of record or has been authorized by the claimant/beneficiary of record to access the information. Employees are required to ask the caller for specific information to establish the identity of the claimant/beneficiary: The individual's name, SSN, complete mailing address, date of birth, place of birth, and at least one other item of information available in the system of records (POMS GN 03360.005(A)(1)(c)). If the individual requesting access to information is not the claimant/beneficiary of record, additional information must be provided to verify the identity of the requester and determine whether they are entitled to receive the information or records requested (POMS GN 0336.005-B).

Smeltzer alleged that NHC employees were improperly releasing information and records to individuals making requests via telephone. Smeltzer indicated that because of the configuration in the NHS, Smeltzer is able to hear and observe other case technicians and attorneys handling telephone requests. Smeltzer alleged that employees regularly release information to claimants over the telephone after only obtaining the caller's name and SSN, rather than obtaining all six items of information required to verify their identity. Smeltzer also allegedly observed employees release information to third parties, such as claimants' spouses, without properly determining that said third parties have been authorized by the claimant to receive information and without obtaining all six items of information required to verify the claimant's identity. Further, Smeltzer alleged that he witnessed employees improperly fax medical records to individuals who required said records via telephone. This conduct would be in violation of 20 CFR § 401.45 and POMS GN 03360.005.

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Smeltzer indicated that the improper disclosure practices have been occurring at the NHS since at least approximately 2010 and that Smeltzer reported the violation concerns to supervisors on numerous occasions. Smeltzer last noted that Smeltzer's concerns about these practices in an October 2013 e-mail to Supervisory Case Manager Sharon Rogers. Because of the negative response Smeltzer received in response to this e-mail, Smeltzer had not raised the issue with management since that time.

Included with the whistleblower complaint was an e-mail that Smeltzer sent Rogers on October 17, 2013 at 1:09PM, wherein he stated that he was requested to make changes on a record; however, Smeltzer formally objected to the alteration of U.S. Government/Social Security files without written consent from the citizen/claimant. Smeltzer did not believe that it was legally correct to alter a government system without proper access and disclosure permissions. Smeltzer indicated he wanted notification in his 7B personnel file that he objected to management directives that conflict with PII laws and agency access/disclosure requirements. Smeltzer noted he disagreed with Administrative Law Judge (ALJ) Robinson's interpretation and that the agency's access and disclosure policies specifically state that written consent is required. Smeltzer stated that entering onto the record (as far as the CFR, HALLEX, and policy-net are concerned), is not enough to grant third party unlimited access and disclosure rights to a claimant's record. Smeltzer noted that the SSA could not alter the case without a Form SSA-1696- Claimant's Appointment of Representative. Smeltzer requested that further guidance be obtained from ODAR NHC Central Office Management Analyst Margaret Lee, Falls Church, VA or another Management Support Specialist (MSS). Smeltzer further noted that he believed education and training in proper access and disclosure is necessary at the Albuquerque, NM NHC. Smeltzer included links pertaining to: Access/disclosure, ex-parte communications, and post hearing evidence.

This e-mail was in response to a chain of e-mails between Smeltzer and Rogers regarding a request for posting of information on a SSA record. Smeltzer noted that in an e-mail to Rogers on September 20, 2013 that Mr. FNU [REDACTED] (in reference to claim number [REDACTED] for [REDACTED]) had not contacted the NHC with the Medical Evidence Record (MER) as of yet. The post hearing instructions indicated that [REDACTED] (the Social Worker) and the claimant would be contacting the NHS with the information. Smeltzer stated that he left a message with the social worker and placed a report of contact in the file. Smeltzer noted he would send a close-out letter if the claimant and/or social worker failed to provide the SSA with the information required to request the additional MER and indicated he had a concern regarding providing the social worker with the claimant's medical record information. This situation would allegedly present an access/disclosure issue because the social worker was not specifically authorized to request information that would affect the claimant's SSA claim without the claimant present. Smeltzer hoped that the social worker had a signed document by the claimant with the MER sources as instructed by ALJ 2998.

Rogers noted in an e-mail to Smeltzer on October 17, 2013, that she began reviewing the scheduled hearings for November and noticed that a claimant was still on the docket for hearings for November

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19, 2013. Rogers asked if the claimant changed plans or decided to stay scheduled as the Vocational Expert. Rogers noted that some other cases required Smeltzer's attention to further develop the record. Rogers stated that she spoke to [REDACTED] who informed her that he received a voicemail message from Smeltzer and returned Smeltzer's call, also leaving a voicemail message. In [REDACTED] voicemail message, he stated that he provided one source with an address, as [REDACTED] did not have any other sources to provide: Brown County Outpatient, [REDACTED] 54311. [REDACTED] also provided a current address for the claimant because the one they had in Case Processing and Management System (CPMS) was for her old house where her ex-husband resided. [REDACTED] new address was [REDACTED]. [REDACTED] noted that the phone number listed as the claimant's was his phone number and could remain the same. [REDACTED] was also requesting what MER the SSA had for the claimant. Rogers asked Smeltzer to move the case back to POST and initiate the MER request to Brown County Outpatient. Rogers noted that the Form SSA-827 (Authorization to Disclose Information to the SSA) was expired.

Smeltzer noted in an e-mail response on October 17, 2013 to Rogers that upon reviewing the correspondence with [REDACTED] and referencing the access and disclosure policies, he was not certain updating the file would be legally correct. [REDACTED] was not an authorized representative nor was anything on the SSID or MBR indicating that the claimant authorized [REDACTED] to act on his behalf. Smeltzer requested that Rogers check with their MSS and get back to him on this matter.

On October 17, 2013, Rogers sent Smeltzer an e-mail informing him that Rogers attached an e-mail that she received from Judge Robinson regarding the disclosure issue. Rogers noted she added her report of contact with [REDACTED] to the file.

On October 10, 2014, I contacted Smeltzer via telephone. I informed Smeltzer that RAC Trevino and I were going to travel to Albuquerque, NM to interview Smeltzer and various NHC management and staff concerning his submitted allegations. I gave Smeltzer the option of conducting his interview at an alternate location; however, he declined the offer and said that he was comfortable conducting his interview at the NHC and told me he had already informed someone at the NHC that he filed a complaint. SMELTZER advised that I could contact NHC Administrator Nancy Sacoman to coordinate all interviews and potential leave matters. I asked Smeltzer to keep our conversation private and not tell anyone at the NHC that RAC Trevino and I were traveling to Albuquerque, NM regarding this matter. Smeltzer assured me that he would not discuss this matter with any individual. Smeltzer indicated that he may file a retaliation claim against NHC management, as he felt he was being retaliated against for bringing the alleged policy and disclosure matters to the attention of NHC management. Smeltzer sent me an e-mail indicating that after considering all parties affected by the lack of adherence to PH guidelines, essentially all the employees are involved because no attention to this matter has ever been given by management. Smeltzer advised he only had personal knowledge of the individuals listed below:

#### 1. Shannon Rogers, Former Legal Assistant Supervisor

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2. Barry Robinson, Acting Chief Administrative Law Judge (primary management official responsible for the lack of adherence to PII)
3. Bryan Younkin, Legal Assistant
4. Diana Whay, Legal Assistant
5. Samuel Woodward, Legal Assistant
6. Jennifer Touchine, Legal Assistant

#### **REVIEW OF THE SSA/OIG NATIONAL INVESTIGATIVE CASE MANAGEMENT SYSTEM**

On October 10, 2014, I reviewed that SSA/OIG National Investigative Case Management System (NICMS), which did not reflect any prior allegations where Smeltzer was listed as a subject of the allegation. Smeltzer did previously submit at least two fraud allegations as the complainant, which appear to have been submitted when he worked at the SSA TSC.

#### **NM WORKERS' COMPENSATION ADMINISTRATION COMPLAINT**

On May 29, 2014, New Mexico Workers' Compensation Administration (WCA) Enforcement Bureau Chief Phillip Bowman informed me that her office received an anonymous complaint regarding Smeltzer; however, the matter was not within State jurisdiction, as Smeltzer was a federal employee. The only information that the New Mexico WCA had was that Smeltzer had two prior work reported work injuries, with injury dates of September 9, 2003 and November 30, 2005. The first one was a home health aide and while helping a patient to a standing position suffered some type of strain to his right arm. The second was so minor there is not enough information about it and was closed on March 2, 2006.



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[REDACTED]

**SUBJECT(S) AND/OR DEFENDANT(S):**

SOCIAL SECURITY ADMINISTRATION, OFFICE OF DISABILITY ADJUDICATION AND REVIEW (ODAR), NATIONAL HEARING CENTER (NHC); Address: 201 3RD STREET NW Albuquerque, NM 87102; (866) 964-1298

**SUBMITTED BY:** BIANCA MENDEZ      10/31/2014

**APPROVED BY:** RONALD TREVINO      11/07/2014

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ROI EXH. 2

Office of the Inspector General  
Office of Investigations  
Social Security Administration

REPORT OF INVESTIGATION

TITLE OF CASE: unknown

CASE NUMBER: ELP1500002D

PROGRAM CATEGORY: 938 - OCIG WHISTLEBLOWER

PERIOD COVERED: 10/22/2014 TO: 10/24/2014

RELATED CASE NUMBERS: N/A

REPORTED BY: BIANCA MENDEZ

FIELD DIVISION: DALLAS

OFFICE: EL PASO

STATUS OF CASE: STATUS REPORT

SYNOPSIS:

SSA ODAR National Hearing Center (NHC) Legal Assistant Jason Smeltzer was interviewed by the SSA/OIG reference his allegation that employees and management of the National Hearing Center (NHC) were violating disclosure policy. Smeltzer summarized his efforts to bring this issue to management's attention; however, he could not provide specific instances when these violations occurred nor could he provide specific claimant names. In addition, he did not have specific knowledge or evidence that any PII information was compromised nor evidence that a claimant made a formal complaint that their PII information was compromised because of NHC actions. During the

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interview. Smeltzer alleged that NHC management falsified an Automated Incident Reporting System (AIRS) report pertaining to his removal from the NHC and the specifics of his assertion are documented in this report.

#### **ALLEGATION OR REFERENCE TO MOST RECENT REPORT:**

Reference is made to all previously submitted reports of investigation in this case, the last report dated October 31, 2014.

#### **INVESTIGATIVE ACTIVITY:**

##### **INTERVIEW OF JASON SMELTZER**

On October 22, 2014, RAC Ron Trevino and I interviewed Jason Smeltzer, at the SSA ODAR NHC, 201 3rd Street NW, Suite 400, Albuquerque, NM 87102. We identified ourselves as Special Agents (SAs) with the SSA/OIG by displaying our badge and credentials and Smeltzer reviewed and signed a Warnings and Assurances to Employee Required to Provide Information on a Voluntary Basis (Garrity Form OI-15 and did not request union representation. Smeltzer agreed to speak with us and verbally advised us of the following:

Smeltzer worked as a SSA Teleservice Center Representative from on or about March 30, 2008 through on or about August 16, 2011. In approximately August 2011, Smeltzer was hired as a legal assistant at the National Hearing Center and is currently a GS-8/Step 4. Smeltzer alleged that he did not receive any type of training until after a few months of working at the NHC. Smeltzer said he attended some type of training in St. Louis, MO months after commencing working at the NHC. When Smeltzer previously worked at the Albuquerque TSC, all telephone calls were subject to monitoring; however, calls were not monitored at the NHC. In addition, when Smeltzer worked at the TSC, he received training on properly verifying callers/claimant's identities prior to verifying and/or releasing any information.

Smeltzer advised in approximately October 2011, he brought up his concerns regarding proper telephone verification procedures and releasing information via telephone to his former supervisor, Kim Kallio (retired), and Kallio allegedly told Smeltzer that he could release any requested information at an time. Smeltzer advised Kallio was difficult to deal with and was aggressive, so he did not raise the issue again until approximately October 2013, which is around the time he was assigned a new supervisor, Shannon Rogers. Smeltzer stated that he felt intimidated by Kallio and this is why he did not address his concerns with NHC management again until approximately October 2013. Smeltzer advised that he voiced his concerns in October 2013, because he did not want to work at a place where management and staff were violating SSA policy.

Smeltzer stated that he perceived that NHC management would retaliate against him because of their

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history of retaliating against employees who voice their concerns. Smeltzer stated that Christy Howard (now Christy Ford) previously worked at the TSC and was forced to resign from her position with the SSA in 2012 when she voiced her concerns regarding another unrelated issue.

On or about October 17, 2013, Smeltzer's new supervisor, Shannon Rogers, asked that Smeltzer change a record based on information provided by a third-party administrator, who was an alleged interpreter and was not properly documented in the claimant's file. Smeltzer allegedly voiced his concerns regarding the access and disclosure issues after a hearing was held for a claimant. The claimant appeared at the hearing with an interpreter. After the hearing was held, the interpreter telephoned the NHC on behalf of the claimant to make changes on the record. Smeltzer believed the interpreter was not an official interpreter for the SSA, but rather a volunteer interpreter from a community service based organization. Smeltzer advised that the claimant asked the interpreter to speak to ALJ Barry Robinson on behalf of the claimant during the video hearing.

A few days after the hearing, Rogers requested that Smeltzer make changes to the claimant's record based on information provided by the interpreter. Smeltzer advised that Rogers could have made the changes to the claimant's record; however, she asked Smeltzer to make the changes because Smeltzer was assigned as ALJ Robinson's Legal Assistant and was assigned to this case. As a result, Smeltzer voiced his concerns to Rogers via e-mail regarding access and PII issues/possible violations. Smeltzer allegedly made ALJ Robinson aware of his concerns; however, ALJ Robinson did not believe there were any policy, access, or disclosure issues. Smeltzer advised that he expressed his concerns that he did not want to alter a government record without proper authority or verification, which could lead to other possible PII violations. ALJ Robinson allegedly pulled Smeltzer aside at the time and told Smeltzer that he did not see any possible policy, access, verification, PII, disclosure, or other such violations. Smeltzer did not feel comfortable making the changes based on the information provided by the interpreter, as the interpreter and claimant did not sign any documentation to act as an interpreter or not attorney representative.

In approximately February 2014, Smeltzer sent a follow-up e-mail to Rogers, which Rogers forwarded to ALJ Robinson regarding Smeltzer's concerns about adherence to PII procedures. Smeltzer noted that he also forwarded me a copy of the e-mail.

*Note: Smeltzer contacted me in approximately February 2014 to advise me of his concerns regarding verification and PII procedures. After discussing this matter with RAC Trevino, I informed Smeltzer that he should bring the matter up with his NHC management and supervisor to take corrective action. On February 19, 2014, Smeltzer sent an e-mail to Rogers with a courtesy copy to ALJ Raul C. Pardo and Supervisor Kim Kallio. Smeltzer also blind courtesy copied me on the e-mail, where he stated the following:*

"I am following up on my concerns about the adherence to PII procedures. For the past three years on Pilar and I have continued to properly verify callers in accordance with the agency's PII protection initiatives. Along those lines, I have raised my concerns about the lack of adherence to PII access and

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disclosure procedures many times. As a member of the FBI Infragard program, the IOSS OPSEC program, and the NSA IAD Directorate I feel it is imperative that we address this issue to ensure that proper protections are in place to prevent the unauthorized access and disclosure of PII. As a possible solution, I am willing to volunteer my knowledge on this subject to train the office on the proper access and disclosure of PII."

Included in his e-mail were the following links:

ODAR's Standard Electronic Business Process (EBP):

»Hearing Office Electronic Business Process Version 3.2!»Section 1 – Front Desk & Incoming Workloads»1.1 Front Desk Responsibilities

(POMS GN 03360.005 Releasing Information by Telephone)

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-1/11-front-desk-responsibilities/>

Access Requests Via Telephone

GN 03380.005B.2.

**Access/Disclosure:**

<http://dsel-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

**Ex Parte Communications:**

(POMS sectionDI 33015.035. See also20 CFR 404.911(b)or20 CFR 416.1411(b)).

<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

Smeltzer alleged that on October 18, 2013, NHC supervisors began an internal review/informal investigation into Smeltzer's Family and Medical Leave Act (FMLA). Smeltzer thought this was odd, as the informal process began right after he voiced his concerns regarding the possible disclosure/policy violations and indicated the investigation was baseless. Smeltzer said NHC supervision and management suspected that Smeltzer may have forged some of his FMLA documents and Smeltzer was hurt and angry that management did not ask Smeltzer about the matter. Smeltzer said that later, NHC management was allegedly able to verify with Smeltzer's doctor or clinic that his request for FMLA was valid.

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Smeltzer advised that he did not mention any of his concerns regarding the policy and verification procedures to NHC management for months because he feared retaliation. Smeltzer alleged that various NHC employees continued to violate the verification procedures and other policies. As a result, Smeltzer eventually sent Rogers an e-mail on or about February 20, 2014 (actually sent on February 17, 2014), where he offered to train the office on the proper access and disclosure of PII. As a result of Smeltzer's e-mail, Rogers sent an e-mail to the Albuquerque NHC Legal Assistants advising them that Rogers did not believe the NHC had any disclosure issues; however, this is why they had friendly reminders about disclosure policy. Rogers stated that to ensure control of PII, she asked that employees review the POMS information listed below for guidance on releasing information by telephone and utilize the Disclosure Tool before releasing information by telephone. Rogers indicated that to the extent possible, continue to handle phone calls before transferring to another employee. As part of the February 21, 2014 e-mail, Rogers forwarded all the Legal Assistants an e-mail reminder that she sent a of the legal assistants on August 7, 2013 regarding processing incoming phone calls. Rogers asked employees to review the following information as a friendly reminder when processing incoming phone calls, as most phone calls can be handled without transferring to another employee.

### 1.1 Process Incoming Phone Calls

| Process Steps | Tasks  |
|---------------|--|
|               | <p>Primary responsibilities for the assigned telephone contact staff are as follows:</p>   |
|               | <p>A. Answer phones</p>  |
|               | <p>1. Control for PII (<u>POMS GN 03360.005 Releasing Information by Telephone</u>)</p>  |
|               | <p>a. Customize your OQP Toolbar to add the <u>Disclosure Tool</u></p>   |
|               | <p>2. <i>To the extent possible, resolve inquiries rather than routing them to other employees (e.g. status inquiries, et al)</i></p>            |
|               | <p>3. Refer to staffing roster to determine employee availability (using Outlook, Share Point, office shared drive, Communicator (IM), etc.)</p> |
|               | <p>B. Print and provide bar codes to claimants/authorized</p>  |

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**Process  
Steps**

**Tasks**

**Process  
Incoming  
Phone  
Calls**

representatives upon request (CPMS Module 18)

C. When a claimant or representative requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and SCHD) and the availability of direct on-line access for representatives. If the claimant or representative still wishes immediately to receive the CD, the employee will burn and mail CDs to authorized individuals.

D. When an unrepresented claimant or representative without Appointed Representative Services (ARS) access requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and for hearing).

1. Inform representatives without ARS access of the availability of direct on-line access (User Guide for Access to the Electronic Folder&Appointed Rep Stuffer).

2. If the representative still wishes to receive the CD immediately, the employee will burn and mail CD to authorized individual.

*Note: On February 21, 2014, Smeltzer forwarded me a copy of the aforementioned e-mail that Rogers sent to the NHC Legal Assistants on February 21, 2014 at 9:39AM. Smeltzer stated, "I think they finally got the hint, it only took three years to get the message across." This was an indication that management addressed Smeltzer's issue and that he appeared satisfied with their action.*

Smeltzer noted that the various NHC legal assistants receive thousands of telephone calls and he frequently hears the legal assistance not utilize the proper telephone verification procedures. Smeltzer advised he is able to hear the telephone calls, as the legal assistants work in cubicles and the office is quiet. Smeltzer did not blame his co-workers' for not following proper telephone verification procedures. Rather, Smeltzer said management should have taken appropriate corrective action to ensure all NHC employees verify the proper six pieces of information prior to verifying or releasing any information via telephone.

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Smeltzer believed that his co-worker Bryan Younkin would typically only verify an individual's name and SSN when taking calls. Smeltzer knows this, as he sits next to Younkin and overhears many of his telephone calls. Smeltzer provided an example of one of the telephone calls that he overheard Younkin receive. Smeltzer advised that the phone rang and Younkin would answer the phone. Younkin would only ask the caller for the caller's name and SSN. Younkin would inform the caller that the medical information on the record was up to date and would confirm the hearing date and time. Smeltzer initially advised that Younkin would not release any PII; however, he alleged that Younkin would release medical information via telephone such as a claimant's treatment information. Smeltzer elaborated and stated that if the caller asked about medical records from a particular doctor, which were not in the file, Younkin would respond in the negative, but volunteer information pertaining to medical records provided by another doctor, if those records were in the file.

Smeltzer acknowledged that many of the same individuals frequently call the NHC and there are times when it is easier to verify the frequent callers. In addition, there are times when less frequent callers would have to provide all pieces of information to verify their identity over the phone. Younkin would also allegedly tell some of the claimants that although they submitted medical records in September 2011 which alleged Schizophrenia, the claimant may want to also consider submitting additional medical records for other possible conditions that Younkin identified based on his experience with DIB claims and reviewing medical records.

