



U.S. Department of Energy
Office of Inspector General
Office of Inspections and Special Inquiries

Inspection Report

Electronic Recording of Telephone and
Radio Conversations by Sandia
Protective Force Management



Department of Energy

Washington, DC 20585

September 30, 2005

MEMORANDUM FOR THE SECRETARY

FROM:

Greg Friedman
Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Inspection Report on "Electronic Recording of Telephone and Radio Conversations by Sandia Protective Force Management"

BACKGROUND

The Department of Energy's Sandia National Laboratory-New Mexico (Sandia) conducts research and development that support critical strategic areas such as nuclear weapons, nonproliferation, military technologies, energy, and homeland security. Sandia maintains a protective force that is trained and equipped to secure its facilities and operations.

During an inspection of security-related matters at Sandia, information was brought to our attention that Sandia protective force management might be inappropriately recording telephone conversations. As a result, we initiated a review to determine whether this information was accurate. During our preliminary inquiries, we confirmed that inappropriate recording activities were being conducted by Sandia protective force management. We also determined that there were similar issues at Los Alamos National Laboratory (Los Alamos). Since Sandia and Los Alamos are under the cognizance of the National Nuclear Security Administration (NNSA), on May 16, 2005, we issued a Management Alert on "Issues Associated with the Recording of Telephone and Radio Conversations" to the Administrator of NNSA, so management could initiate immediate corrective action, to include determining whether this problem existed at other NNSA sites. We also sent a copy of the alert to certain key Department officials, so they could determine if this was a problem at the Department's energy, science, and environment sites.

Attached is the final report on the results of our review at Sandia. Below is a summary of those results. We will issue a separate final report on our findings at Los Alamos upon the conclusion of that review.

RESULTS OF INSPECTION

We found that Sandia protective force management was regularly recording both telephone and radio conversations on channels/lines assigned to its operation and that these recordings were not done in compliance with Department policies and procedures. Specifically:

- Telephone conversations requiring all-party consent for each specific instance, such as discussions of administrative matters with protective force officers and conversations with individuals outside the protective force, were recorded without obtaining such consent;



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- Telephone line beep tones, which were an acceptable method of alerting all parties to the recording of a conversation, were disabled without an alternative notification mechanism being in operation; and
- Telephone and radio conversation recordings were retained and used without provision for complying with records management requirements.

We observed that the listing in Sandia's contract that should identify all applicable Department directives did not contain the Department order that addresses the specific requirements applicable to the recording of telephone conversations. However, the applicable Department order was contained by reference in another Department directive on the listing. It was unclear to us whether the exclusion of this order in Sandia's contract was the direct cause of any of the issues we identified. We also noted that the applicable Department order, which was issued in 1992, is significantly outdated, which we believe should be addressed.

We made several recommendations to the Manager of the Sandia Site Office to address our findings specific to Sandia. We also recommended that the Chief Information Officer and the Director of the Office of Security and Safety Performance Assurance update the Department order that addresses the requirements applicable to the recording of telephone and radio conversations.

MANAGEMENT REACTION

In responding to a draft of this report, NNSA identified corrective actions taken or planned to address our recommendations specific to Sandia. The Chief Information Officer and the Director of the Office of Security and Safety Performance Assurance agreed with our recommendation to update the Department order on recording telephone and radio conversations. Management's comments, which are provided in their entirety in Appendix B of the report, were responsive to our recommendations.

Attachment

cc: Deputy Secretary
Administrator, National Nuclear Security Administration
Under Secretary for Energy, Science and Environment
Chief of Staff
Director, Office of Security and Safety Performance Assurance
Chief Information Officer
Director, Policy and Internal Controls Management
Director, Office of Program Liaison and Financial Analysis

ELECTRONIC RECORDING OF TELEPHONE AND RADIO CONVERSATIONS BY SANDIA PROTECTIVE FORCE MANAGEMENT

TABLE OF CONTENTS

OVERVIEW

Introduction and Objectives 1

Observations and Conclusions 1

DETAILS OF FINDINGS

Background 3

Consent 4

Beep Tones 5

Records Management Requirements 5

DOE Order 1450.4 6

RECOMMENDATIONS 7

MANAGEMENT COMMENTS 7

INSPECTOR COMMENTS 8

APPENDICES

A. Scope and Methodology 9

B. Management Comments 10

Overview

INTRODUCTION AND OBJECTIVES

Sandia National Laboratory-New Mexico (Sandia) is a U.S. Department of Energy (DOE) research and development facility operated by the Sandia Corporation. Sandia's research and development programs support critical strategic areas such as nuclear weapons, nonproliferation, military technologies, energy, and homeland security. Sandia maintains a protective force that is trained and equipped to secure its facilities and operations.

During the course of an inspection of security-related matters at Sandia, information was brought to our attention that Sandia protective force management may be inappropriately recording telephone conversations. As a result, we initiated a review to determine whether this information was accurate.

OBSERVATIONS AND CONCLUSIONS

We found that Sandia protective force management was regularly recording both telephone and radio conversations on channels/lines assigned to its operation and that these recordings were not done in compliance with Department policies and procedures. Specifically:

- Telephone conversations requiring all-party consent for each specific instance, such as discussions of administrative matters with protective force officers and conversations with individuals outside the protective force, were recorded without obtaining such consent;
- Telephone line beep tones, which were an acceptable method of alerting all parties to the recording of a conversation, were disabled without an alternative notification mechanism being in operation; and
- Telephone and radio conversation recordings were retained and used without provision for complying with records management requirements.

We observed that the listing in Sandia's contract that should identify all applicable DOE directives did not contain the DOE order that addresses the specific requirements applicable to the recording of telephone and radio conversations. However, the applicable DOE order was contained by reference in another DOE directive on the contract listing. It was unclear to us whether the exclusion of this order in Sandia's contract was the direct cause of any of the issues we identified. We also noted that the applicable

DOE order, which was issued in 1992, is significantly outdated, which we believe should be addressed.

During our review, we learned that there might be similar issues at Los Alamos National Laboratory (LANL). This was confirmed based upon a preliminary review of LANL protective force recording operations, where we found indications of non-consensual recording of conversations and the disabling of beep tones. As a result, on May 16, 2005, we issued a Management Alert on “Issues Associated with the Recording of Telephone and Radio Conversations” to advise the Administrator of the National Nuclear Security Administration (NNSA), who has cognizance over Sandia and LANL, of our preliminary findings. Given the potential implications, we wanted to give management an opportunity to take immediate corrective action, to include determining whether this problem existed at other NNSA sites. We also sent a copy of the alert to certain other key Department officials, so they could determine if this was a problem at the Department’s energy, science, and environment sites. A Department official subsequently advised us that a preliminary review of energy, science, and environment sites “confirmed that no unauthorized recording is presently being conducted by Protective Force contractors at those sites.” We will issue a separate final report on our findings at LANL upon the conclusion of that inspection.

Details of Findings

BACKGROUND

The Sandia Protective Force operates central alarm stations (CASs) that monitor alarms, closed circuit televisions, and operational communications with protective force personnel. DOE M 473.1-1, “Physical Protection Program Manual,” requires that “A continuous electronic recording system must be provided for all security radio traffic and telecommunications lines that provide support to the CASs.” The manual also states that “This recording requires the approval of the Office of Chief Information Officer or the Office of Security” and refers the reader to DOE Order 1450.4, “Consensual Listening-In To or Recording Telephone/Radio Conversations.”

DOE Order 1450.4 states that conversations on any Government or contractor procured telephone or radio system shall not be consensually listened-in to or recorded except under the following conditions:

- Law Enforcement/National Security. When performed for law enforcement, foreign intelligence, counterintelligence, or communications security purposes in accordance with applicable laws, regulations, and Executive orders governing such activities and when documented by a written request citing the law enforcement/national security need.
- Public Safety. When performed for public safety purposes and when documented by a written determination citing the public safety needs. Proof of consent is the responsibility of the recording party.
- Employee with a Disability. When performed by an employee with a disability, and when documented by a determination that the use of a listening-in to or recording device is required for full performance of the duties of the employee’s position description. Proof of consent is the responsibility of the recording party.
- Public Service Monitoring. When performed by an official to determine the quality of service, but only after an analysis of alternatives and a written determination that telephone conversation monitoring is required to perform the agency mission. Proof of consent is the responsibility of the recording party.
- Specific Instance (With All Party Agreement). When performed with the consent of all parties for each specific instance.

According to the order, consent to record a conversation may be obtained by prior mutual consent, an oral notification recorded at the beginning of a call, or the automatic superimposing of a distinct signal (e.g., beep tone) at regular intervals during the conversation.

CONSENT

We found that telephone conversations requiring all-party consent for each specific instance were recorded without obtaining such consent. Specifically, protective force management routinely recorded all incoming and outgoing calls on shift captains' and scheduling lieutenants' telephone lines. The nature of most of these calls would require the "consent of all parties for each specific instance" under the provisions of DOE Order 1450.4. For example, protective force management was recording telephone conversations with protective force officers on issues relating to leave, overtime, training, scheduling, and discipline without the required consent. This included the use of the recorded lines by others besides the shift captains and scheduling lieutenants. Protective force management also recorded telephone conversations involving individuals outside the protective force without their consent, such as other Sandia personnel, Federal Sandia Site Office staff, and people outside the Sandia complex.