Smeltzer believes that scheduler Diana Whay would readily disclose SSNs, names, and other information via telephone without going through proper telephone verification procedures. Smeltzer acknowledged that many of the same attorney representatives frequently telephone the NHC and information is frequently released or disclosed to said attorneys without going through proper telephone verification procedures. Many of the attorneys are typically recognized by legal assistants based on voice recognition or caller ID. Smeltzer advised that when he worked at the SSA TSC, employees would never disclose any information without first verifying six pieces of personal identifying information such as name, SSN, DOB, address, phone number, and at least one other piece of information on the SSA record. The additional information could include the name of the claimant's attorney or non-attorney representative, filing date, hearing date, etc., that only the claimant would know. This was standard operating procedure when Smeltzer worked at the TSC. While working at the NHC, Smeltzer would overhear most employees simply verify the SSN and name of the claimant.

Smeltzer stated that the NHC staff did not receive any type of formal training on disclosure, telephone verification procedures, etc., other than annual training reminders. Smeltzer advised that many of the NHC management and staff had law enforcement or other professional experiences other than prior work with the SSA; however, one employee recently transferred to the NHC from the TSC. Smeltzer believed that virtually all of the NHC legal assistances and Administrative Law Judges (ALJs) had violated the SSA policies and regulations on disclosure and telephone verification procedures. Smeltzer said that he has first-hand experiences of the policy and telephone verification violations based on first-hand knowledge. Smeltzer said he had at one point in time heard everyone in the office violate said

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policies and procedures. Smeltzer indicated that legal assistant Derek Lucero would ask callers to verify different pieces of information; however, he was not trained to verify information. Smeltzer alleged that Younkin alleged he was not trained to verify the information on PII despite his approximate 35 years of experience with the SSA. Smeltzer said that Legal Assistant Sam Woodward allegedly spoke to Smeltzer about PII and telephone verification procedure training in the past.

Smeltzer stated that NHC legal assistants were primarily responsible for protecting PII and ALJ Robinson disregarded his concerns regarding the possible policy violations. Smeltzer said that ALJs rarely telephoned claimants or accepted direct calls from claimants; however, Smeltzer recalled that ALJ Robinson telephoned a claimant to clarify some information. ALJ Robinson would at times contact claimants to ask additional questions either prior to or after hearings. Smeltzer advised that he was present on several occasions when ALJ Robinson spoke to claimants via telephone.

On October 8, 2014, Smeltzer said ALJ Robinson issued Smeltzer a reprimand for an incident that took place on August 5, 2014. Smeltzer explained that his glasses broke while on duty and Smeltzer visited ALJ Robinson's office and asked ALJ Robinson to approve a request that would authorize Smeltzer to be reimbursed for an eye doctor exam. ALJ Robinson allegedly reviewed the form and stated something to the effect that something was always wrong with Smeltzer. Smeltzer stated that it was very hard to view his computer screen and view his e-mails.

Approximately 1.5 hours later, ALJ Robinson provided Smeltzer with the signed form. Smeltzer told ALJ Robinson via e-mail that he took exception to ALJ Robinson's remark about something always being wrong with him. ALJ Robinson allegedly called Smeltzer into his office and said that he felt threatened by Smeltzer. ALJ Robinson allegedly questioned Smeltzer on his FMLA and Smeltzer did not feel comfortable discussing his medical condition and disability with ALJ Robinson. Smeltzer advised that he believes, based on ALJ Robinson's tone, that ALJ Robinson was acting malicious and trying to hurt Smeltzer with his remarks about his FMLA and that there was always something wrong with him. Smeltzer said that he felt this way based on his perception of what took place at the time. ALJ Robinson allegedly told Smeltzer that he was ALJ Robinson's employee and said that Smeltzer was not producing according to NHC metrics. Smeltzer alleged that the NHC metrics would show that he was working. ALJ Robinson allegedly yelled at Smeltzer and told Smeltzer to get the hell out of his office. As a result Smeltzer hired a workplace violence attorney.

Smeltzer explained that he had to take FMLA due to a back condition and would experience back spasms in stressful situations. Smeltzer said that on August 5, 2014, while he was departing the NHC after the situation with ALJ Robinson, he experienced another back spasm caused by the stressful incident with ALJ Robinson and had to be transported to the hospital via ambulance.

On October 8, 2014, ALJ Robinson reprimanded Smeltzer, and noted that Smeltzer was rude and his communication towards ALJ Robinson was inappropriate. Smeltzer believed he was only reprimanded as a result of ALJ Robinson somehow discovering that Smeltzer filed a complaint with the Office of Special Counsel. Smeltzer indicated he believed the reprimand was a direct result of retaliation against

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Smeltzer for filing the OSC complaint for policy violations. Smeltzer advised that he never spoke to anyone else about the OSC investigation and continued to work as usual. Smeltzer stated that if the NHC was found in violation of HIPPA laws, the NHC could possibly be fined \$1.5 million dollars.

Smeltzer noted that his concerns regarding possible policy violations were ignored by NHC management when he expressed his concerns in October 2013 and February 2014. Smeltzer said that he is part of the FBI InfraGard program, which is a program that the FBI started in 1996 as a way to share information with local information technology (IT) experts and academia in support of cyber investigations. Smeltzer said he offered to provide training to the NHC staff on proper telephone verification procedures and PII on or about February 20, 2014; however, NHC management did not accept his offer to conduct said training. Smeltzer advised that the reminder training that Rogers sent out on February 21, 2014 regarding PII and verification procedures was the only thing that NHC management had done to address his concerns. Smeltzer opined that he was almost positive that there was a loss of PII based on NHC Staff not following proper telephone verification procedures; however, he did not present any proof or corroborating evidence to support his allegations. In addition, Smeltzer was unaware of any complaints made by claimants of possible loss of PII or unauthorized disclosure of PII and could not provide any specific claimant names or other information to substantiate his allegations. The only evidence provided by Smeltzer during the interview was his contention that when he overheard NHC employee telephone conversations with claimants, in his opinion the proper telephone identification verification protocol was not followed.

Smeltzer advised that his back disability is an ongoing issue and that he underwent back surgery in April 2014 and recently had knee surgery. Smeltzer advised that he does not take excessive leave and typically only takes 1-7 days off to recover after surgery or other invasive medical procedures, but indicated he felt that a stigma was associated with use of FMLA among the NHC. Smeltzer stated that he only takes leave when he absolutely needs to take leave. Smeltzer stated that on October 23, 2014 he was going to undergo some type of radio frequency procedure on his back, where a needle is placed in his back to help burn part of the nerves in his back.

Smeltzer alleged that one of his former supervisors, Kim Kallio, was asked to retire in June 2014, as she allegedly falsified metrics. At this time, ALJ Pardo also stepped down as Chief NHC Judge, and ALJ Robinson took his place as Chief NHC Judge. Smeltzer alleged Rogers was also allegedly involved with falsifying NHC metrics in order to receive bonuses and stepped down and was transferred to a local SSA district office.

*Note: As noted above, Smeltzer contacted me in approximately February 2014 to advise me of his concerns regarding verification and PII procedures. After discussing this matter with RAC Trevino, I informed Smeltzer that he should bring the matter up with his NHC management and supervisors to take corrective action. On February 19, 2014, Smeltzer sent an e-mail to Rogers with a courtesy copy to ALJ Raul C. Pardo and Supervisor Kim Kallio. Smeltzer also blind courtesy copied me on the e-mail regarding the alleged issue regarding PII and offered to condu*

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training at the NHC. On February 21, 2014, Smeltzer forwarded me a copy of the aforementioned e-mail that Rogers sent to the NHC Legal Assistants on February 21, 2014 at 9:39AM. Smeltzer stated, "I think they finally got the hint, it only took three years to get the message across."

I did not hear back from Smeltzer regarding any additional issues until he sent me an e-mail on April 2, 2014, where he stated the following:

"Unfortunately, the only thing that was done regarding PII and HIPPA violations regarding the improper access and disclosure of information via phone contact was this reminder email. While it is indeed each employee's responsibility to adhere to these policies, NHC management continues to ignore the fact that only [REDACTED] and I adhere to agency PII laws. Is there anything that can be done on your end to ensure that management conducts QA's on PII and access/disclosure adherence? I am greatly concerned that Legal Assistants, Senior Case Technicians, Attorneys, Judges and even NHC management is violating public trust by releasing protected information to unauthorized parties. I am leaving for the day but you can reach me on my cell at [REDACTED] if necessary."

[REDACTED]

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[REDACTED]

[REDACTED]

On October 24, 2014, Smeltzer sent me an e-mail asking me for guidance on what he should do if an employee advises him about someone in the NHC misusing the office equipment. Allegedly, the scheduler used her work computer for her personal school work throughout her degree program. I informed Smeltzer that he should go through his chain-of-command to report the alleged incident.

Smeltzer informed me that he earned a bachelor's degree in criminal justice (emphasis on cyber security) from ITT Technical Institutes and is currently working on a Masters of Public Health Degree through Grand Canyon University. Smeltzer noted that he is completing an epidemiology and biostatistics internship on Tuesdays and Thursdays through the New Mexico Department of Health - Scientific Laboratory Division located at 1101 Camino de Salud, Albuquerque, NM. Said internship was expected to last through the end of November. After that, Smeltzer planned on working with the epidemiologists in Santa Fe, NM for the next 12 months in the Infectious Disease Epidemiology Bureau.

FEDERAL PROTECTIVE SERVICE REPORT REGARDING MARCH 6, 2014 INCIDENT

[REDACTED]

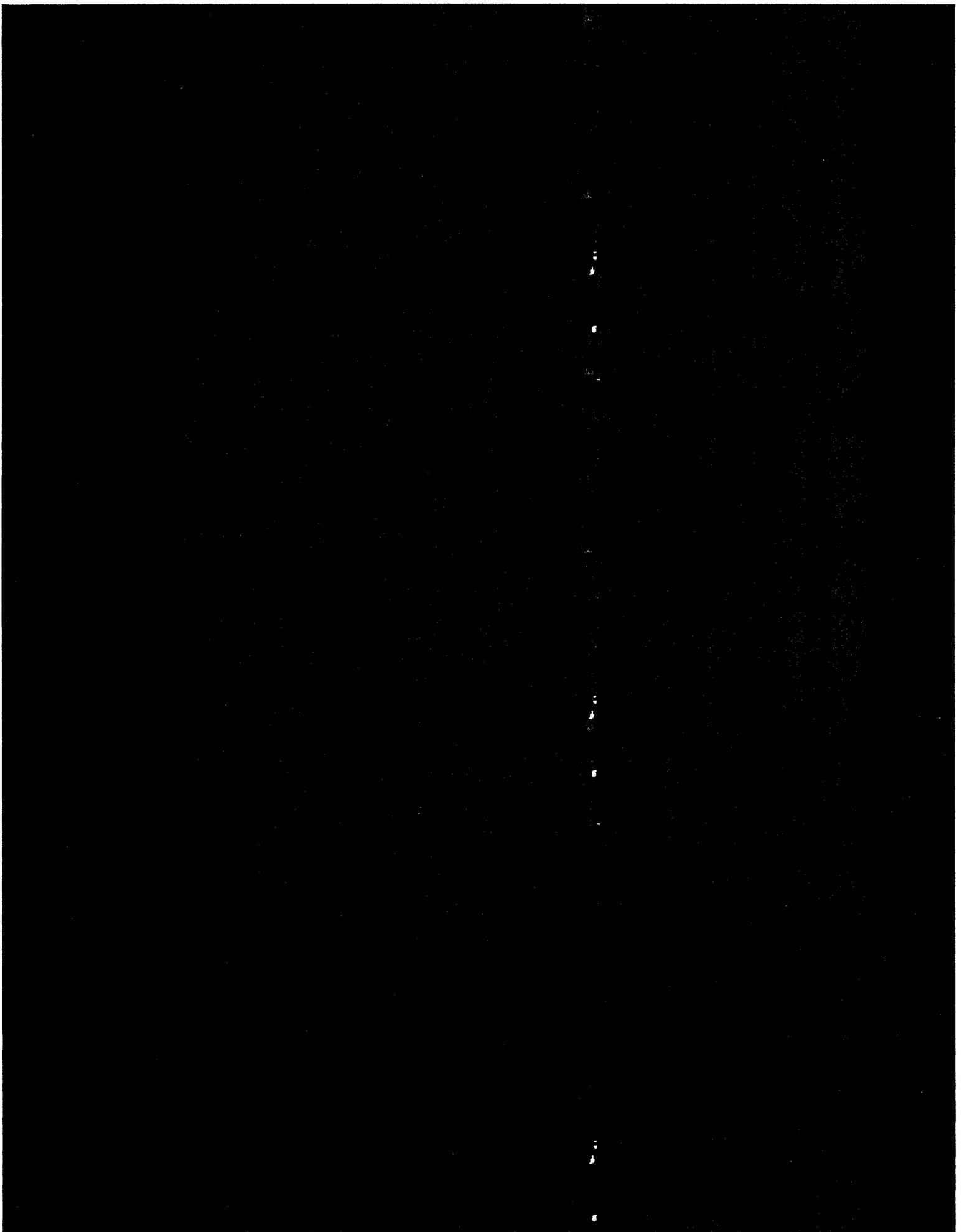
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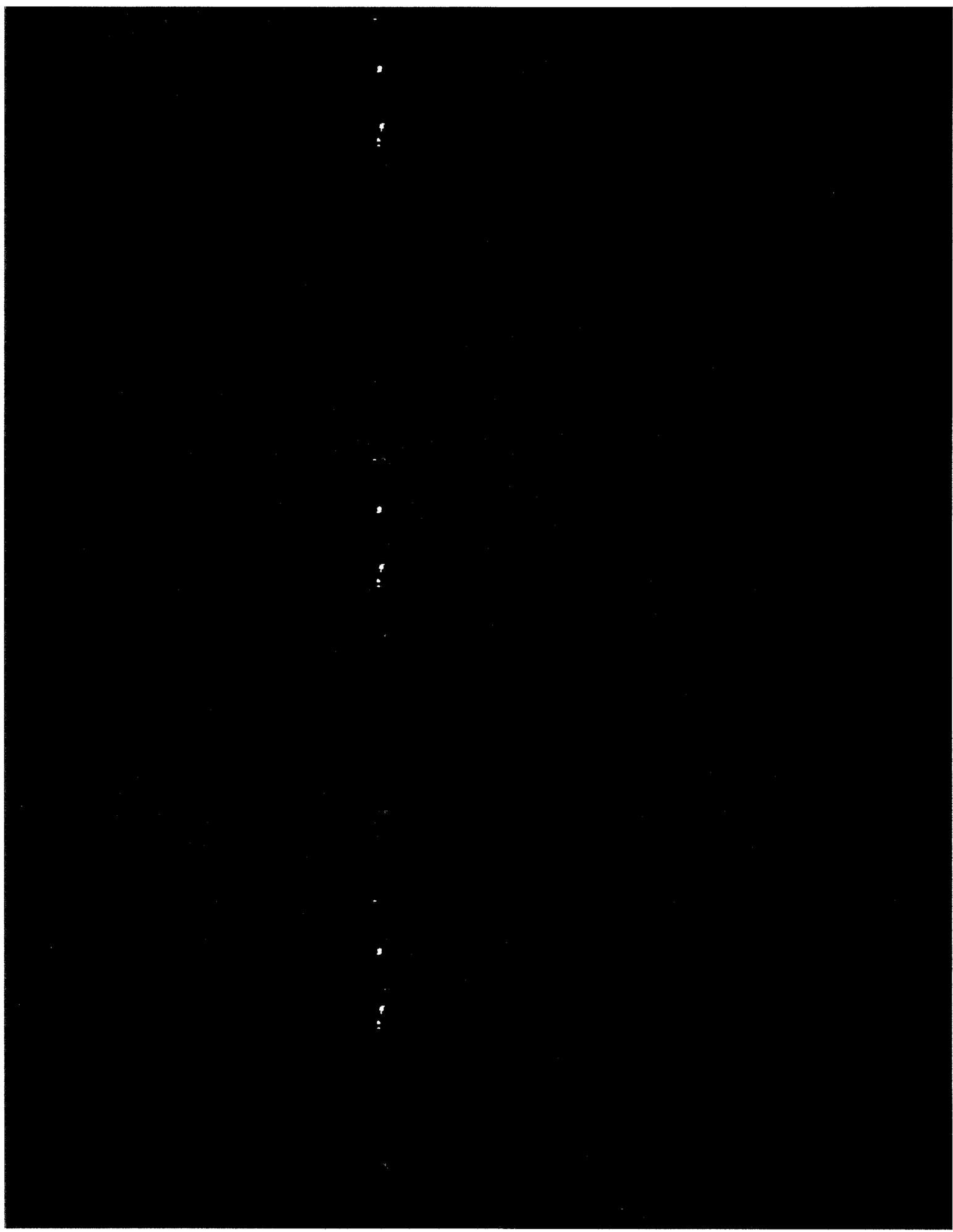
[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

**SUBJECT(S) AND/OR DEFENDANT(S):**

Social Security Administration (SSA), Office of Disability Adjudication and Review (ODAR),  
National Hearing Center (NHC), 201 3<sup>rd</sup> Street NW, Albuquerque, NM 87102; telephone number  
(866) 964-1298.

**SUBMITTED BY:** BIANCA MENDEZ      10/31/2014

**APPROVED BY:** RONALD TREVINO      11/07/2014

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ROI EXH. 3

Office of the Inspector General  
Office of Investigations  
Social Security Administration

REPORT OF INVESTIGATION

**TITLE OF CASE:** unknown

**CASE NUMBER:** ELP1500002D

**PROGRAM CATEGORY:** 938 - OCIG WHISTLEBLOWER

**PERIOD COVERED:** 10/22/2014 TO: 10/22/2014

**RELATED CASE NUMBERS:** N/A

**REPORTED BY:** BIANCA MENDEZ

**FIELD DIVISION:** DALLAS

**OFFICE:** EL PASO

**STATUS OF CASE:** STATUS REPORT

**SYNOPSIS:**

SSA ODAR National Hearing Center (NHC) Legal Assistant Diana Thompson Why was interviewed by the SSA/OIG regarding her knowledge of disclosure and/or policy violations at the NHC stemming from a whistleblower complaint. Why explained that she has been trained in all PII procedures, including the procedures to follow when communicating with claimants on the phone. She was not aware of any individuals at the NHC who have violated the PII policy or any other disclosure violations.

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## ALLEGATION OR REFERENCE TO MOST RECENT REPORT:

Reference is made to all previously submitted reports of investigation in this case, the last report dated October 31, 2014.

## INVESTIGATIVE ACTIVITY:

### INTERVIEW OF DIANA WHAY

On October 22, 2014, RAC Ron Trevino and I interviewed SSA Legal Assistant Diana Whay at the SSA ODAR NHC, 201 3rd Street NW, Suite 400, Albuquerque, NM 87102. RAC Trevino and I identified ourselves as Special Agents (SAs) with the SSA/OIG by displaying our badge and credentials. Whay reviewed and signed a Warnings and Assurances to Employee Required to Provide Information on a Voluntary Basis (Garrity), Form OI-15 and did not request union representation. Whay agreed to speak with us and verbally advised us of the following:

Whay has been a Legal Assistant at the NHC for approximately 4.5 years and was currently a GS-8/Step 3 (approximately). Whay is assigned to ALJ Deborah VanVleck and Nancy Sacoman is currently her supervisor. Whay previously worked as a paralegal in the private sector prior to her employment with the SSA. Once hired, Whay attended a two week Legal Assistant Training in St. Louis, MO and believed she was trained on PII and telephone verification procedures.

Whay said that as part of her duties she communicates with claimants via telephone and assists them with processing SSA and SSI claims. Whay said she asks callers for their name, DOB and address. This is typically the only information that Whay requests and believes these three criteria help verify the caller's identity. Whay explained that she established these criteria based on the training she received from her mentor. Whay believed that Shannon Rogers was her mentor and trained her on the telephone verification procedures.

Whay opined there may be instances when individuals at the NHC unintentionally overlook proper verification procedures over the phone, but did not perceive the issue to be a significant problem. Whay said there were times when some claimants or individuals would telephone the NHC on a frequent basis and she was familiar with and recognized the caller and may not have followed exact identification protocol. In addition, she would use the caller ID function to help verify the caller, as she was familiar with the caller.

Whay stated that she is the office scheduler and typically does not accept random incoming calls. Rather, NHC management and staff would accept the call, verify the caller's identity, and then transfer the call to Whay. Whay can hear other NHC employees speak on the phone, but she does not pay attention to what is said most of the time; however, there are times when Whay overhears NHC management and staff go through the telephone verification process with callers.

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Why advised that NHC management and staff primarily use the Case Processing and Management System (CPMS) database as a tool to assist with the verification process. Why indicated that she could input the claimant's SSN and the screen would populate with the claimant's information. Why would take the name, SSN, the telephone number from the caller ID, and one piece of other information to verify the caller's/claimant's identity (typically between 4-5 pieces of verifiable information).

Why was not aware of any possible PII or telephone verification procedure violations within her office. In addition, Why was not aware of any complaints the NHC may have received regarding possible PII or HIPPA violations or that any individual ever asserted that their PII information was compromised based on improper actions by the NHC. Why believed that if such violations existed, NHC management would have addressed the issue to ensure that NHC staff was in compliance with agency policies. Why noted that NHC staff would receive annual reminders to certify they were aware of PII and HIPPA policies and advised she completed any and all training mandated by the SSA each year.