We were told by a Sandia protective force official that the recording of telephone conversations relating to administrative and disciplinary matters was routine and that protective force officers were informed during "muster"¹ that administrative telephone lines were recorded. The supporting muster record that protective force management subsequently provided to us stated that "Beginning 1/19/05, at 0930 hours, all phone lines in Agate [Building 6578], Diamond [Building 956 North], HCC [Building 802 North] and SAS [Building 6581 South] will be recorded, to include lieutenants['] phone line." However, we obtained documentary and testimonial evidence that the recordings actually began in March 2003, nearly two years prior to the purported muster notification.

Protective force management told us that they had no other proof that consent was obtained for the recording of "Specific Instance" conversations. We were told the question of whether the protective force could record these kinds of conversations was raised about two years ago by a protective force official, but the official was told "this is the way we have always done it." We were told by a protective force official that at that point no further action was taken to determine if these recording activities were appropriate.

Sandia Site Office officials told us that they were not aware of the nature and scope of the protective force recording activities and

¹ "Muster" is a meeting of protective force officers and supervisors prior to a shift to discuss relevant administrative or operational issues.

that no deviations, waivers, variances, or exceptions to DOE policy had been authorized.

BEEP TONES

We found that telephone line beep tones, which were an acceptable method of alerting all parties to the recording of a conversation, were disabled without an alternative notification mechanism being in operation. The recording system used by the protective force utilizes the beep tone feature. However, during our field work, we observed that the beep tone was disabled on several recorded lines in the Sandia protective force Headquarters, Building 956 North, to include the telephone lines in the CAS, the shift captains' office, and the scheduling lieutenants' office. We were told that the beep tone on one telephone line in Building 956 North was disabled at the request of a protective force officer because the beep was too loud. Protective force staff members said that they did not realize the beep tone had been disabled on other recorded telephone lines in Building 956 North and did not know how this had occurred. Protective force staff members said they were not familiar with the requirements of DOE Order 1450.4 regarding consensually listening-in to or recording telephone conversations.

Protective force management told us that they were not aware that beep tones had been disabled. Management also said it had not approved the disabling of this feature and that individual officers did not have the authority to request and approve such action. However, protective force management acknowledged that it did not have an established procedure for the use and operation of the recording system, to include identifying specific authorities and procedures for enabling or disabling recording features.

RECORDS MANAGEMENT REQUIREMENTS

We found that telephone and radio conversation recordings were retained and used without provision for complying with records management requirements. DOE Order 1450.4 states that "The recordings and records pertaining to listening-in to or recording of any conversations covered by this Order shall be used, safeguarded, and destroyed in accordance with the Departmental records management program." The DOE records management program for "Records Maintained on Individuals" is found at Title 10, Code of Federal Regulations (CFR), Part 1008. This regulation includes provisions for access to records, disclosure to third parties, and maintenance and establishment of a system of records.

We determined that the Sandia protective force has archived all conversations recorded since 2003. In addition, the protective force maintains individual computer files on specific officers, with

the file designated by the officer's last name. We were told by a protective force official that these files contain individual recorded conversations that are relevant to situations related to disciplinary action being taken or contemplated by protective force management. However, the protective force had no policies or procedures regarding storage, retrievability, access controls, retention, and disposal of these recorded conversations. We were told that protective force management had not provided any guidance on these issues.

Protective force management stated that these recorded conversations were sometimes used to "defend one's self" from litigation involving protective force officers. Protective force management acknowledged that the protective force had no policies or procedures that implemented the DOE records management program. Management also acknowledged it was not familiar with the requirements of the DOE records management program as they related to the recorded conversations.

DOE ORDER 1450.4

We observed that the listing in Sandia's contract that should identify all applicable DOE directives did not contain the DOE order that addresses the specific requirements applicable to the recording of telephone and radio conversations. However, the applicable DOE order was contained by reference in another DOE directive on the contract listing. Specifically, DOE Order 1450.4 was only included in the Sandia contract by reference in DOE M 473.1-1. Sandia Site Office officials acknowledged that the order was excluded from the current contract, but they said they were not sure why this occurred. The officials speculated that its exclusion was due to the fact that the order did not contain a section known as the "Contractor Requirements Document." Regardless, the Site Office officials agreed that the order should have been in the contract, and they stated that they were prepared to issue an immediate Contracting Officer's "direction" to have it included. It was unclear to us whether the exclusion of this order in Sandia's contract was the direct cause of any of the issues we identified.