**SUBJECT(S) AND/OR DEFENDANT(S):**

Social Security Administration (SSA), Office of Disability Adjudication and Review (ODAR), National Hearing Center (NHC), 201 3<sup>rd</sup> Street NW, Albuquerque, NM 87102; telephone number (866) 964-1298.

**SUBMITTED BY:** BIANCA MENDEZ      10/31/2014

**APPROVED BY:** RONALD TREVINO      11/07/2014

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ROI EXH. 4

Office of the Inspector General  
Office of Investigations  
Social Security Administration

REPORT OF INVESTIGATION

**TITLE OF CASE:** unknown

**CASE NUMBER:** ELP1500002D

**PROGRAM CATEGORY:** 938 - OCIG WHISTLEBLOWER

**PERIOD COVERED:** 10/22/2014 TO: 10/22/2014

**RELATED CASE NUMBERS:** N/A

**REPORTED BY:** BIANCA MENDEZ

**FIELD DIVISION:** DALLAS

**OFFICE:** EL PASO

**STATUS OF CASE:** STATUS REPORT

**SYNOPSIS:**

SSA ODAR National Hearing Center (NHC) Legal Assistant Sam Woodward was interviewed by the SSA/OIG regarding his knowledge of disclosure and/or policy violations at the NHC stemming from a whistleblower complaint. Woodward explained that he has been trained in all PHI procedures, including the procedures to follow when communicating with claimants on the phone. He was not aware of any individuals at the NHC who have violated the PHI policy or any other disclosure violations.

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## ALLEGATION OR REFERENCE TO MOST RECENT REPORT:

Reference is made to all previously submitted reports of investigation in this case, the last report dated October 31, 2014.

## INVESTIGATIVE ACTIVITY:

### INTERVIEW OF SAM WOODWARD

On October 22, 2014, RAC Ron Trevino and I interviewed SSA Case Manager Sam Woodward at the SSA ODAR NHC, 201 3rd Street NW, Suite 400, Albuquerque, NM 87102. RAC Trevino and I identified ourselves as Special Agents (SAs) with the SSA/OIG by displaying our badge and credentials. Woodward reviewed and signed a Warnings and Assurances to Employee Required to Provide Information on a Voluntary Basis (Garrity), Form OI-15 and did not request union representation. Woodward agreed to speak with us and verbally advised us of the following:

Woodward is a Case Manager, which entails assisting ALJs with writing decisions and performs other legal assistant type duties. Woodward has worked at the SSA NHC for approximately six years and is currently a GS-9/Step 4. Woodward previously worked with the Department of Defense, Juvenile Parole Board, and was the Chief of Police with a police department in California.

Woodward was aware that there were allegations that NHC management and staff were not following proper telephone verification and PII procedures and that Jason Smeltzer was the individual who submitted the allegation. Woodward advised that when he assisted claimants on the phone he would verify a caller's name, SSN, address, DOB, and other information on the claimant's record. Woodward frequently receives telephone calls from claimant's attorney representatives and other types of claimant's representatives and makes outgoing telephone calls to claimants and other representatives during the normal course of his duties.

Woodward said there are times when he may not go through the entire verification process because he is not releasing any PII information via telephone. Rather, he is simply verifying the claimant's hearing date and time. In some instances claimants attempt to call Woodward for information directly; however, Woodward refuses to discuss their case with them because they are representative by an attorney or non-attorney representative. In instances like this he may not go through the PII verification protocol because he is not releasing or divulging any PII information to the caller.

Woodward recalled that in the past NHC management published a reminder on proper verification and PII procedures. This reminder could have potentially been in the form of an e-mail; however, Woodward would have to look for the e-mail to verify this information. Woodward also completes the annual mandatory PII training each year, but would have to review the certification forms to show the dates he took said training.

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Woodward advised that at one point, Jason Smeltzer, spoke to him about the possible telephone verification and PII policy/procedure violations and Smeltzer allegedly filed a complaint with the OIG some time ago regarding this issue. Woodward stated that if any type of PII, HIPPA, or improper telephone verification violations would have been reported at the NHC, management would have addressed the matter immediately and corrected the issue. Woodward never heard of any complaints or compromise of any PII or other information from any claimants, claimant's representatives, or any other individual. Woodward said that if there would have been a confirmed violation or unauthorized disclosure issue, NHC management staff would have issued a warning reminding staff of the proper procedures and policies; however, Woodward did not recall ever having to sign such a document.

Woodward advised that Smeltzer approached him on the morning of our interview (October 22, 2014) and informed Woodward that the SSA/OIG was visiting the NHC regarding Smeltzer's submitted allegation about Smeltzer's PII, telephone verification, and policy violation concerns. Woodward advised that he and Smeltzer are not friends and described Smeltzer as a pathological liar and coward and does not trust anything that Smeltzer claims. Woodward said he had no reservations about expressing his feelings about Smeltzer directly to Smeltzer and criticized Smeltzer's work ethic.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

Woodward questioned the veracity of Smeltzer's allegations and indicated other staff members at the NHC would corroborate or have the same opinion of Smeltzer as he does. Woodward was not aware of any complaints made by claimants or claimant representatives indicating their PII or other information was compromised or released without proper authority/verification. Woodward has never heard any rumors amongst employees of such types of violations or compromises of PII. Woodward follows his own protocol for telephone verification procedures and is not aware of any tool that may assist him with verifying a caller's identity. Woodward noted that if any of the NHC management or staff did not follow proper policy or verification procedures, they would not have done so intentionally. Woodward advised that training and procedures have changed since he started at the NHC. Woodward advised that he uses common sense and his knowledge of the various policies and procedures when verifying the identity of the various callers to the NHC.

Woodward's opinion is that NHC management is aware of Smeltzer's lack of work ethic, that he is lazy and that Smeltzer is a frequent liar. Because of this, Woodward believes Smeltzer is upset with NHC management and this is his way to retaliate against management. Woodward was confident that other NHC management and staff will corroborate what Woodward told us during our interview. Woodward said he only speaks to Smeltzer on a professional basis when he is required to do so for work purposes.

**SUBJECT(S) AND/OR DEFENDANT(S):**

Social Security Administration (SSA), Office of Disability Adjudication and Review (ODAR), National Hearing Center (NHC), 201 3rd Street NW, Albuquerque, NM 87102; telephone number (866) 964-1298.

**SUBMITTED BY:** BIANCA MENDEZ 10/31/2014

**APPROVED BY:** RONALD TREVINO 11/07/2014

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ROI EXH. 5

Office of the Inspector General  
Office of Investigations  
Social Security Administration

REPORT OF INVESTIGATION

**TITLE OF CASE:** unknown

**CASE NUMBER:** ELP1500002D

**PROGRAM CATEGORY:** 938 - OCIG WHISTLEBLOWER

**PERIOD COVERED:** 10/22/2014 TO: 10/22/2014

**RELATED CASE NUMBERS:** N/A

**REPORTED BY:** BIANCA MENDEZ

**FIELD DIVISION:** DALLAS

**OFFICE:** EL PASO

**STATUS OF CASE:** STATUS REPORT

**SYNOPSIS:**

SSA ODAR National Hearing Center (NHC) Legal Assistant Bryan Younkin was interviewed by the SSA/OIG regarding his knowledge of disclosure and/or policy violations at the NHC stemming from a whistleblower complaint. Younkin explained that he has been trained in all PII procedures, including the procedures to follow when communicating with claimants on the phone. He was not aware of any individuals at the NHC who have violated the PII policy or any other disclosure violations.

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**ALLEGATION OR REFERENCE TO MOST RECENT REPORT:**

Reference is made to all previously submitted reports of investigation in this case, the last report dated October 31, 2014.

**INVESTIGATIVE ACTIVITY:**

INTERVIEW OF BRYAN YOUNKIN

On October 22, 2014, RAC Ron Trevino and I interviewed SSA Legal Assistant Bryan Younkin at the SSA ODAR NHC, 201 3rd Street NW, Suite 400, Albuquerque, NM 87102. RAC Trevino and I identified ourselves as Special Agents (SAs) with the SSA/OIG by displaying our badge and credentials. Younkin reviewed and signed a Warnings and Assurances to Employee Required to Provide Information on a Voluntary Basis (Garrity), Form OI-15 and did not request union representation. Younkin agreed to speak with us and verbally advised us of the following:

Younkin has worked in the disability field for approximately 36 years to include years of experience working with Disability Determination Services. Younkin has worked at the NHS for approximately six years and is currently a legal assistant, GS-9/Step 5. Nancy Sacoman is Younkin's current supervisor, and he is assigned to assist ALJs Ben Wilner and ALJ Raul Pardo. Younkin typically turns in 30-35 cases per week.

Younkin stated that the telephone verification procedures vary based on the caller and what information the caller is seeking to verify or obtain. If a claimant calls the NHC, Younkin asks for the individual's name and SSN and populates the information into CPMS to verify additional pieces of information such as address and DOB. Younkin said he would not release information unlawfully to a claimant's former spouse or any other unauthorized individual.

If Younkin determines through the verification process that the claimant has an attorney or non-attorney representative assigned to assist them with their case, he will inform the claimant that they will have to contact their representative for additional information. If an attorney or non-attorney representative calls into the NHC, Younkin explained he will review the SSA electronic claims folder to verify that there is an appointment of representative form in the claimant's file prior to verifying any information. In some cases, ALLSUP (an advocacy type group) is selected to act as the representative for various claimants. If an ALLSUP representative telephones the NHC, Younkin will ask for the case manager's name, phone number, and which claimant ALLSUP is representing. Younkin often utilizes the Hearings, Appeals and Litigation Law (HALLEX) Manual to help identify individuals and to whom he may release information.

Younkin stated that it would be difficult to determine whether all NHC management and staff are complying with proper telephone verification procedures and improperly releasing information to unauthorized individuals based on overhearing or listening to one side of the telephone conversation.

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Younkin elaborated by stating that it would be inappropriate to assume that an individual would catch the entire conversation that a NHC employee may have with the caller, as he may only catch a portion of the telephone call. In some instances, callers provide pieces of their identifying information to the NHC staff without being asked any questions, which may shorten the verification process. In some instances, Younkin does not go through the entire telephone verification process, as the claimant or claimant representative may only call to verify the case status or hearing date and time. Younkin's coworkers may misconstrue that Younkin is not following policy and verification procedures if they only hear a portion of the call or are not sure why the caller telephoned the NHC. There are some cases when claimants or claimant representatives frequently call Younkin and Younkin recognizes their telephone numbers and voices. As such, Younkin will verify limited information via telephone.

When asked who or why he believes someone is making allegations that NHC management and staff are not properly verifying the identity of callers and may not be following proper disclosure policy, Younkin advised that he believed his co-worker, Jason Smeltzer made the allegations. Younkin described Smeltzer as a trouble maker and lazy. Younkin said that Smeltzer allegedly uses his government computer and internet for personal use and to complete homework for school, which is not related to his employment with the SSA. Younkin opined that Smeltzer does not like the office staff and management.

Younkin said Smeltzer is a union steward and believes Smeltzer uses his position to protect himself and to cover for his lack of productivity. Younkin said that Smeltzer only worked two or three days per week. Younkin is familiar with Smeltzer's work week because he sits next to Smeltzer. Younkin advised that he does not believe Smeltzer has completed one full work week in the past year.

[REDACTED]

[REDACTED]

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[REDACTED]

Younkin advised that he never heard of any complaints regarding loss of PII or HIPPA either as an allegation or from claimants or their representatives. The only instance that Younkin could think of regarding possible loss of PII is when Younkin thought he lost a vocational disk containing PII approximately four or five years ago; however, Younkin was able to locate the disk and management was able to verify that there was no loss of PII. Younkin noted that if there were any verified or substantiated issues regarding possible PII or other such violations, management would immediately rectify the problem. Younkin does not believe that the allegations of PII or other violations are credible and does not think there is an issue at the NHC regarding this matter. Younkin recalled that a member of management issued a general reminder on PII and telephone verification procedures several months ago. Younkin was in the process of training two trainees on the day of his interview and was giving them an overview of the process of maintaining logs for mail that contains PII or other type of protected information.

[REDACTED]

Younkin stated that he could not believe more than 10% of what Smeltzer says because Smeltzer frequently lies and makes up outlandish stories. Younkin reiterated that he does not believe there are any PII or other policy violation concerns at the NHC and he believes that Smeltzer simply creates problems wherever he goes for everyone.

[REDACTED]

**SUBJECT(S) AND/OR DEFENDANT(S):**

Social Security Administration (SSA), Office of Disability Adjudication and Review (ODAR), National Hearing Center (NHC), 201 3rd Street NW, Albuquerque, NM 87102; telephone number (866) 964-1298.

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SUBMITTED BY: BIANCA MENDEZ 10/31/2014

APPROVED BY: RONALD TREVINO 11/07/2014

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ROI EXH. 6

Office of the Inspector General  
Office of Investigations  
Social Security Administration

REPORT OF INVESTIGATION

**TITLE OF CASE:** unknown

**CASE NUMBER:** ELP1500002D

**PROGRAM CATEGORY:** 938 - OCIG WHISTLEBLOWER

**PERIOD COVERED:** 10/22/2014 TO: 10/22/2014

**RELATED CASE NUMBERS:** N/A

**REPORTED BY:** BIANCA MENDEZ

**FIELD DIVISION:** DALLAS

**OFFICE:** EL PASO

**STATUS OF CASE:** STATUS REPORT

**SYNOPSIS:**

SSA ODAR National Hearing Center (NHC) Acting Chief Administrative Law Judge (CALJ) Barry Robinson was interviewed by the SSA/OIG regarding his knowledge of disclosure and/or policy violations at the NHC stemming from a whistleblower complaint. CALJ Robinson explained that he has been trained in all PII procedures, including the procedures to follow when communicating with claimants on the phone. He was not aware of any individuals at the NHC who have violated the PII policy or any other disclosure violations.

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## ALLEGATION OR REFERENCE TO MOST RECENT REPORT:

Reference is made to all previously submitted reports of investigation in this case, the last report dated October 31, 2014.

## INVESTIGATIVE ACTIVITY:

### INTERVIEW OF ACTING CHIEF ADMINISTRATIVE LAW JUDGE BARRY ROBINSON

On October 22, 2014, RAC Ron Trevino and I interviewed SSA NHC Chief ALJ (CALJ) Barry Robinson at the SSA ODAR NHC, 201 3rd Street NW, Suite 400, Albuquerque, NM 87102. RAC Trevino and I identified ourselves as Special Agents (SAs) with the SSA/OIG by displaying our badge and credentials. CALJ Robinson reviewed and signed a Warnings and Assurances to Employee Required to Provide Information on a Voluntary Basis (Garrity), Form OI-15 and did not request union representation. CALJ Robinson agreed to speak with us and verbally advised us of the following:

RAC Trevino informed CALJ Robinson that an allegation was submitted indicating NHC management and staff have not followed proper telephone verification procedures and may be improperly disclosing PII and other protected information via telephone. CALJ Robinson stated that no ODAR employee had come forward to make him or other members of management aware of the alleged violations and suspected that the allegation came from SSA NHC Legal Assistant Jason Smeltzer.

CALJ Robinson verified he and the NHC management/staff are required to take mandatory PII training and believed one of the former NHC supervisors may have sent all the legal assistants a reminder e-mail regarding PII and telephone verification procedures; however, he more than likely did not receive that e-mail.

CALJ Robinson stated that he does not generally speak with claimants or their assigned representatives. Rather, CALJ Robinson's two legal assistants typically develop the cases and gather the information on CALJ Robinson's behalf. CALJ Robinson does recall that he is required to undergo mandatory PII training and that periodic reminders are sent out reminding NHC management and staff on proper PII procedures. CALJ Robinson recalled one instance when he telephoned a claimant to verify information that Smeltzer provided CALJ Robinson. In addition, CALJ Robinson said there were a few other times when he may have telephoned claimants himself to request follow-up information, but on all occasions he knew the individuals to whom he was speaking.

CALJ Robinson has been acting Chief ALJ since approximately June 10, 2014 and he was Smeltzer's only manager/supervisor from June 10, 2014 until Administrative Officer Nancy Sacoman started working at the NHC in September 2014. The former Administrator Officer, Kim Kallio,

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recently retired and Smeltzer's former supervisor, Shannon Rogers, was demoted and reassigned to a local field office. CALJ Robinson advised that Smeltzer never directly came to him or any other member of management to report the alleged violation of policy. The first time that CALJ Robinson heard of any potential allegation of violations of policy was when Smeltzer submitted his rebuttal to his PACS review wherein Smeltzer stated, "I have filed a successful complaint with the OSC and provided evidence that you advised me to ignore the guidelines of the privacy act and agency policy. I can say definitively that I have given management ample opportunity to enforce the standards but management has chosen to ignore these policies resulting in thousands of disclosure incidents." CALJ Robinson reiterated that Smeltzer never communicated his concerns to CALJ Robinson via verbal communication and the only time CALJ Robinson became aware of the alleged concerns was in Smeltzer's written PACS rebuttal.

CALJ Robinson stated that in approximately May 2014 or June 2014, the NHC entered into a \$140,000 yearly contract to have a full-time armed guard at the NHC offices because of management's opinion that Smeltzer displayed bizarre behavior and actions. CALJ Robinson said that Smeltzer more than likely does not realize that the armed guard was placed at the NHC because of Smeltzer and more than likely thinks the guard is there for "access control." CALJ Robinson advised that he recently reprimanded Smeltzer (written form) for an incident that took place on August 5, 2014.

CALJ Robinson was not aware of any complaints that NHC management or staff did not follow proper telephone verification procedures or that they may have improperly disclosed PII or HIPPA information via telephone. CALJ Robinson recalled a situation in which Smeltzer alleged that CALJ Robinson may have violated HIPPA policy when handling [REDACTED] SSA claim ([REDACTED]) and FNU [REDACTED] acted as her interpreter. [REDACTED] hearing was recorded and [REDACTED] agreed to allow [REDACTED] to provide information to the SSA on her behalf to include her name, address, phone number, and other identifying information. [REDACTED] gave the verbal consent on the record during a recorded hearing. [REDACTED] later provided [REDACTED] information to the SSA NHC per [REDACTED] request and with [REDACTED]'s permission. Smeltzer allegedly refused to update the information on the record, as he wanted [REDACTED] to sign a release authorization form. CALJ Robinson did not believe the signed form was necessary, as [REDACTED] gave the consent on the record at a recorded hearing. In addition, the SSA was not releasing any information to the interpreter. Rather, the SSA was simply updating information on [REDACTED] record.

CALJ Robinson described Smeltzer as a smart individual, who writes well, yet is misguided. CALJ Robinson believes Smeltzer fabricates information and fabricated information about a meeting that they had on August 5, 2014. [REDACTED]

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[REDACTED]

[REDACTED]

On or about October 20, 2014, Smeltzer filed a grievance against CALJ Robinson with the Office of Special Counsel. CALJ Robinson advised he was considering filing a similar grievance into Smeltzer's behavior, actions and mischaracterizations.

CALJ Robinson once again noted that Smeltzer never communicated his concerns to CALJ Robinson via verbal communication and the only time CALJ Robinson became aware of the alleged concerns of NHC management or staff not adhering to policy was in Smeltzer's written PACS rebuttal. CALJ Robinson stated that he was sure that Smeltzer never discussed this matter with him in person. CALJ Robinson stated that if he was aware of a substantiated or credible allegation that NHC management or staff violated policy, he would ensure corrective action took place to rectify the matter. CALJ Robinson noted that once Smeltzer takes a stand or position on an issue, he refuses to back down from his stance.

[REDACTED]

[REDACTED]

CALJ Robinson believes Smeltzer makes false accusations against others and Smeltzer's complaints should be taken into context and should be verified. CALJ Robinson advised that a majority of his day is spent responding to Smeltzer's various requests and issues.

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**SUBJECT(S) AND/OR DEFENDANT(S):**

Social Security Administration (SSA), Office of Disability Adjudication and Review (ODAR),  
National Hearing Center (NHC), 201 3rd Street NW, Albuquerque, NM 87102; telephone number  
(866) 964-1298.

**SUBMITTED BY:** BIANCA MENDEZ 10/31/2014

**APPROVED BY:** RONALD TREVINO 11/07/2014

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ROI EXH. 7

Office of the Inspector General  
Office of Investigations  
Social Security Administration

REPORT OF INVESTIGATION

**TITLE OF CASE:** unknown

**CASE NUMBER:** ELP1500002D

**PROGRAM CATEGORY:** 938 - OCIG WHISTLEBLOWER

**PERIOD COVERED:** 10/22/2014 TO: 10/22/2014

**RELATED CASE NUMBERS:** N/A

**REPORTED BY:** BIANCA MENDEZ

**FIELD DIVISION:** DALLAS

**OFFICE:** EL PASO

**STATUS OF CASE:** STATUS REPORT

**SYNOPSIS:**

SSA ODAR National Hearing Center (NHC) Administrative Law Judge (ALJ) Raul Pardo was interviewed by the SSA/OIG regarding his knowledge of disclosure and/or policy violations at the NHC stemming from a whistleblower complaint. ALJ Pardo explained that he has been trained in all PII procedures, including the procedures to follow when communicating with claimants on the phone. He was not aware of any individuals at the NHC who have violated the PII policy or any other disclosure violations.

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**ALLEGATION OR REFERENCE TO MOST RECENT REPORT:**

Reference is made to all previously submitted reports of investigation in this case, the last report dated October 31, 2014.

**INVESTIGATIVE ACTIVITY:**

**INTERVIEW OF ADMINISTRATIVE LAW JUDGE RAUL ALJ Pardo**

On October 22, 2014, RAC Ron Trevino and I interviewed SSA NHC ALJ Raul Pardo at the SSA ODAR NHC, 201 3rd Street NW, Suite 400, Albuquerque, NM 87102. RAC Trevino and I identified ourselves as Special Agents (SAs) with the SSA/OIG by displaying our badge and credentials. ALJ Pardo reviewed and signed a Warnings and Assurances to Employee Required to Provide Information on a Voluntary Basis (Garrity), Form OI-15 and did not request union representation. ALJ Pardo agreed to speak with us and verbally advised us of the following:

ALJ Pardo previously served as the Chief ALJ at the NHC for four years until he stepped down from his position in June 2014. ALJ Pardo recalled that when former NHC Supervisors Kim Kallio and Shannon Rogers were at the NHC, Jason Smeltzer, raised a concern regarding alleged violation of PII and improper telephone verification procedures; however, Smeltzer lacked credibility and did not provide proof to support his allegations. ALJ Pardo described Smeltzer as a trouble maker, who was coddled by the SSA for several years and that Smeltzer filed a number of grievances against SSA and NHC management. ALJ Pardo stated that he always tried to provide Smeltzer with clear expectations and was a frank with him. As a result, ALJ Pardo and Smeltzer never engaged in any heated arguments; however, Smeltzer attempted to bully his former supervisor (Shannon Rogers) and former administrator (Kim Kallio) and would frequently send ranting e-mails to his supervisors.

ALJ Pardo was unaware of any PII violations and stated that all SSA NHC management and staff are required to take annual PII training or certification via Videos on Demand or other training sources and indicated the training should be documented in their personnel files. ALJ Pardo was not aware of any complaints from any individual that their PII information was compromised because of actions taken by any of the NHC employees and is not aware of any PII information being compromised in any other form because of NHC actions.

ALJ Pardo was not sure how anyone, including Smeltzer, knows who may violate agency policies and procedures by simply overhearing or listening to employee's conversations and telephone calls. As far as ALJ Pardo was aware, there were no policy violations within the NHC and stated that NHC management and staff have strict protocols in place to verify the identity of callers. ALJ Pardo indicated if their office received a substantiated allegation of unauthorized disclosure or other such policy violations, he feels certain that NHC management would take the appropriate administrative and corrective action. ALJ Pardo stated that Smeltzer never reported any possible violations directly to ALJ Pardo. ALJ Pardo believed that Rogers or Kallio may have mentioned to ALJ Pardo that

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Smeltzer alleged that some employees may have violated policy; however, Smeltzer's concerns were deemed to be not credible. Smeltzer would frequently raise other grievances that were also found to be not credible.

ALJ Pardo advised that ALJs do not hold in-person hearings except via video teleconferences. ALJs also typically do not make or accept calls directly to and from claimants. There are rare occasions when ALJ Pardo or other ALJs may communicate directly with attorney representatives or non-attorney representatives for a follow-up to the claimant's case/file.

[REDACTED]

ALJ Pardo said that in approximately the summer of 2013, Smeltzer was injured outside of work and underwent a back surgery in approximately July or August 2013 due to nerve damage. ALJ Pardo said that Smeltzer later alleged in approximately December 2013/early 2014, that he suffered a back injury when he dropped a CD at work and twisted his back awkwardly when he picked up the CD. Smeltzer later altered his story and alleged that he was injured carrying a heavy box of CDs in his report to the NHC HQ, again raising questions about his credibility. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

ALJ Pardo noted that when reviewing the facts of this matter and the allegations made regarding policy violations, the OIG and the SSA should consider Smeltzer's credibility as well as any information provided by NHC management and staff. ALJ Pardo indicated that legal assistant Diana Whay provided NHC management with two or three pages of her observations of Smeltzer.

On October 22, 2014, ALJ Pardo provided RAC Trevino and I with various e-mails related to Smeltzer to demonstrate Smeltzer's behavior and to show his relationship with some of his coworkers, which included the following:

[REDACTED]

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[REDACTED]

In February 19, 2014, Smeltzer sent Rogers (cc to ALJ Pardo and Kallio) stating that he was following up with his concerns regarding the NHC's adherence to PII procedures. Smeltzer offered to train NHC management and staff on proper access and disclosure of PII and provided several links regarding access and disclosure.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ith

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**SUBJECT(S) AND/OR DEFENDANT(S):**

Social Security Administration (SSA), Office of Disability Adjudication and Review (ODAR), National Hearing Center (NHC), 201 3rd Street NW, Albuquerque, NM 87102; telephone number (866) 964-1298.

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**SUBMITTED BY:** BIANCA MENDEZ 10/31/2014

**APPROVED BY:** RONALD TREVINO 11/07/2014

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ROI EXH. 8

Office of the Inspector General  
Office of Investigations  
Social Security Administration

**REPORT OF INVESTIGATION**

**TITLE OF CASE:** unknown

**CASE NUMBER:** ELP1500002D

**PROGRAM CATEGORY:** 938 - OCIG WHISTLEBLOWER

**PERIOD COVERED:** 10/23/2014 TO: 10/23/2014

**RELATED CASE NUMBERS:** N/A

**REPORTED BY:** BIANCA MENDEZ

**FIELD DIVISION:** DALLAS

**OFFICE:** EL PASO

**STATUS OF CASE:** STATUS REPORT

**SYNOPSIS:**

Former SSA ODAR National Hearing Center (NHC) Legal Assistant Supervisor and current SSA Claims Representative Shannon Rogers was interviewed by the SSA/OIG regarding her knowledge of disclosure and/or policy violations at the NHC. Rogers explained that she has been trained in all PII procedures, including the procedures to follow when communicating with claimants on the phone. She was not aware of any individuals at the NHC who have violated the PII policy or any other disclosure violations.

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## ALLEGATION OR REFERENCE TO MOST RECENT REPORT:

Reference is made to all previously submitted reports of investigation in this case, the last report dated October 31, 2014.

## INVESTIGATIVE ACTIVITY:

### INTERVIEW OF SHANNON ROGERS

On October 23, 2014, RAC Ron Trevino and I interviewed SSA Claims Representative (CR) Shannon Rogers at the SSA Office located at 4433 Jager Drive NE, Rio Rancho, NM 87144. RAC Trevino and I identified ourselves as Special Agents (SAs) with the SSA/OIG by displaying our badge and credentials. CR Rogers reviewed and signed a Warnings and Assurances to Employee Required to Provide Information on a Voluntary Basis (Garrity), Form OI-15 and did not request union representation. Rogers agreed to speak with us and verbally advised us of the following:

Rogers was formerly a paralegal specialist, case manager, and supervisor at the SSA ODAR NHC in Albuquerque, NM. Rogers was one of the first employees who began working at the NHC in approximately September 2008. The NHC moved from their old location in Albuquerque, NM to their new location on 3<sup>rd</sup> Street in approximately October 2012. Rogers was demoted and was on temporary detail at the Albuquerque, NM District Office and is now a Claims Representative (CR) at the SSA Office in Rio Rancho, NM.

We asked Rogers if she was ever aware of or informed of any PII, policy violations, or violations of proper protocol for telephone verification procedures when Rogers was at the NHC. Rogers advised that she believes that Jason Smeltzer, is the individual making the current allegations, but she believes his accusations and allegations are false. Rogers stated that Smeltzer habitually raised various allegations with NHC management and staff.

Rogers advised that each month a supervisor from the NHC would review all of the PII logs for the various mail and CDs containing PII to ensure that employees were properly documenting when PII was released. In addition, Rogers sent periodic e-mail reminders to NHC employees regarding telephone verification and PII procedures. Rogers advised she sent out a reminder e-mail to all NHC legal assistants several months before Smeltzer ever mentioned that he thought NHC management or staff may be violating policy. Rogers advised she sent out a reminder e-mail in August 2013 and February 2014 and provided me with copies of said e-mails.

In addition to the periodic reminder e-mails, Rogers advised that all NHC management and staff must undergo mandatory annual PII training. Rogers noted that if she ever received a substantiated or credible allegation of policy violations or improper disclosure of PII, she and/or other NHC management would have addressed the issue appropriately. Rogers and the NHC management never believed there were credible allegations of policy violations. In addition, Rogers never received or

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heard of any complaints from claimants or their representatives regarding any type of disclosure issues.

Rogers stated that Smeltzer at one point did tell her that he believed employees were possibly violating telephone verification and PII procedures, but he did not provide any proof of such allegations. Rogers clarified that Smeltzer did not bring up any specific examples of policy violations, but rather noted in an e-mail that he felt there was an issue and stated he was willing to provide training to NHC management and staff. Rogers canvassed various individuals in the NHC in an attempt to determine if any other employee was concerned or had knowledge of PII policy violations. None of the employees Rogers canvassed provided any information pertaining to any suspected PII violations within the NHC.

When asked what Rogers believed was motivating Smeltzer to make this allegations, Rogers opined that Smeltzer is delusional and was not sure how Smeltzer would be able to make such allegations when he is absent from work a high percentage of the time. Rogers stated that she would frequently walk around the NHC and would overhear conversations between NHC staff and claimants or their representatives and never heard any type of possible policy violations when she overheard these telephone conversations.

Smeltzer never mentioned to Rogers the names of any specific employees and never provided her with specific instances where he believed policy and disclosure may have been violated. Smeltzer also did not necessarily make any specific complaint regarding this matter. Rather, Smeltzer sent Rogers, Kim Kallio, and ALJ Raul Pardo an e-mail indicating that he believed there were disclosure and policy issues and he offered to conduct training for the NHC on ways to follow proper procedures and policies. Rogers believed that Smeltzer wanted to conduct the training because she believes he is a security guru and is a member of the FBI Infragard Program (a program that the FBI started in 1996 as a way to share information with local information technology experts and academia in support of cyber investigations). Smeltzer wanted Rogers to become part of the FBI Infragard Program and opined Smeltzer is fascinated with security-related matters.

Rogers noted that if one were to walk around the NHC and listened to the telephone calls between the legal assistants and claimants or their representatives, one would not be able to hear the entire telephone call and no way of determining if the NHC staff was or was not following the proper telephone verification procedures. There are times when individuals call to verify a hearing date or time, so there would be no information released to the caller. In other instances, some legal assistants receive telephone calls from claimants or their representatives that call on a frequent basis. As such, the legal assistant would more than likely recognize the claimant or their representative. Rogers explained that when NHC staff receive telephone calls, they have a disclosure tool available as a resource that is introduced through the ODAR's Standard Electronic Business Process:

<http://sharepoint.ba.ssa.gov/odars/Projects/ODAR%20Implementation/Layouts/WordViewer.aspx?id=/odars/Projects/ODAR%20Implementation/All%20Users%20Documents/Training%20Materials/cBP%20a>

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[20Website%20Documents%20-%20Version%203.3/FBI%20Version%203.3%20-%201.1%20Front%20Desk%20Responsibilities.docx&Source=http%3A%2F%2Fsharepoint%2Fba%2Ffssa%2Fgov%2Fodar%2FProjects%2FODARimplementation%2FAll%2520Users%2520Documents%2FForms%2FAllItems%2F.aspx%3FRootFolder%3D%2520Fodar%2520Projects%2520FODARimplementation%2520All%2520Users%2520Documents%2520Training%2520Materials%2520FBI%2520Website%2520Documents%2520%2520%2520Version%25203%25203&DefaultItemOpen=1&DefaultItemOpen=1](http://www.fssa.gov/fodar/projects/FODARimplementation/All%20Users%20Documents/Forms/AllItems.aspx?RootFolder=/FODAR%20Projects/FODARimplementation/All%20Users%20Documents/Training%20Materials/FBI%20Website%20Documents%20%20%20Version%203.3&DefaultItemOpen=1&DefaultItemOpen=1)

This link/tool outlines the front desk responsibilities when answering telephones and releasing information by telephone. NHC employees are made aware of this resource/tool during their On-the-Job Training (OJT) and mentoring process.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On October 24, 2014, Rogers provided RAC Trevino and I with various e-mails related to Smeltzer, which included the following:

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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On February 19, 2014, Smeltzer sent Rogers an e-mail, where he offered to train the office on the proper access and disclosure of PII. Smeltzer noted he was following up on his concerns about the adherence to PII procedures. As a result of Smeltzer's e-mail, Rogers sent out an e-mail to the Albuquerque NHC Legal Assistants (February 21, 2014) advising them that Rogers did not believe the NHC had any disclosure issues; however, this is why they had friendly reminders. Rogers stated that to ensure control of PII, she asked that employees review the POMS below for guidance on releasing information by telephone and utilize the Disclosure Tool before releasing information by telephone. Rogers indicated that to the extent possible, please continue to handle phone calls before transferring to another employee. As part of the February 21, 2014 e-mail, Rogers forwarded all the Legal Assistants an e-mail reminder that she sent all of the legal assistants on August 7, 2013 regarding processing incoming phone calls. Rogers asked employees to review the following information as a friendly reminder when processing incoming phone calls, as most phone calls can be handled without transferring to another employee. Rogers noted in her e-mail that she did not believe that the NHC had any disclosure issues; however, she wanted to send out the friendly reminder about their procedures.

### 1.1 Process Incoming Phone Calls

#### Process Steps

#### Tasks

Primary responsibilities for the assigned telephone contact staff are as follows:

#### A. Answer phones

1. Control for PII (POMS GN 03360.005 Releasing Information by Telephone)

a. Customize your OQP Toolbar to add the Disclosure Tool

2. *To the extent possible, resolve inquiries rather than routing them to other employees (e.g. status inquiries, et al)*

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**Process  
Steps**

**Tasks**

**1.1  
Process  
Incoming  
Phone  
Calls**

3. Refer to staffing roster to determine employee availability (using Outlook, Share Point, office shared drive, Communicator (IM), etc.)

B. Print and provide bar codes to claimants/authorized representatives upon request (CPMS Module 18)

C. When a claimant or representative requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and SCHD) and the availability of direct on-line access for representatives. If the claimant or representative still wishes immediately to receive the CD, the employee will burn and mail CDs to authorized individuals.

D. When an unrepresented claimant or representative without Appointed Representative Services (ARS) access requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and for hearing).

1. Inform representatives without ARS access of the availability of direct on-line access (User Guide for Access to the Electronic Folder & Appointed Rep Stuffer).

2. If the representative still wishes to receive the CD immediately, the employee will burn and mail CD to authorized individual.

**SUBJECT(S) AND/OR DEFENDANT(S):**

Social Security Administration (SSA), Office of Disability Adjudication and Review (ODAR), National Hearing Center (NHC), 201 3<sup>rd</sup> Street NW, Albuquerque, NM 87102; telephone number (866) 964-1298.

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SUBMITTED BY: BIANCA MENDEZ 10/31/2014

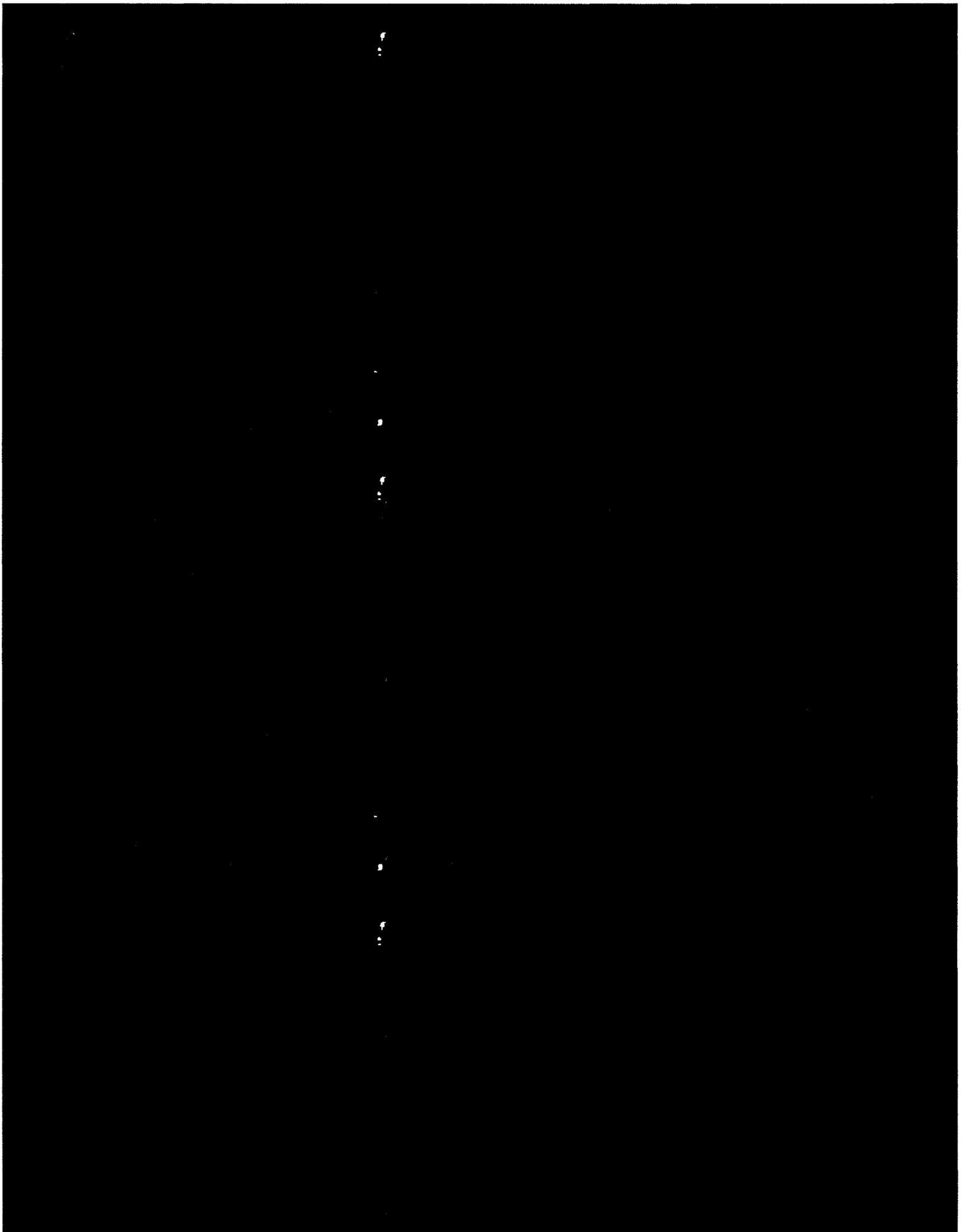
APPROVED BY: RONALD TREVINO 11/07/2014

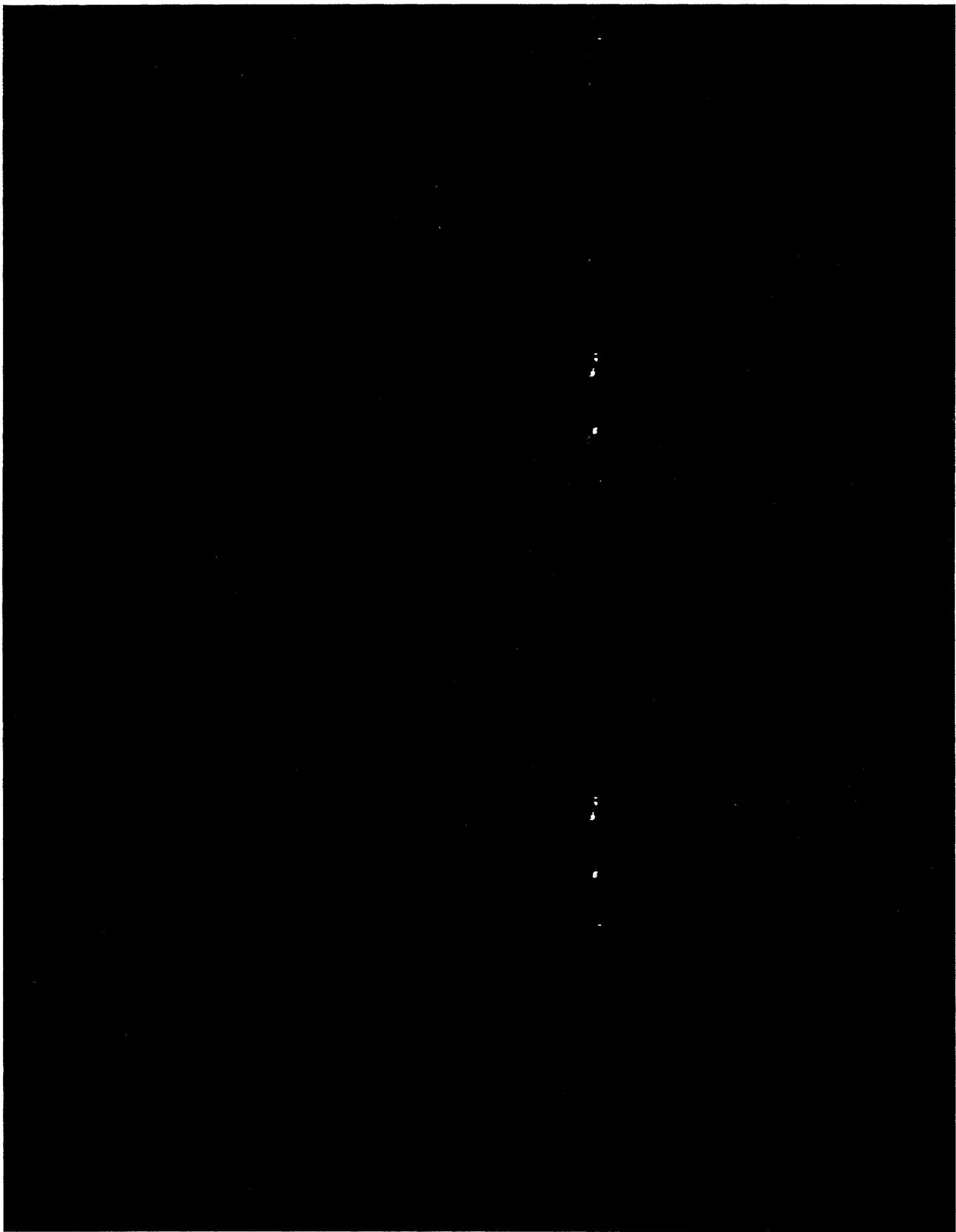
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AIRS REPORT -- MARCH 2014

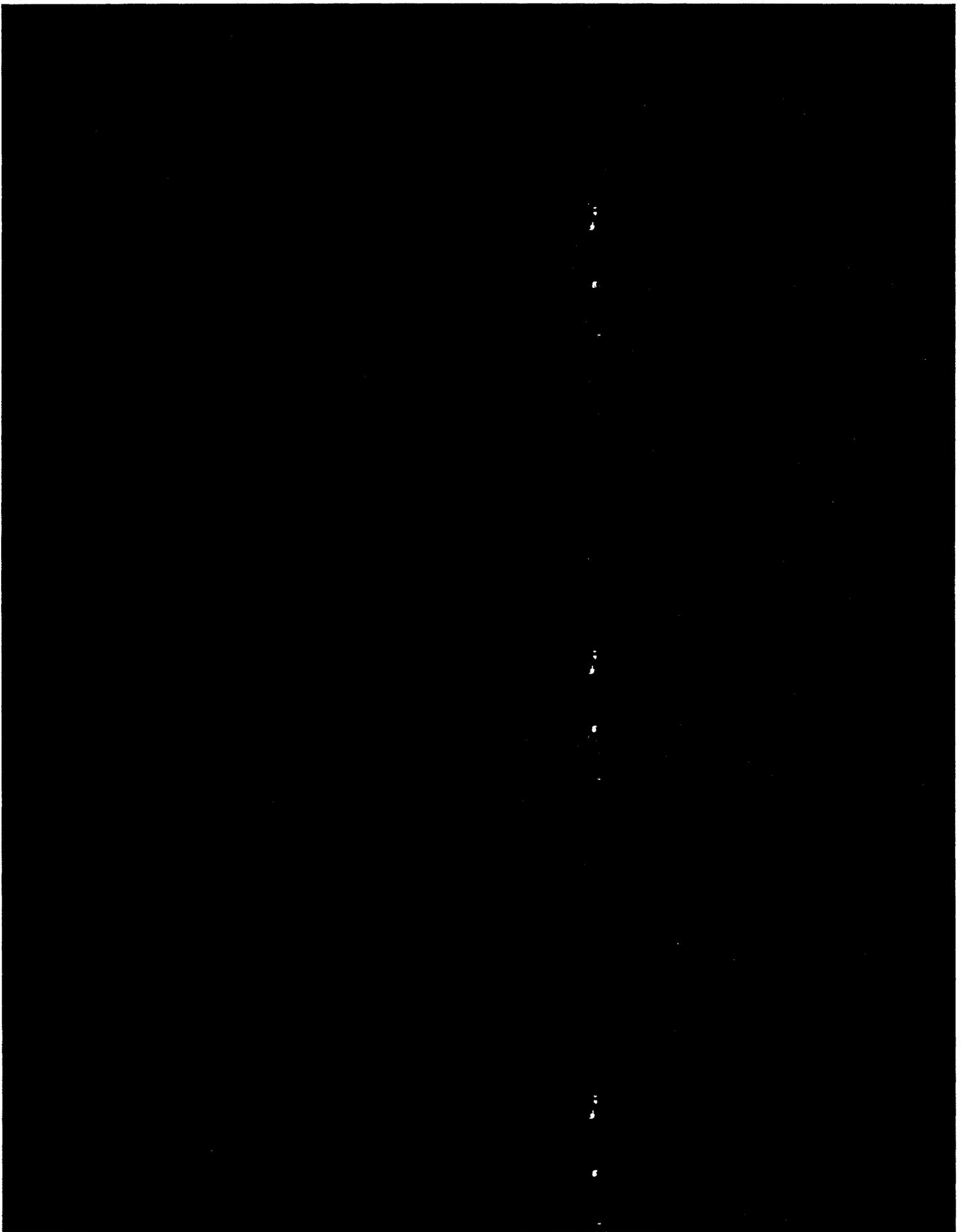
EXH. 1

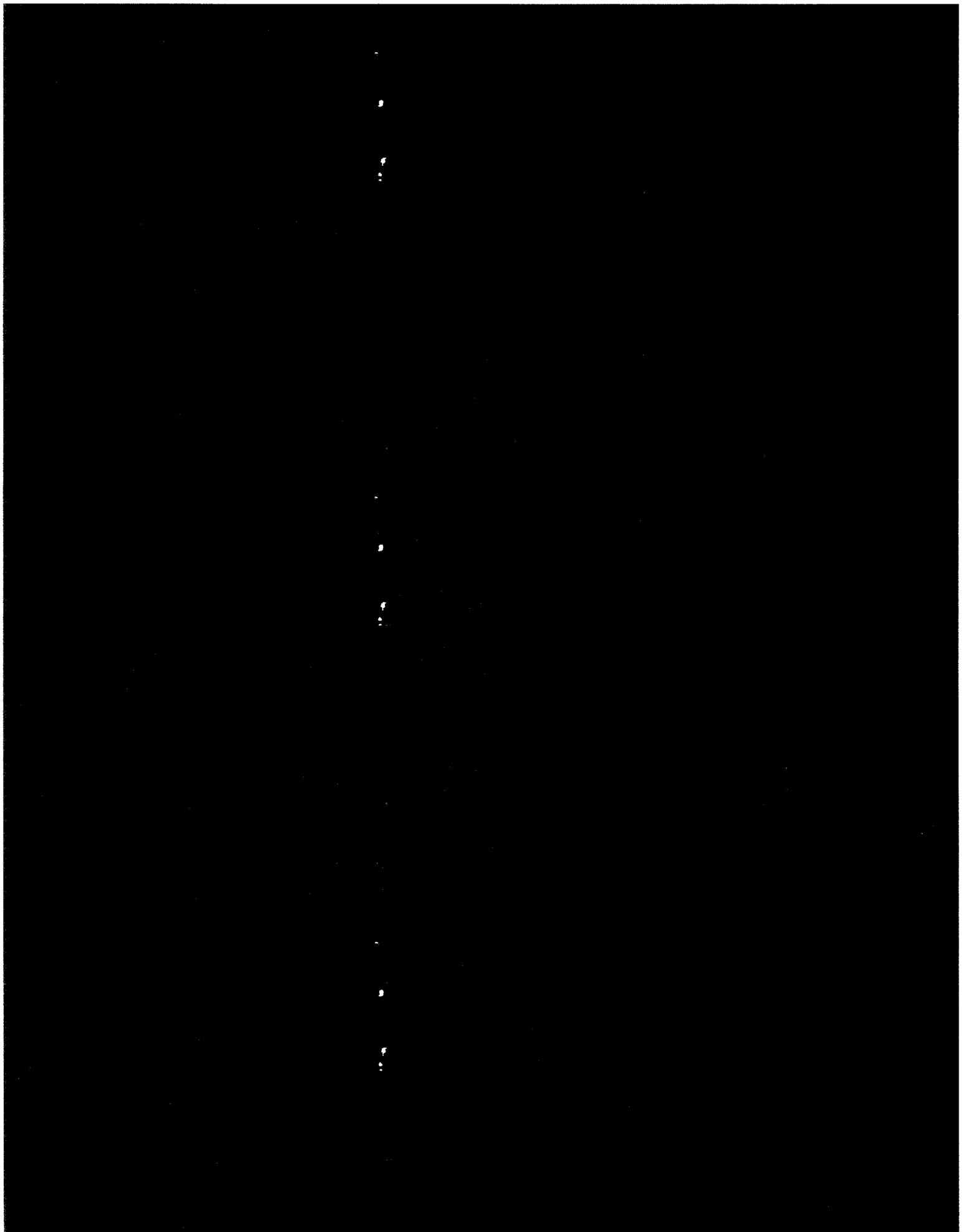




AIRS REPORT -- MARCH 2014

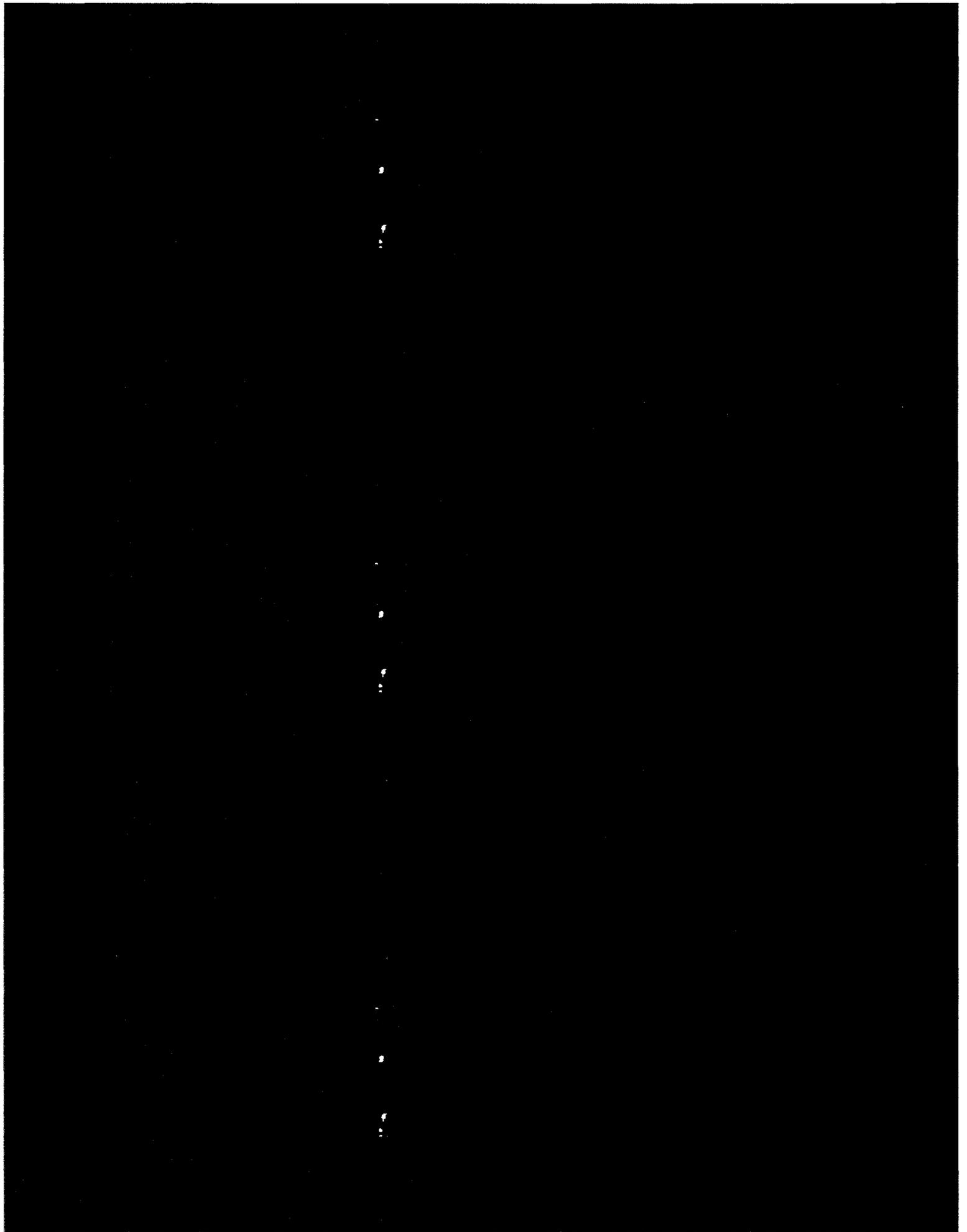
EXH. 2

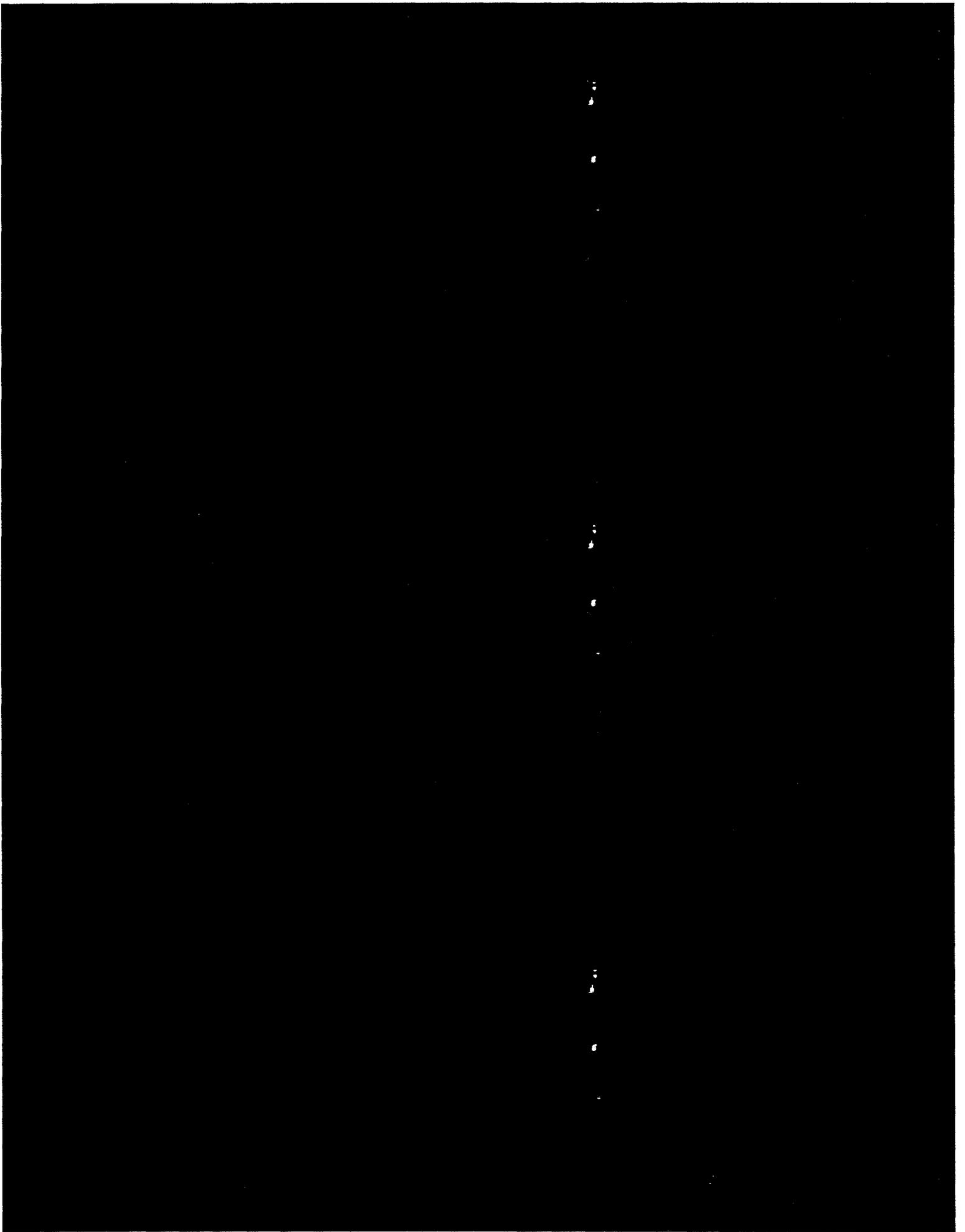


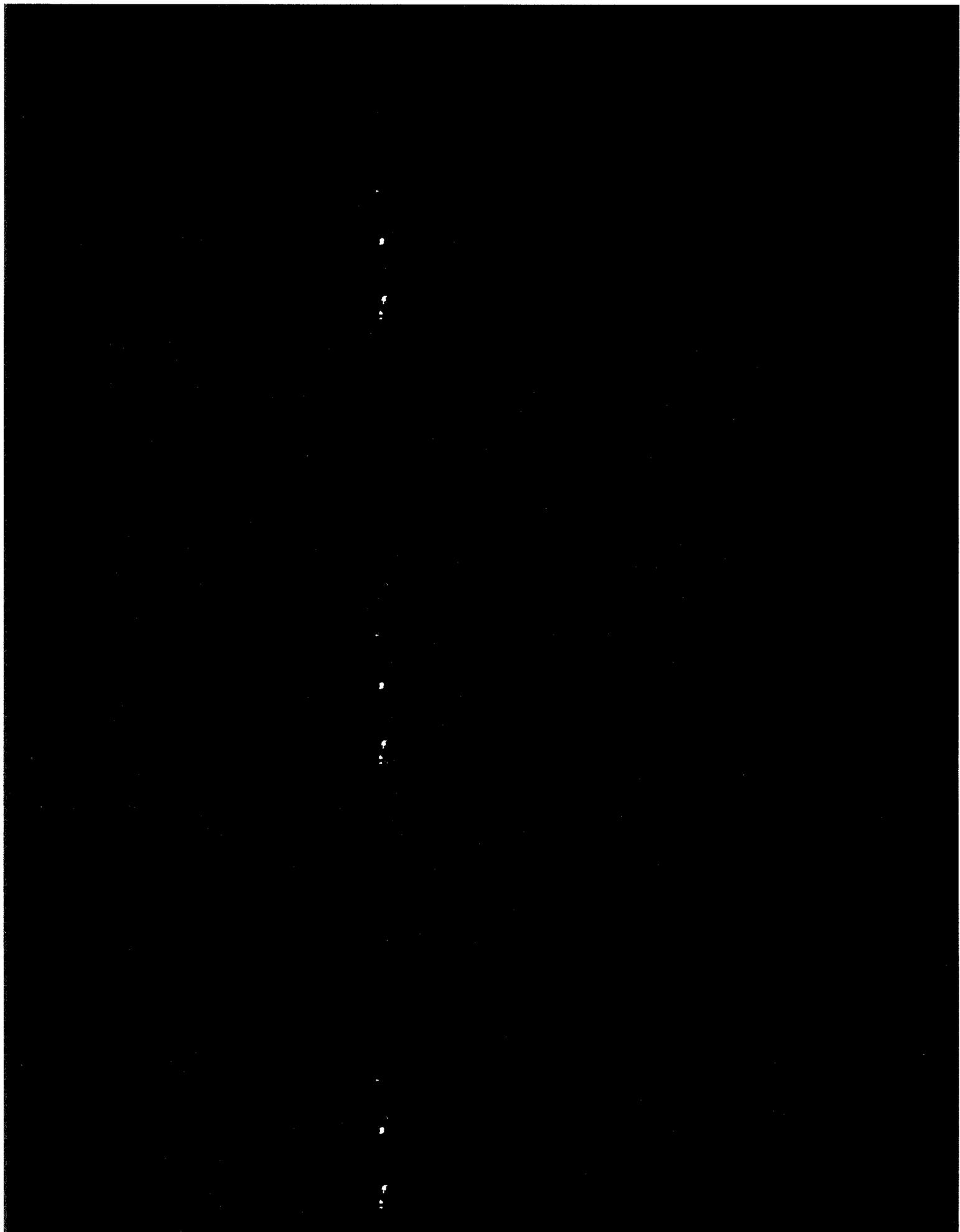


AIRS REPORT -- MARCH 2014

EXH. 3



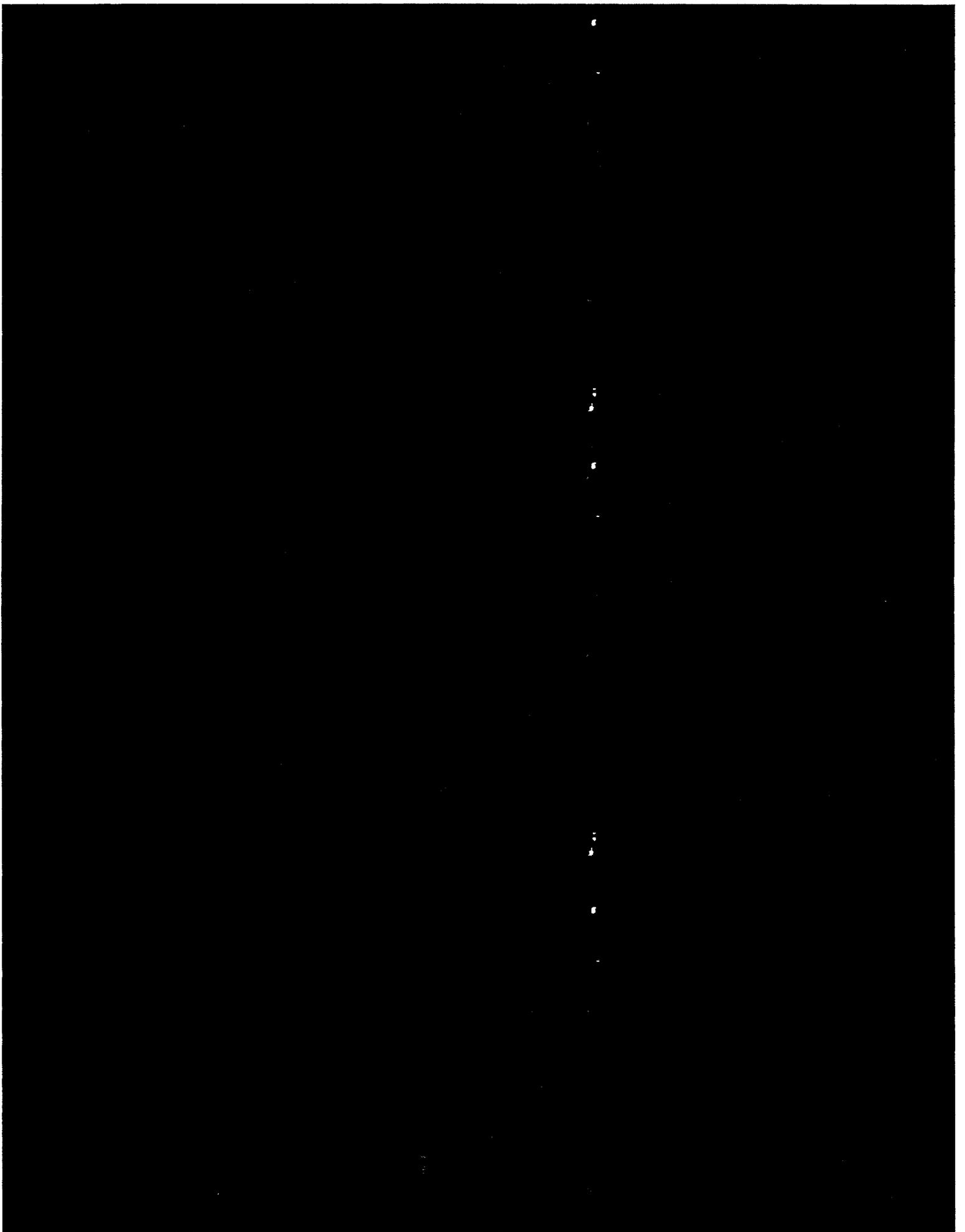


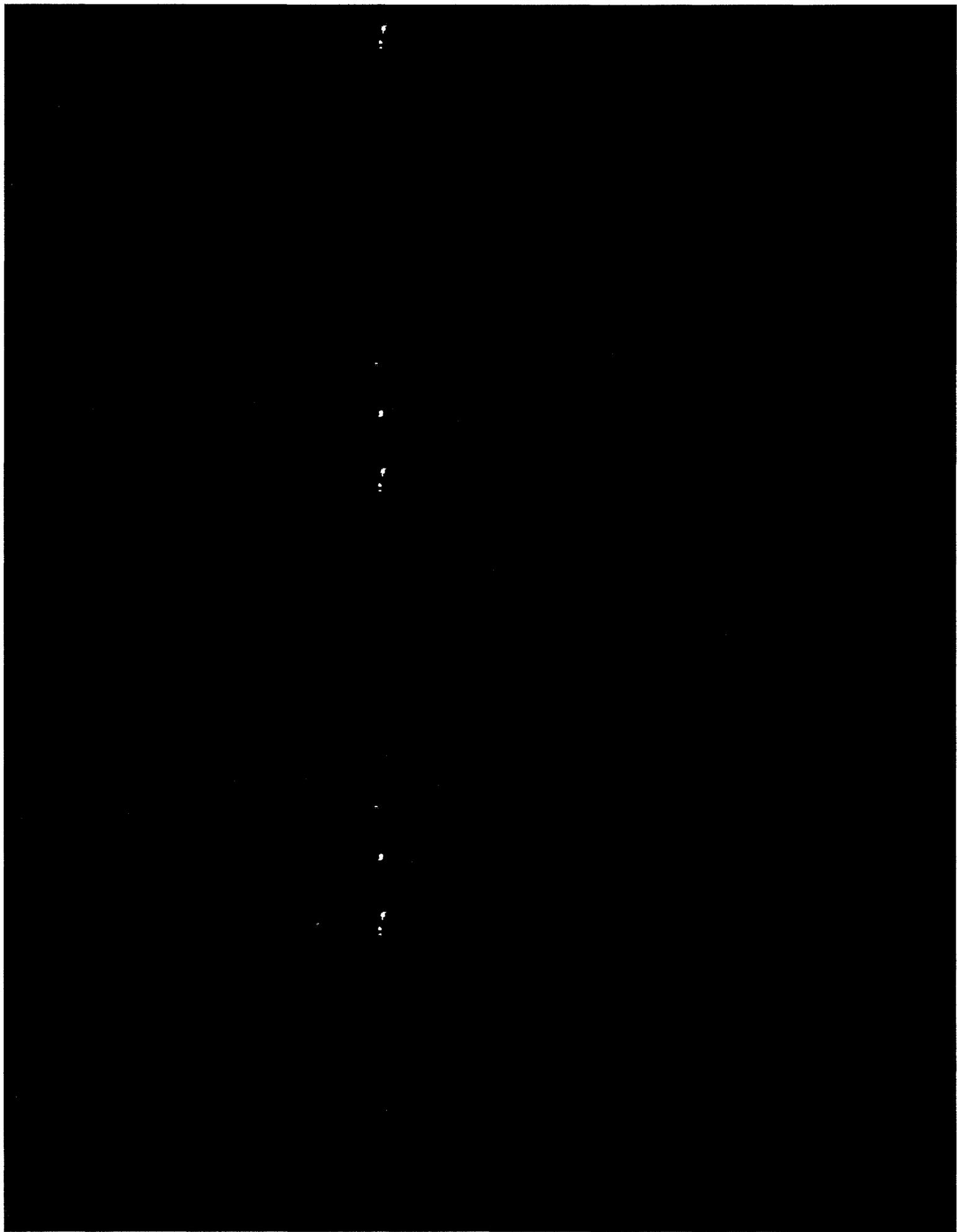


AIRS REPORT -- MARCH 2014

EXH. 4







AIRS REPORT -- MARCH 2014

EXH. 5

1

2

3

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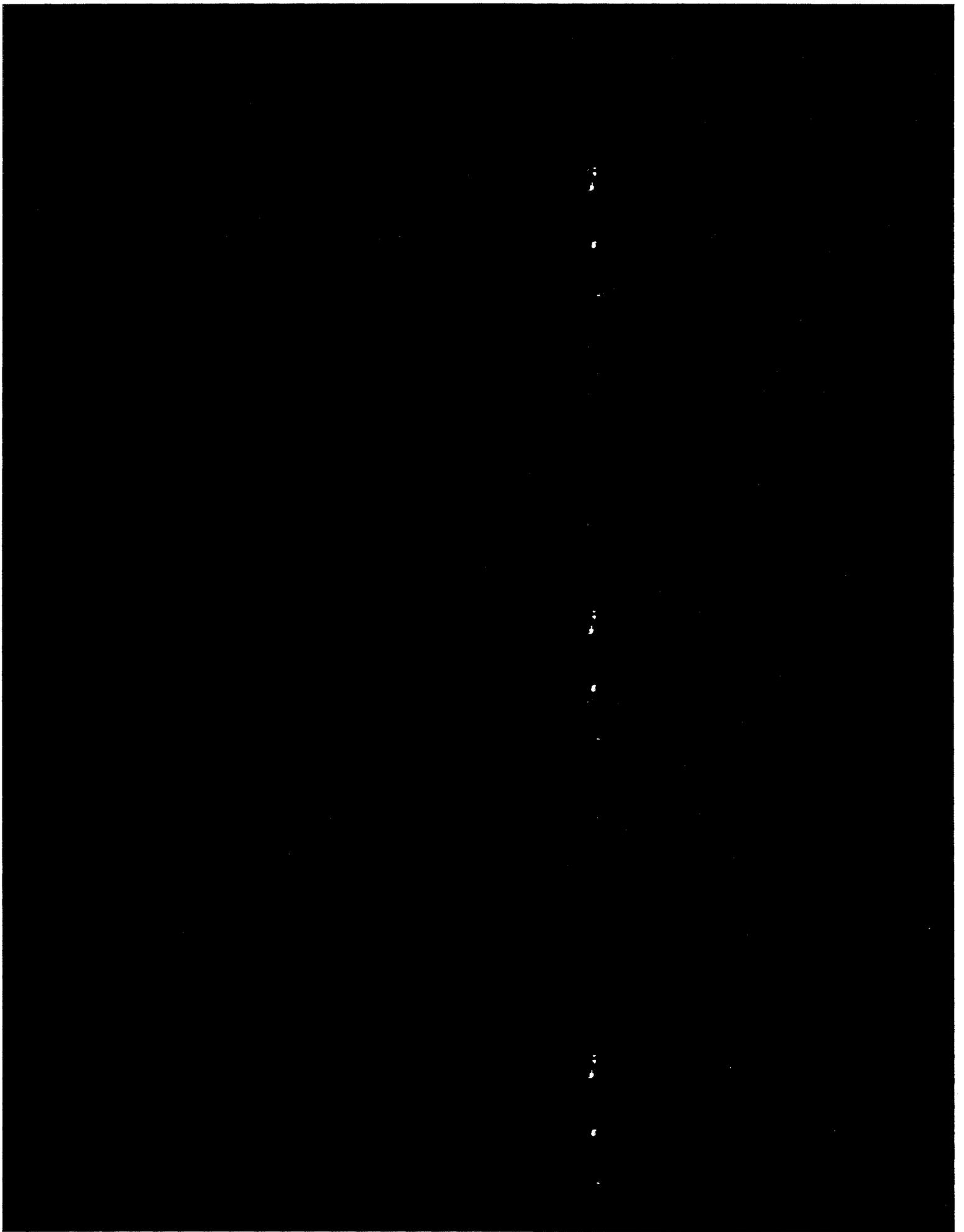
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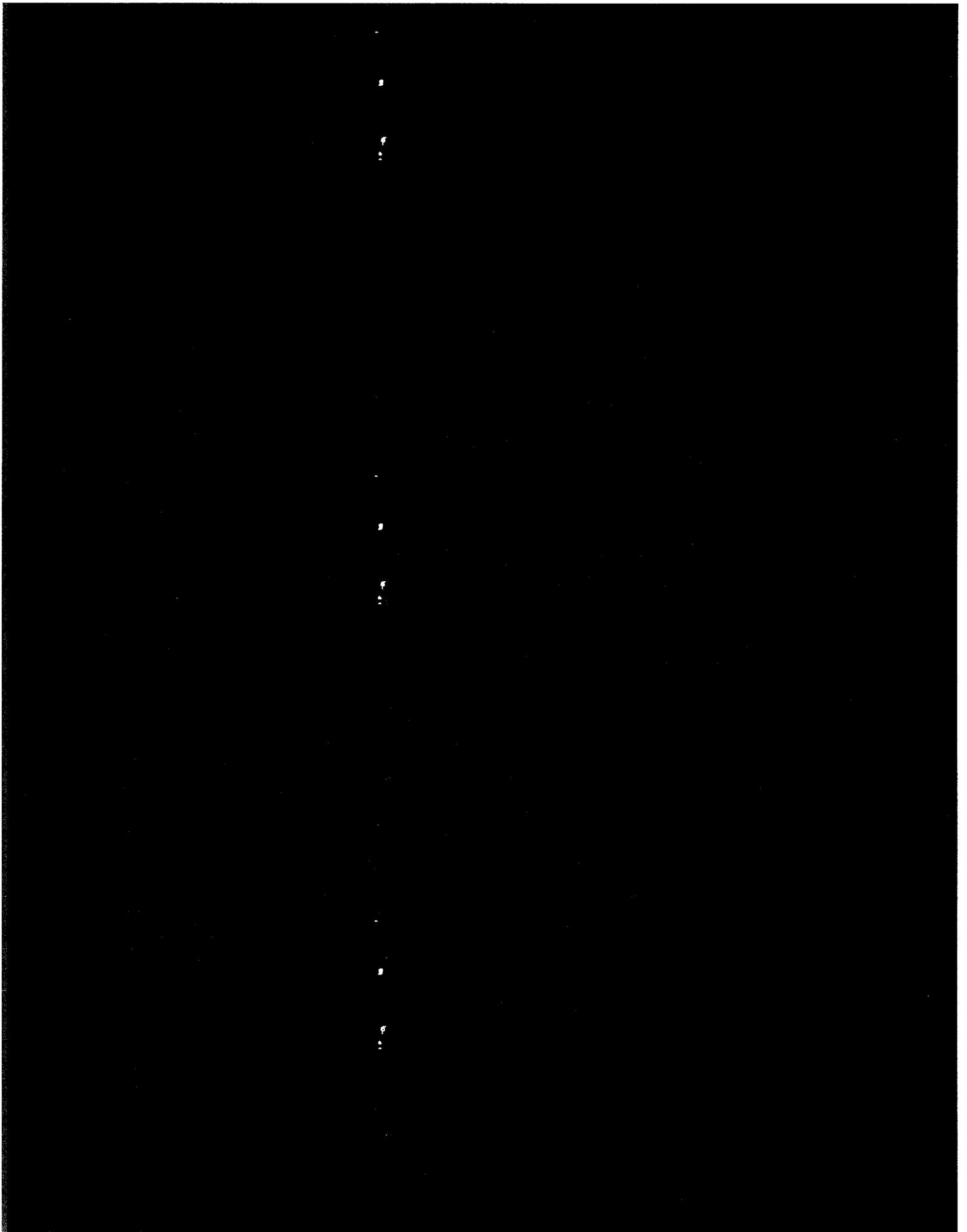
9

AIRS REPORT -- MARCH 2014

EXH. 6







**E-MAILS  
PROVIDED BY  
ALJ RAUL  
PARDO**

Pardo, Raul C.

---

From: Smeltzer, Jason  
Sent: Monday, February 10, 2014 10:42 AM  
To: Rogers, Shannon  
Cc: Kallio, Kim; Pardo, Raul C.  
Subject: FMLA Human Resources Correspondence

I am entitled to a copy of all correspondence, (emails, memos etc.), with SSA Human Resources and Legal Counsel to determine what information was used to adjudicate my FMLA eligibility. Please provide this information by the end of the week.

Thanks,

*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

**Pardo, Raul C.**

---

**From:** Smeltzer, Jason  
**Sent:** Wednesday, February 19, 2014 1:51 PM  
**To:** Rogers, Shannon  
**Cc:** Pardo, Raul C.; Kallio, Kim  
**Subject:** PII Access and Disclosure (written while on lunch)

Good afternoon,

I am following up on my concerns about the adherence to PII procedures. For the past three years only Pilar and I have continued to properly verify callers in accordance with the agency's PII protection initiatives. Along those lines, I have raised my concerns about the lack of adherence to PII access and disclosure procedures many times. As a member of the FBI Infragard program, the IOSS OPSEC program, and the NSA IAD Directorate I feel it is imperative that we address this issue to ensure that proper protections are in place to prevent the unauthorized access and disclosure of PII. As a possible solution, I am willing to volunteer my knowledge on this subject to train the office on the proper access and disclosure of PII.

Thank you for your time and consideration of my concerns,

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

EBP

» Hearing Office Electronic Business Process Version 3.2! » Section 1 – Front Desk & Incoming Workloads» 1.1 Front Desk Responsibilities

(POMS GN 03360.005 Releasing Information by Telephone)

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-1/11-front-desk-responsibilities/>

Access Requests Via Telephone  
[GN 03380.005B.2.](#)

Access/Disclosure  
<http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

Ex Parte Communications:

(POMS section [DI 33015.035](#). See also [20 CFR 404.911\(b\)](#) or [20 CFR 416.1411\(b\)](#)).

<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

Pardo, Raul C.

---

From: Smeltzer, Jason  
Sent: Thursday, February 20, 2014 3:28 PM  
To: Kallio, Kim  
Cc: Rogers, Shannon; Pardo, Raul C.; Singleton, David; Urdan, Rachel  
Subject: RE: Family Medical Leave Act (FMLA)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

---

**From:** Kallio, Kim  
**Sent:** Thursday, February 20, 2014 3:12 PM  
**To:** Smeltzer, Jason  
**Cc:** Rogers, Shannon  
**Subject:** Family Medical Leave Act (FMLA)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Kim Kallio  
Administrative Officer  
Albuquerque National Hearing Center  
866-964-1298 #31808

**Pardo, Raul C.**

---

**From:** Smeltzer, Jason  
**Sent:** Tuesday, March 04, 2014 2:00 PM  
**To:** Rogers, Shannon  
**Cc:** Kallio, Kim; Pardo, Raul C.; Singleton, David; Urdan, Rachel  
**Subject:** Grievances and FMLA Disputes (written while on lunch)

Shannon Rogers  
Kim Kallio

[REDACTED]

[REDACTED]

Jason Smeltzer

-  
-  
-  
-  
-  
-  
-

---

**From:** Smeltzer, Jason  
**Sent:** Friday, February 21, 2014 4:01 PM  
**To:** Kallio, Kim  
**Cc:** Rogers, Shannon; Pardo, Raul C.; Singleton, David; Urdan, Rachel  
**Subject:** Failure to provide documentation - FMLA Dispute (written while on break)

[REDACTED]

[REDACTED]

[REDACTED]

*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

---

**From:** Smeltzer, Jason  
**Sent:** Friday, February 21, 2014 10:23 AM  
**To:** Kallio, Kim  
**Cc:** Singleton, David; Urdan, Rachel  
**Subject:** RE: Family Medical Leave Act (FMLA)

[REDACTED]

Jason Smeltzer  
(written while on break)

---

**From:** Smeltzer, Jason  
**Sent:** Thursday, February 20, 2014 3:28 PM  
**To:** Kallio, Kim  
**Cc:** Rogers, Shannon; Pardo, Raul C.; Singleton, David; Urdan, Rachel  
**Subject:** RE: Family Medical Leave Act (FMLA)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**Sent:** Tuesday, February 11, 2014 12:17 PM  
**To:** Rogers, Shannon  
**Cc:** Kallio, Kim  
**Subject:** Enough

Shannon,

[REDACTED]

*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

---

**From:** Smeltzer, Jason  
**Sent:** Monday, February 10, 2014 10:42 AM  
**To:** Rogers, Shannon  
**Cc:** Kallio, Kim; Pardo, Raul C.  
**Subject:** FMLA Human Resources Correspondence

[REDACTED]

[REDACTED]

*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

---

**From:** Smeltzer, Jason  
**Sent:** Monday, December 23, 2013 2:36 PM  
**To:** Rogers, Shannon  
**Subject:** Complaint(s)

[REDACTED]

[REDACTED]

[REDACTED]

*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831

---

**From:** Smeltzer, Jason  
**Sent:** Thursday, December 19, 2013 8:12 AM  
**To:** Rogers, Shannon  
**Subject:** Illegal Management Actions

[REDACTED]

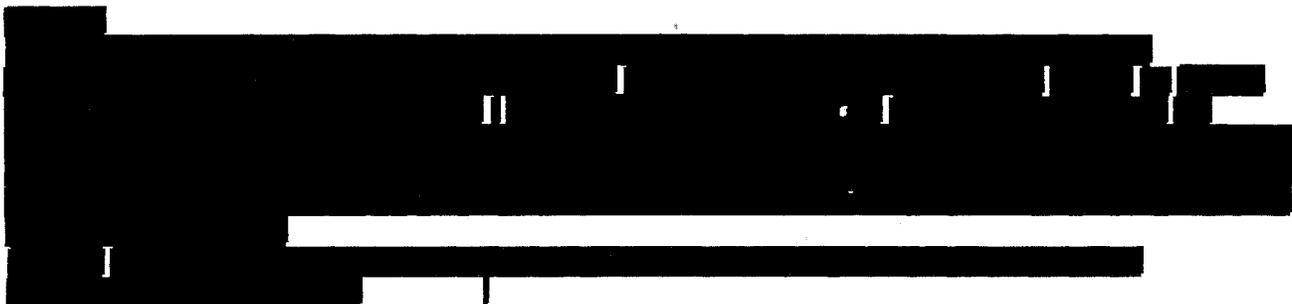
I believe you are retaliating against me for bringing to your attention that Albuquerque NHC management is aware, and knowingly encourages the circumvention of agency procedures and federal laws concerning the protection of personal information (PII). I believe you are retaliating against me because I brought to your attention an instance where you ordered me to alter federal government records without adhering to access and disclosure laws. I believe that you are acting with discriminatory malice against me because I have a legitimate well documented medical condition [REDACTED]

[REDACTED]

*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

---

**From:** Smeltzer, Jason  
**Sent:** Thursday, September 19, 2013 3:52 PM  
**To:** Rogers, Shannon  
**Cc:** Kallio, Kim; Pardo, Raul C.  
**Subject:** Illegal management actions



*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

Pardo, Raul C.

---

From: Smeltzer, Jason  
Sent: Thursday, March 06, 2014 9:38 AM  
To: Singleton, David  
Cc: Dixon, Susan A.; Urdan, Rachel; Rogers, Shannon; Kallio, Kim; Pardo, Raul C.  
Subject: Continued Harassment

Just an FYI,

While I was writing a response to Judge Robinson, Shannon came over and yelled at me in front of the office for "typing too loud." She could have addressed any concerns in private but she choose to try to humiliate me in front of my coworkers. I do have to admit that my spacebar is a little noisy but that that is beyond my control.

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

Pardo, Raul C.

---

**From:** Rogers, Shannon  
**Sent:** Thursday, March 13, 2014 1:44 PM  
**To:** Pardo, Raul C.  
**Subject:** FW: Jason Smeltzer

fyi

---

**From:** Rogers, Shannon  
**Sent:** Thursday, March 13, 2014 1:43 PM  
**To:** 'Carrillo, Jose'  
**Subject:** RE: Jason Smeltzer

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Shannon Rogers  
Supervisory Case Manager  
SSA ODAR ABQ NHC  
201 3rd Street NW, Ste. 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax

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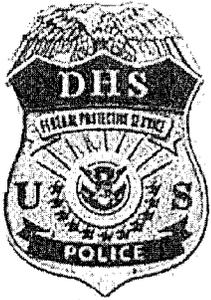
**From:** Carrillo, Jose [<mailto:Jose.Carrillo@hq.dhs.gov>]  
**Sent:** Friday, March 07, 2014 9:16 AM  
**To:** Rogers, Shannon  
**Subject:** RE: Jason Smeltzer  
**Importance:** High

[REDACTED]

[REDACTED]

FEDERAL PROTECTIVE SERVICE, Region 7  
National Protection and Programs Directorate  
Desk: (505) 248-6057  
Blackberry: (505) 504-1988  
Email: [jose.carrillo@hq.dhs.gov](mailto:jose.carrillo@hq.dhs.gov)  
Denver Mega Center: 1-877-437-7411

Note: This message (including any attachments) may contain confidential and or law enforcement sensitive (LES) information intended for a specific individual and purpose, and should be considered for official use only (FOUO) DHS 11042.1 (03/05)



---

**From:** Rogers, Shannon [<mailto:Shannon.Rogers@ssa.gov>]  
**Sent:** Thursday, March 06, 2014 4:57 PM  
**To:** Carrillo, Jose  
**Subject:** Jason Smeltzer

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Shannon Rogers  
Supervisory Case Manager  
SSA ODAR ABQ NHC  
201 3rd Street NW, Ste. 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax

ERROR: ioerror  
OFFENDING COMMAND: image

STACK:

/image  
-mark-  
-savelevel-

**E-MAILS  
PROVIDED BY  
JASON  
SMELTZER**

**Mendez, Bianca**

---

**From:** Smeltzer, Jason  
**Sent:** Wednesday, February 19, 2014 1:51 PM  
**To:** Rogers, Shannon  
**Cc:** Pardo, Raul C.; Kallio, Kim  
**Subject:** PII Access and Disclosure (written while on lunch)

Good afternoon,

I am following up on my concerns about the adherence to PII procedures. For the past three years only Pilar and I have continued to properly verify callers in accordance with the agency's PII protection initiatives. Along those lines, I have raised my concerns about the lack of adherence to PII access and disclosure procedures many times. As a member of the FBI Infragard program, the IOSS OPSEC program, and the NSA IAD Directorate I feel it is imperative that we address this issue to ensure that proper protections are in place to prevent the unauthorized access and disclosure of PII. As a possible solution, I am willing to volunteer my knowledge on this subject to train the office on the proper access and disclosure of PII.

Thank you for your time and consideration of my concerns,

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

EBP

» Hearing Office Electronic Business Process Version 3.21 » Section 1 – Front Desk & Incoming Workloads» 1.1 Front Desk Responsibilities  
(POMS GN 03360.005 Releasing Information by Telephone)  
<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-1/11-front-desk-responsibilities/>

Access Requests Via Telephone  
[GN 03380.005B.2.](http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html)

Access/Disclosure  
<http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

Ex Parte Communications:

(POMS section [DI 33015.035](#). See also [20 CFR 404.911\(b\)](#) or [20 CFR 416.1411\(b\)](#)).  
<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

**Mendez, Bianca**

---

**From:** Smeltzer, Jason  
**Sent:** Wednesday, February 19, 2014 1:51 PM  
**To:** Rogers, Shannon  
**Cc:** Pardo, Raul C.; Kallio, Kim  
**Subject:** PII Access and Disclosure (written while on lunch)

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Thank you for your time and consideration of my concerns,

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

EBP

- Hearing Office Electronic Business Process Version 3.2! -> Section 1 - Front Desk & Incoming Workloads-> 1.1 Front Desk Responsibilities

(POMS GN 03360.005 Releasing Information by Telephone)

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-1/11-front-desk-responsibilities/>

Access Requests Via Telephone

[GN 03380.005B.2.](#)

Access/Disclosure

<http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/c/accessdisclosure.html>

Ex Parte Communications:

(POMS section [DI 33015.035](#). See also [20 CFR 404.911\(b\)](#) or [20 CFR 416.1411\(b\)](#)).

<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

## Mendez, Bianca

---

**From:** Smeltzer, Jason  
**Sent:** Friday, February 21, 2014 10:04 AM  
**To:** Mendez, Bianca  
**Subject:** FW: National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

I think they finally got the hint, it only took three years to get the message across ☺

Thanks again,

Jason

---

**From:** Rogers, Shannon  
**Sent:** Friday, February 21, 2014 9:39 AM  
**To:** #ODAR HQ OCALJ NHC ALB Legal Assistants  
**Cc:** Kallio, Kim  
**Subject:** FW: National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

Good morning:

I do not believe that we have any disclosure issues, however, that is why we have *friendly reminders*. ☺ To ensure control of PII, please review the POMS below for guidance on releasing information by telephone and utilize the Disclosure Tool before releasing information by telephone.

Again, to the extent possible, please continue to handle phone calls before transferring to another employee.

Please let me know if you have any questions.

Thanks!

Shannon Rogers  
Supervisory Case Manager  
SSA ODAR ABQ NHC  
201 3rd Street NW, Ste. 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax

---

**From:** Rogers, Shannon  
**Sent:** Wednesday, August 07, 2013 8:51 AM  
**To:** #ODAR HQ OCALJ NHC ALB Legal Assistants  
**Cc:** Kallio, Kim  
**Subject:** National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

Good morning:

Please review the following as a friendly reminder when processing incoming phone calls, as most phone calls can be handled without transferring to another employee.

### 1.1 Process Incoming Phone Calls

Process  
Steps

Tasks

Primary responsibilities for the assigned telephone contact staff are as follows:

A. Answer phones

1. Control for PII (POMS GN 03360.005 Releasing Information by Telephone)

- a. Customize your OQP Toolbar to add the Disclosure Tool

2. *To the extent possible, resolve inquiries rather than routing them to other employees (e.g. status inquiries, et al)*

3. Refer to staffing roster to determine employee availability (using Outlook, Share Point, office shared drive, Communicator (IM), etc.)

- B. Print and provide bar codes to claimants/authorized representatives upon request (CPMS Module 18)

- C. When a claimant or representative requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and SCHD) and the availability of direct on-line access for representatives. If the claimant or representative still wishes immediately to receive the CD, the employee will burn and mail CDs to authorized individuals.

- D. When an unrepresented claimant or representative without Appointed Representative Services (ARS) access requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and for hearing).

1. Inform representatives without ARS

1.1  
Process  
Incoming  
Phone  
Calls

**Process  
Steps**

**Tasks**

access of the availability of direct on-line access (User Guide for Access to the Electronic Folder & Appointed Rep Stuffer).

2. If the representative still wishes to receive the CD immediately, the employee will burn and mail CD to authorized individual.

Thanks,

*Shannon Rogers*  
Supervisory Case Manager  
SSA ODAR ABQ NHC  
201 3rd Street NW, Ste. 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax

**Mendez, Bianca**

---

**From:** Smeltzer, Jason  
**Sent:** Wednesday, April 02, 2014 3:06 PM  
**To:** Mendez, Bianca  
**Subject:** FW: National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

Good afternoon SA Mendez,

Unfortunately, the only thing that was done regarding PII and HIPPA violations regarding the improper access and disclosure of information via phone contact was this reminder email. While it is indeed each employee's responsibility to adhere to these policies, NHC management continues to ignore the fact that only Pilar Chavez and I adhere to agency PII laws. Is there anything that can be done on your end to ensure that management conducts QA's on PII and access/disclosure adherence? I am greatly concerned that Legal Assistants, Senior Case Technicians, Attorneys, Judges and even NHC management is violating public trust by releasing protected information to unauthorized parties. I am leaving for the day but you can reach me on my cell at [REDACTED] if necessary.

v/r

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

---

**From:** Smeltzer, Jason  
**Sent:** Friday, February 21, 2014 10:04 AM  
**To:** Mendez, Bianca  
**Subject:** FW: National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

I think they finally got the hint, it only took three years to get the message across ☺

Thanks again.

Jason

---

**From:** Rogers, Shannon  
**Sent:** Friday, February 21, 2014 9:39 AM  
**To:** #ODAR HQ OCALJ NHC ALB Legal Assistants  
**Cc:** Kallio, Kim  
**Subject:** FW: National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

Good morning:

I do not believe that we have any disclosure issues, however, that is why we have *friendly reminders*. ☺ To ensure control of PII, please review the POMS below for guidance on releasing information by telephone and utilize the Disclosure Tool before releasing information by telephone.

Again, to the extent possible, please continue to handle phone calls before transferring to another employee.

Please let me know if you have any questions.

Thanks!

Shannon Rogers  
Supervisory Case Manager  
SSA ODAR A8Q NHC  
201 3rd Street NW, Ste. 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax

---

**From:** Rogers, Shannon  
**Sent:** Wednesday, August 07, 2013 8:51 AM  
**To:** #ODAR HQ OCALJ NHC ALB Legal Assistants  
**Cc:** Kallio, Kim  
**Subject:** National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

Good morning:

Please review the following as a friendly reminder when processing incoming phone calls, as most phone calls can be handled without transferring to another employee.

### 1.1 Process Incoming Phone Calls

| Process Steps                                | Tasks  |
|--|--|
| 1.1<br>Process<br>Incoming<br>Phone<br>Calls | Primary responsibilities for the assigned telephone contact staff are as follows:<br><br>A. Answer phones<br><br>1. Control for PII (POMS GN 03360.005 Releasing Information by Telephone)<br><br>a. Customize your OQP Toolbar to add the Disclosure Tool<br><br>2. <i>To the extent possible, resolve inquiries rather than routing them to other employees (e.g. status</i> |

**Process  
Steps**

**Tasks**

*inquiries, et al)*

3. Refer to staffing roster to determine employee availability (using Outlook, Share Point, office shared drive, Communicator (IM), etc.)
- B. Print and provide bar codes to claimants/authorized representatives upon request (CPMS Module 18)
  - C. When a claimant or representative requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and SCHD) and the availability of direct on-line access for representatives. If the claimant or representative still wishes immediately to receive the CD, the employee will burn and mail CDs to authorized individuals.
  - D. When an unrepresented claimant or representative without Appointed Representative Services (ARS) access requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and for hearing).
    1. Inform representatives without ARS access of the availability of direct on-line access (User Guide for Access to the Electronic Folder & Appointed Rep Stuffer).
    2. If the representative still wishes to receive the CD immediately, the employee will burn and mail CD to authorized individual.

Thanks,

Shannon Rogers  
Supervisory Case Manager  
SSA ODAR ABQ NHC  
201 3rd Street NW, Ste 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax



**Mendez, Bianca**

---

**From:** Smeltzer, Jason  
**Sent:** Thursday, April 03, 2014 2:06 PM  
**To:** Mendez, Bianca  
**Subject:** FW: Falsified Airs Report

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** Smeltzer, Jason  
**Sent:** Friday, March 28, 2014 10:00 AM  
**To:** 'sa.jsmeltzer@gmail.com'  
**Subject:** FW: Falsified Airs Report

---

**From:** Singleton, David  
**Sent:** Friday, March 28, 2014 9:33 AM  
**To:** Smeltzer, Jason  
**Cc:** Dixon, Susan A.  
**Subject:** FW: Falsified Airs Report

FYI.

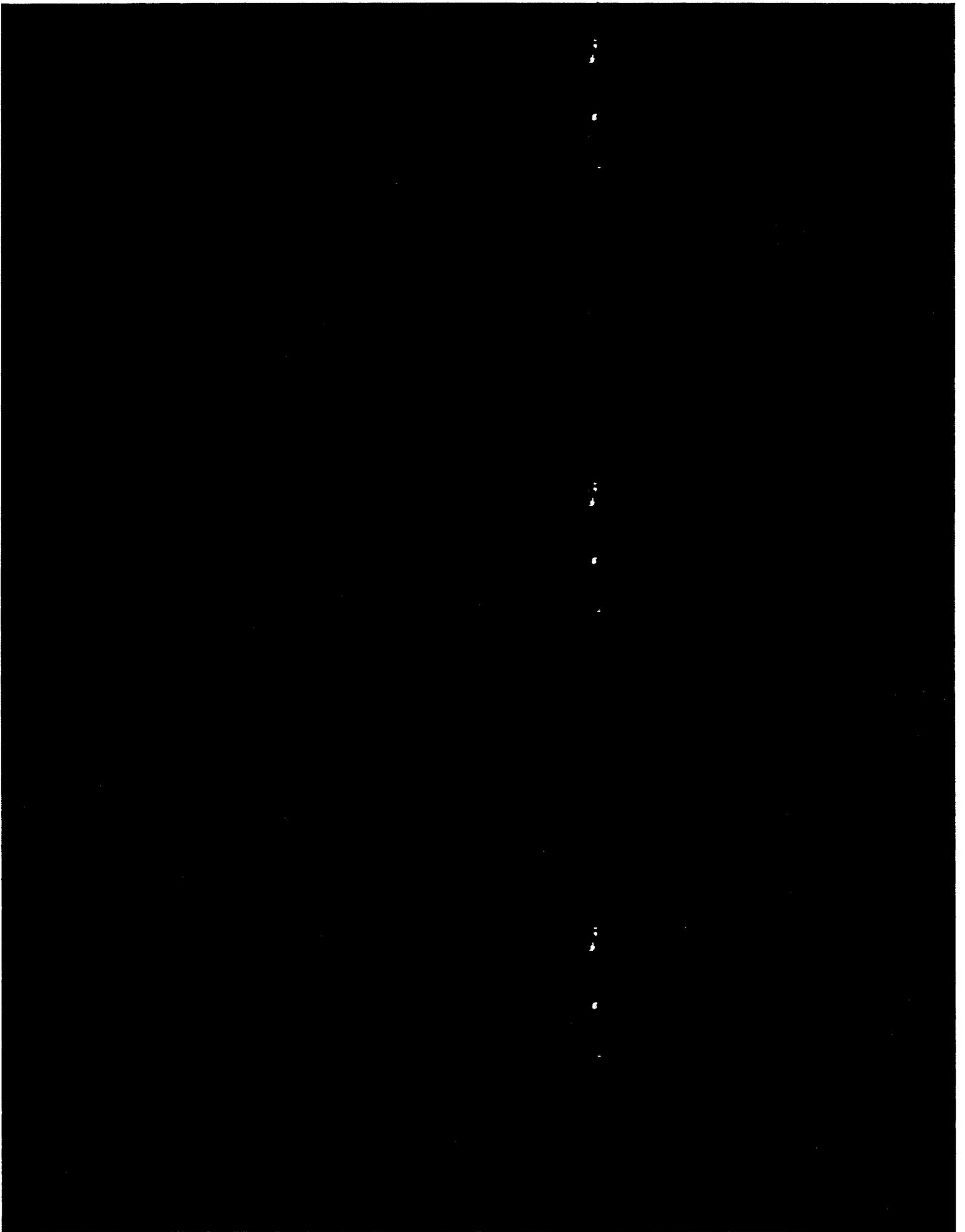
---

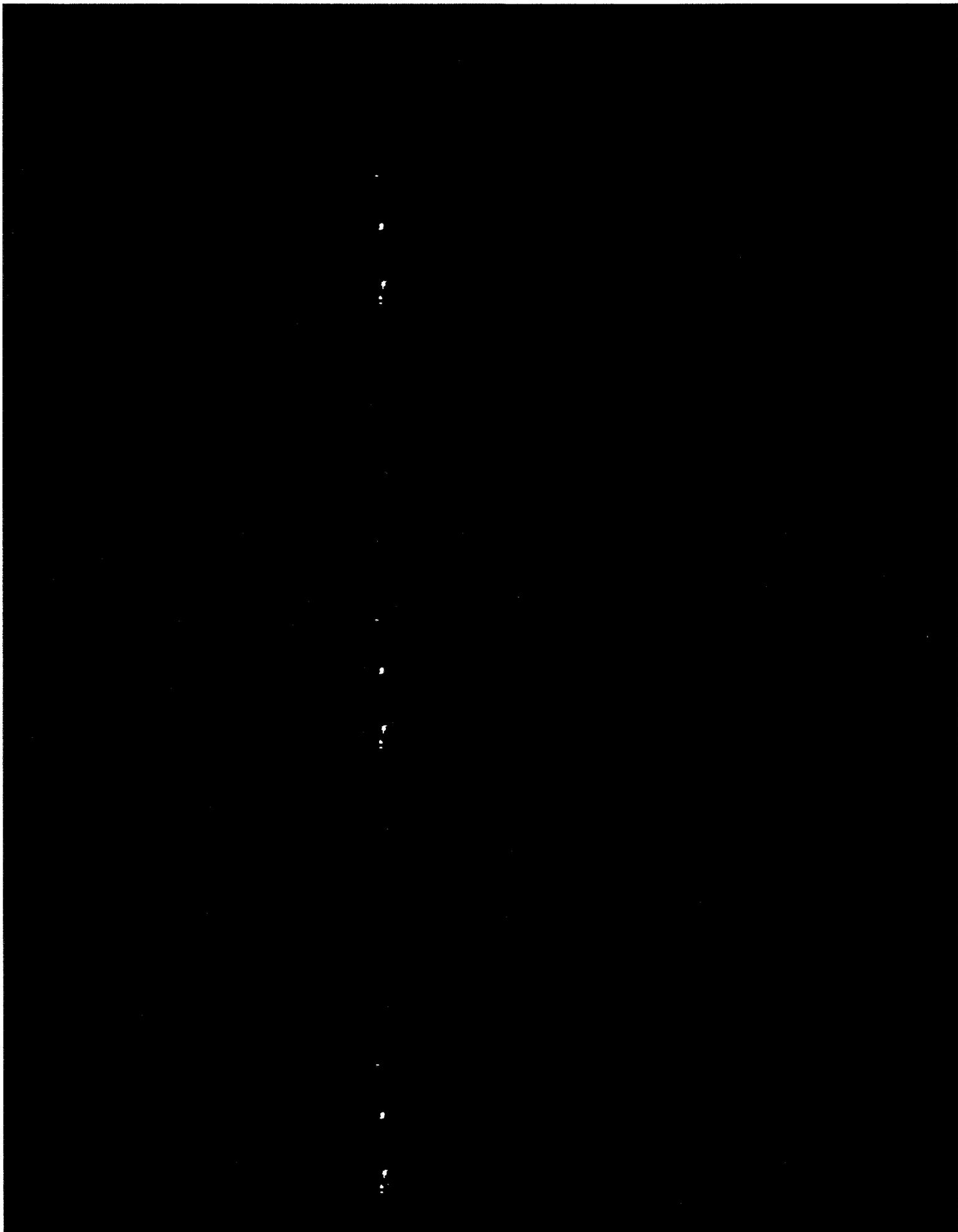
**From:** Singleton, David  
**Sent:** Friday, March 28, 2014 10:32 AM  
**To:** Meisels, Ray  
**Cc:** Julian, James; Stier, Scot A.; Dixon, Susan A.; Scully-Hayes, Kathleen; Greenidge, Elizabeth; Carter, Yeshia; Sklar,

Glenn; Borland, Jim; Bice, Debra ; ODAR  
Subject: Falsified Airs Report



[Redacted]





Mendez, Bianca

---

From: Smeltzer, Jason  
Sent: Friday, October 10, 2014 2:24 PM  
To: Mendez, Bianca  
Subject: OSC File DI-14-3174, Parties of interest  
  
Sensitivity: Confidential

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Mendez, Bianca**

---

**From:** Smeltzer, Jason  
**Sent:** Thursday, April 03, 2014 2:06 PM  
**To:** Mendez, Bianca  
**Subject:** FW: Falsified Airs Report

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** Smeltzer, Jason  
**Sent:** Friday, March 28, 2014 10:00 AM  
**To:** 'sa.jsmeltzer@gmail.com'  
**Subject:** FW: Falsified Airs Report

---

**From:** Singleton, David  
**Sent:** Friday, March 28, 2014 9:33 AM  
**To:** Smeltzer, Jason  
**Cc:** Dixon, Susan A.  
**Subject:** FW: Falsified Airs Report

FYI.

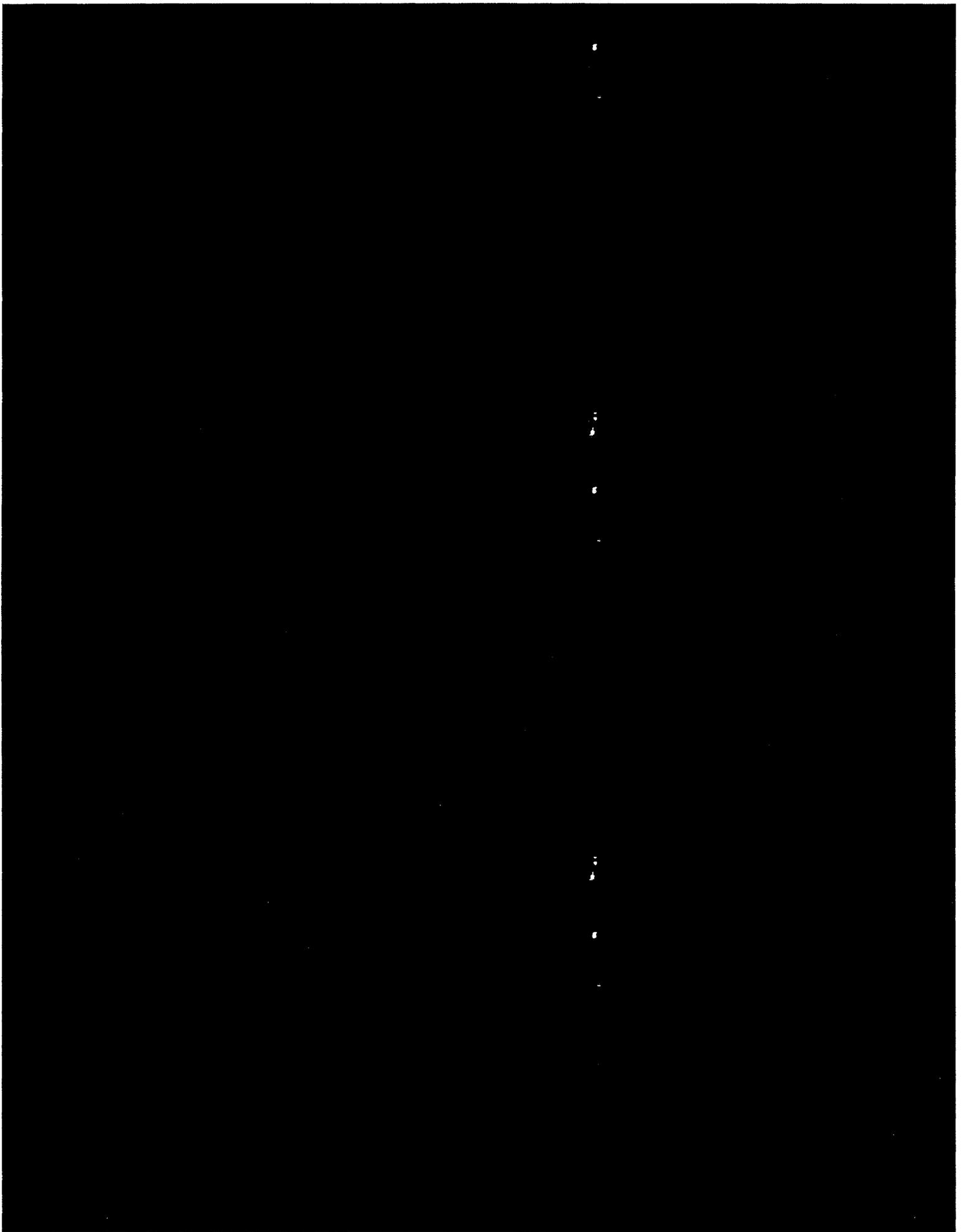
---

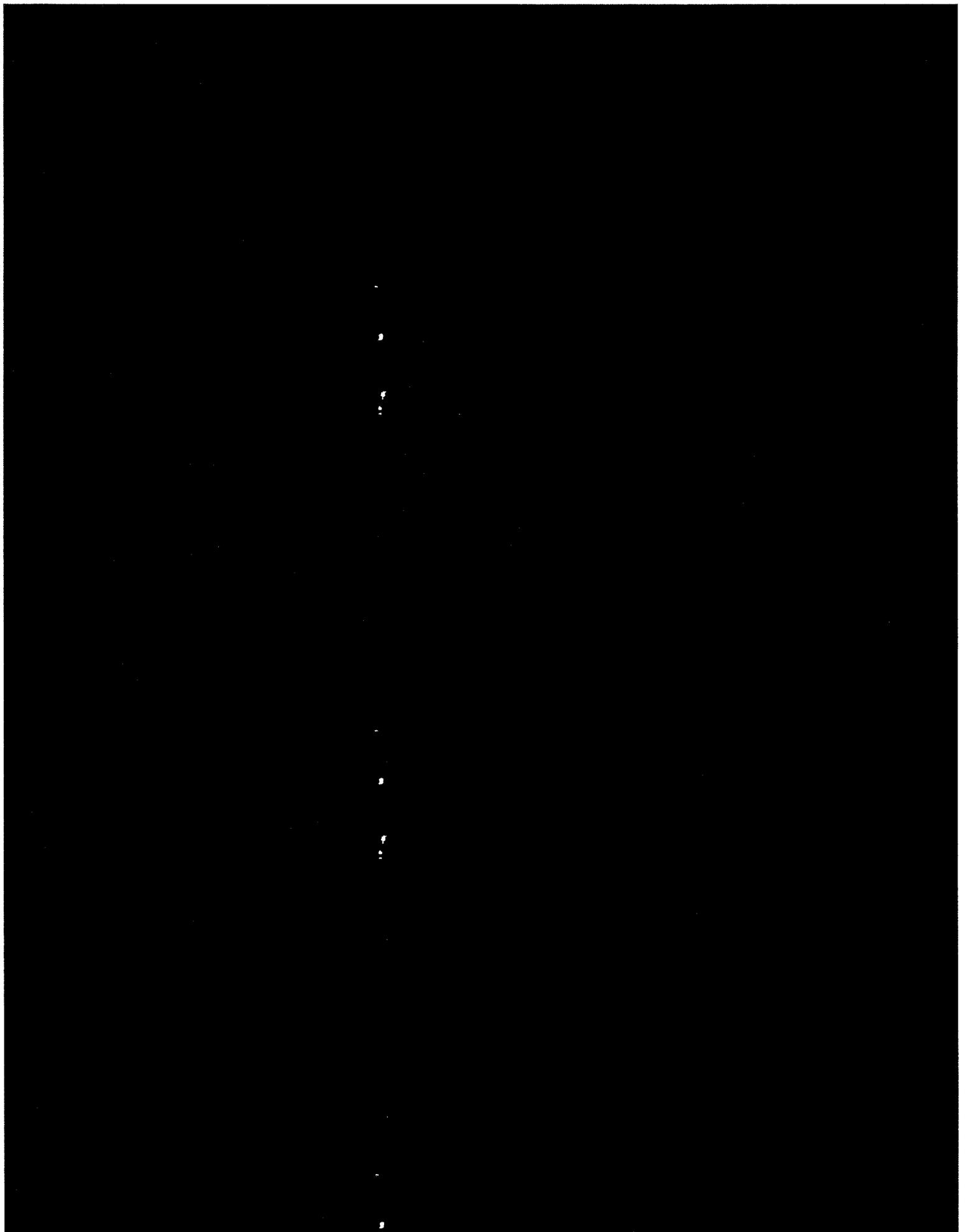
**From:** Singleton, David  
**Sent:** Friday, March 28, 2014 10:32 AM  
**To:** Meisels, Ray  
**Cc:** Julian, James; Stier, Scot A.; Dixon, Susan A.; Scully-Hayes, Kathleen; Greenidge, Elizabeth; Carter, Yeshia; Sklar,

Glenn; Borland, Jim; Bice, Debra HQ ODAR  
**Subject:** Falsified Airs Report



[Redacted]





**Mendez, Bianca**

---

**From:** Smeltzer, Jason  
**Sent:** Friday, October 24, 2014 10:09 AM  
**To:** Mendez, Bianca  
**Subject:** RE: Question

**Sensitivity:** Confidential

Thank you Bianca ☺

---

**From:** Mendez, Bianca  
**Sent:** Friday, October 24, 2014 10:08 AM  
**To:** Smeltzer, Jason  
**Subject:** RE: Question  
**Sensitivity:** Confidential

Good morning Jason,

Please go through your proper chain-of-command to report this alleged incident. Thank you!

**Bianca N. Mendez**  
**Special Agent**  
**Social Security Administration**  
**Office of the Inspector General**  
**Office: (915) 593-6256**  
**Cellular: (915) 494-1782**  
**Fax: (915) 593-6295**

CONFIDENTIALITY NOTICE: This email message and any accompanying data are confidential, and intended only for the named recipient(s). If you are not the intended recipient(s), you are hereby notified that the dissemination, distribution, and or copying of this message is strictly prohibited. If you receive this message in error, or are not the named recipient(s), please notify the sender at the email address above, delete this email from your computer, and destroy any copies in any form immediately.

---

**From:** Smeltzer, Jason  
**Sent:** Friday, October 24, 2014 9:51 AM  
**To:** Mendez, Bianca  
**Subject:** Question  
**Sensitivity:** Confidential

Good morning SA Mendez,

What should I do if an employee tips me off about someone in this office misusing the office equipment? Allegedly, the scheduler has been using her work computer for her personal school work throughout her degree program.

v/r

**Mendez, Bianca**

---

**From:** Smeltzer, Jason  
**Sent:** Monday, October 27, 2014 2:28 PM  
**To:** Mendez, Bianca  
**Subject:** FW: VE for Green Bay

---

**From:** Smeltzer, Jason  
**Sent:** Thursday, October 17, 2013 1:09 PM  
**To:** Rogers, Shannon  
**Subject:** RE: VE for Green Bay

Shannon,

I will make the changes. However, I want it to be stated that I formally object to the alteration of US Government/Social Security files without **written consent** from the citizen/claimant. I do not believe that it is legally correct to alter a government system without proper access and disclosure permissions. I want it noted in my 7B that I object to management directives that conflict with PII laws, and agency access/disclosure requirements. I disagree with Judge Robinson's interpretation. The agency's access and disclosure policies **specifically state that written consent is required**. Entering onto the record, (as far as the CFR, HALLEX, and policy-net are concerned), is not enough to grant a third party unlimited access and disclosure rights to a claimant's record. Consider the same situation with an attorney/non attorney representative. We could not alter the case without a 1696. Again I request that further guidance be obtained from Margaret Lee or another MSS. Furthermore, I believe education and training in proper access and disclosure is necessary in the ABQNHHC.

v/r



*Jason Smeltzer*  
Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

Access/Disclosure

<http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/successdisclosure.html>

Ex Parte Communications:

<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

Post Hearing Evidence:

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-5/51-post-hearing-development/>

*Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

**From:** Rogers, Shannon  
**Sent:** Thursday, October 17, 2013 12:44 PM  
**To:** Smeltzer, Jason  
**Subject:** RE: VE for Green Bay

Not a bother. I've attached an email I received from Judge Robinson regarding the disclosure issue.

I've also added my ROC with [REDACTED] to the file.

---

**From:** Smeltzer, Jason  
**Sent:** Thursday, October 17, 2013 9:38 AM  
**To:** Rogers, Shannon  
**Subject:** RE: VE for Green Bay

Sorry to be a bother,

However, upon reviewing the correspondence with [REDACTED] (case [REDACTED]) and referencing the access and disclosure policies; I'm not certain that updating the file would even be legally correct. [REDACTED] is not an authorized representative nor is anything on the SSID or MBR indicating the claimant has authorized [REDACTED] to act on his behalf. Would you please check with our MSS (if we have one) and get back to me on this one? Thanks again!

Jason

Access/Disclosure  
<http://dsef-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

Ex Parte Communications:  
<http://learningdev.ba.ssa.gov/xml/common/GPxmlrender.asp?course=/xml/V1posthearingactions/V1posthearingaction&id=10&theme=15&snd=1>

Post Hearing Evidence:  
<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-5/51-post-hearing-development/>

---

**From:** Rogers, Shannon  
**Sent:** Thursday, October 17, 2013 8:51 AM  
**To:** Smeltzer, Jason  
**Subject:** RE: VE for Green Bay

Good morning Jason:

Yesterday, I began reviewing scheduled hearings for November and noticed that Barry Brown is still on the docket for hearings on 11/19-21. Did he change plans and decide to stay scheduled as the VE? Please let me know the status on this so we can begin making other arrangements, if needed. Please note, on August 5<sup>th</sup>, Diana indicated that Jane Bougher would be available on 11/20 and she provided you with a list of VEs she regularly works with. Maybe Ms. Bougher is still available? See attached.

I noted some other cases that require your attention to further develop the record.

- In [REDACTED], you have a diary date of 60-days awaiting a provider list from the claimant. On 10/01/2013 a recent medical treatment form was submitted by the claimant. Please use this form as a reference to obtain updated MER. The e827 is expired so a new one will be required (to expedite the process you may consider calling the claimant to obtain an e827).

- On September 30<sup>th</sup>, you made contact with the claimant ([REDACTED]) regarding the NSC. The claimant told you that he would submit a statement requesting to have his hearing rescheduled. However, there is still not a statement in the file. Please follow up with the claimant again.
- I spoke with [REDACTED] (POC for [REDACTED]) who informed me that he did receive a voicemail from you and returned your call, also leaving a voicemail. In [REDACTED]'s voicemail he stated he provided one source with an address, as [REDACTED] didn't have any other sources to provide: Brown County Outpatient, 3150 Gershwin Dr., GB, WI 54311. He also provided a current address for the claimant because the one we have in CPMS goes to her *old* house where her *ex-husband* lives. Her new address is: [REDACTED]. [REDACTED] said the phone number listed as the claimant's is his and can stay the same. He is also asking what MER we have for the claimant. Please move this case back to POST and initiate the MER request to Brown County Outpatient. Again, the 827 is expired.

Please let me know if you have any questions.

Thanks,  
Shannon

**From:** Rogers, Shannon  
**Sent:** Wednesday, August 14, 2013 5:08 PM  
**To:** Smeltzer, Jason  
**Subject:** RE: VE for Green Bay

Hi Jason - just following up..Barry Brown is still on the docket for 11/19-21. Have you made contact with Al Noll as a replacement?

The CPMS scheduling assistant shows he is still available. ☺

**Schedule Assistant Results - VIEW** [Print](#) | [Help](#)



Date range from: To:

Vocational expert:

[Details](#)

| Scheduled Hearing Date | Scheduled Hearing Time | Hearing Site | State |
|------------------------|------------------------|--------------|-------|
| [REDACTED]             |                        |              |       |

[Top of Page](#)

-----Original Message-----  
**From:** Whay, Diana  
**Sent:** Tuesday, August 06, 2013 11:47 AM  
**To:** Robinson, Barry  
**Cc:** Smeltzer, Jason; Rogers, Shannon  
**Subject:** FW: VE for Green Bay

FYI

-----Original Message-----

From: Noll, Allen [mailto:NollA@uwstout.edu]  
Sent: Tuesday, August 06, 2013 11:42 AM  
To: Whay, Diana  
Subject: RE: VE for Green Bay

I am scheduled for 8/8 and 8/9 for phone hearings. Please pass on the best phone # - [REDACTED]

Do you have have your November dates filled yet? I have some openings yet. al

Al Noll

[REDACTED]  
[REDACTED]  
[REDACTED] (home)  
[REDACTED] (cell)

---

From: Whay, Diana [Diana.Whay@ssa.gov]  
Sent: Wednesday, June 19, 2013 3:17 PM  
To: Noll, Allen  
Subject: RE: VE for Green Bay

Hi Al,

Unfortunately I don't have any openings for those dates. I will have dates coming up in November if you are interested, but I don't have the itineraries for those dates yet. I'll call or email you as soon as I do.

Thank you!

Diana

-----Original Message-----

From: Noll, Allen [mailto:NollA@uwstout.edu]  
Sent: Wednesday, June 19, 2013 1:25 PM  
To: Whay, Diana  
Subject: VE for Green Bay

I am looking for one day in September to fill my schedule. I can take one day between 9/16 and 9/27, not including 9/17 and 9/25. Thanks for considering this. al

Al Noll

[REDACTED]  
[REDACTED]  
[REDACTED] (home)

[REDACTED] (cell)

**E-MAILS  
PROVIDED BY  
SHARON  
ROGERS**

## Rogers, Shannon

**From:** Smeltzer, Jason  
**Sent:** Wednesday, February 19, 2014 1:51 PM  
**To:** Rogers, Shannon  
**Cc:** Pardo, Raul C.; Kallio, Kim  
**Subject:** PII Access and Disclosure (written while on lunch)

Good afternoon,

I am following up on my concerns about the adherence to PII procedures. For the past three years only Pilar and I have continued to properly verify callers in accordance with the agency's PII protection initiatives. Along those lines, I have raised my concerns about the lack of adherence to PII access and disclosure procedures many times. As a member of the FBI Infragard program, the IOSS OPSEC program, and the NSA IAD Directorate I feel it is imperative that we address this issue to ensure that proper protections are in place to prevent the unauthorized access and disclosure of PII. As a possible solution, I am willing to volunteer my knowledge on this subject to train the office on the proper access and disclosure of PII.

Thank you for your time and consideration of my concerns,

### *Jason Smeltzer*

Social Security Administration  
Albuquerque National Hearing Center  
201 3rd Street NW Suite 400  
Albuquerque, NM 87102  
Office: (866) 964-1298 ext #31831  
Fax: (866) 580-1211

EBP

» Hearing Office Electronic Business Process Version 3.2! » Section 1 – Front Desk & Incoming Workloads» 1.1 Front Desk Responsibilities

(POMS GN 03360.005 Releasing Information by Telephone)

<http://odar.ba.ssa.gov/resources/workload/hearing-level/ebp/hearing-office-ebp/section-1/11-front-desk-responsibilities/>

Access Requests Via Telephone

[GN 03380.005B.2.](#)

Access/Disclosure

<http://dse1-u6b10.ba.ssa.gov/chip/helpfiles/saccessdisclosure.html>

Ex Parte Communications:

(POMS section [DI 33015.035](#). See also [20 CFR 404.911\(b\)](#) or [20 CFR 416.1411\(b\)](#)).

<http://learningdev.ba.ssa.gov/xml/common/GPxmirender.asp?course=/xml/V1posthearingactions/V1posthearingactions&id=10&theme=15&snd=1>

Rogers, Shannon

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**From:** Rogers, Shannon  
**Sent:** Friday, February 21, 2014 9:39 AM  
**To:** #ODAR HQ OCAU NHC ALB Legal Assistants  
**Cc:** Kallio, Kim  
**Subject:** FW: National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

Good morning:

I do not believe that we have any disclosure issues, however, that is why we have *friendly reminders*. To ensure control of PII, please review the POMS below for guidance on releasing information by telephone and utilize the Disclosure Tool before releasing information by telephone.

Again, to the extent possible, please continue to handle phone calls before transferring to another employee.

Please let me know if you have any questions.

Thanks!

Shannon Rogers  
Supervisory Case Manager  
SSA ODAR ABQ NHC  
201 3rd Street NW, Ste. 400  
Albuquerque, NM 87102  
(866) 964-1298 ext 31800  
(866) 580-1211 fax

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**From:** Rogers, Shannon  
**Sent:** Wednesday, August 07, 2013 8:51 AM  
**To:** #ODAR HQ OCALJ NHC ALB Legal Assistants  
**Cc:** Kallio, Kim  
**Subject:** National Hearing Center eBP 1.1 - Processing Incoming Phone Calls

Good morning:

Please review the following as a friendly reminder when processing incoming phone calls, as most phone calls can be handled without transferring to another employee.

### 1.1 Process Incoming Phone Calls

| Process Steps              | Tasks   |
|----------------------------|---|
| 1.1 Process Incoming Phone | Primary responsibilities for the assigned telephone contact staff are as follows: |

| Process Steps | Tasks  |
|---------------|--|
| Calls         | <ul style="list-style-type: none"> <li>A. Answer phones               <ul style="list-style-type: none"> <li>1. Control for PII (POMS GN 03360.005 Releasing Information by Telephone)                   <ul style="list-style-type: none"> <li>a. Customize your OQP Toolbar to add the Disclosure Tool</li> </ul> </li> <li>2. <b><i>To the extent possible, resolve inquiries rather than routing them to other employees (e.g. status inquiries, et al)</i></b></li> <li>3. Refer to staffing roster to determine employee availability (using Outlook, Share Point, office shared drive, Communicator (IM), etc.)</li> </ul> </li> <li>B. Print and provide bar codes to claimants/authorized representatives upon request (CPMS Module 18)</li> <li>C. When a claimant or representative requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and SCHD) and the availability of direct on-line access for representatives. If the claimant or representative still wishes immediately to receive the CD, the employee will burn and mail CDs to authorized individuals.</li> <li>D. When an unrepresented claimant or representative without Appointed Representative Services (ARS) access requests a CD, the employee should notify the caller of the two points in the process where they will automatically receive an exhibited CD (at WKUP and for hearing).               <ul style="list-style-type: none"> <li>1. Inform representatives without ARS access of the availability of direct on-line access (User Guide for Access to the Electronic Folder &amp; Appointed Rep Stuffer).</li> <li>2. If the representative still wishes to receive the CD immediately, the</li> </ul> </li> </ul> |

**Process  
Steps**

**Tasks**

employee will burn and mail CD to  
authorized individual.

Thanks,

*Shannon Rogers*  
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