We also noted that DOE Order 1450.4, which is dated November 12, 1992, is significantly outdated. The order requires that the Director of Administration and Management (AD-1) and the Director of the Office of Security Affairs (SA-1) shall administer and approve plans to consensually listen-in to or record telephone and radio conversations. However, there have been a number of Department reorganizations since the directive was

issued, resulting in these position titles being obsolete. Therefore, the approval process within DOE to consensually listen-in to or record telephone and radio conversations needs to be updated. Further, as stated above, the order does not contain a “Contractor Requirements Document,” which is normally included in more current directives and which the Sandia Site Office stated may have been the reason the order was excluded from Sandia’s contract.

RECOMMENDATIONS

We recommend that the Manager, Sandia Site Office, take immediate action to ensure that Sandia:

1. Terminates recording operations that are not consistent with DOE Manual 473.1-1 and DOE Order 1450.4.
2. Obtains “proof of consent” to record conversations, as required by DOE Order 1450.4.
3. Conducts a full review of the use, maintenance, and storage of recordings and records pertaining to recorded conversations to assure full compliance with the Department records management program.
4. Develops policies and procedures regarding storage, retrievability, access controls, retention, and disposal of the records relating to recorded conversations, consistent with the Department records management program.

We also recommend the Manager, Sandia Site Office, ensures that:

5. DOE Order 1450.4 is included in the Sandia contract.

We recommend that the Chief Information Officer, in coordination with the Director, Office of Security and Safety Performance Assurance, take action to:

6. Update DOE Order 1450.4.

MANAGEMENT COMMENTS

In comments on our draft report, NNSA identified specific corrective actions that the Sandia Site Office has taken or will take on the report recommendations. In addition, NNSA stated that when the Associate Administrator for Defense Nuclear Security became aware of the Inspector General’s concern, he immediately

tasked all NNSA sites and the Service Center to conduct a review of the local policies, procedures, and activities relating to the recording of conversations on any telephone or radio system. NNSA also stated that the Associate Administrator is directing that the use, maintenance, and storage of any recordings and records pertaining to recorded conversations are compliant with the Department's Records Management Program.

The Office of Security and Safety Performance Assurance stated that the recommendations were appropriate to the documented findings, and the Chief Information Officer agreed with recommendation 6 and will plan to update DOE Order 1450.4.

**INSPECTOR
COMMENTS**

We found management's comments to be responsive to our report recommendations.

Appendix A

SCOPE AND METHODOLOGY

We conducted our inspection fieldwork in April 2005. We interviewed Sandia protective force and Sandia Site Office management officials regarding the recording system. We also interviewed individual protective force officers and reviewed protective force records relating to recording operations. We reviewed DOE policies and procedures regarding the recording of telephone and radio conversations and DOE, CFR, and Privacy Act requirements relating to the maintenance of records associated with these recordings. In addition, we coordinated with the OIG Office of Investigations regarding possible criminal violations.

This inspection was conducted in accordance with the “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency.

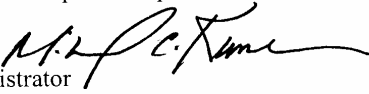


Department of Energy
National Nuclear Security Administration
Washington, DC 20585



SEP 14 2005

MEMORANDUM FOR Alfred K. Walter
Assistant Inspector General
for Inspections and Special Inquiries

FROM: Michael C. Kane 
Associate Administrator
for Management and Administration

SUBJECT: Comments to IG's Draft Report on Recording of
Conversations at Sandia

The National Nuclear Security Administration (NNSA) appreciated the opportunity to have reviewed the Inspector General's (IG) draft inspection report, "Electronic Recording of Telephone Conversations by Sandia Protective Force Management." We understand that this inspection was conducted because information was provided to the IG that Sandia protective force management may have inappropriately been recording telephone conversations and the IG wanted to determine the validity of the accusation. We further understand that the IG concluded that recording of both telephone and radio conversations were being conducted and not within the confines of Departmental policies and procedures.

When the Associate Administrator for Defense Nuclear Security became aware of the IG's concern, he immediately tasked all NNSA Sites and the Service Center conduct a review of the local policies, procedures, and activities relating to the recording of conversations on any telephone or radio system. Additionally, he is directing that the use, maintenance and storage of any recordings and records pertaining to recorded conversations are compliant with the Department's Records Management Program.

Regarding specific corrective actions, the Sandia Site Office has taken the following actions on the recommendations contained in the report:

1. Terminates recording of operations that are not consistent with DOE Manual 473.1-1 and DOE Order 1450.4.

The Site Office Manager has ensured that the Laboratory immediately terminated recording operations that were not consistent with published requirements. Additionally, the Site Office has confirmed that the Laboratory has reinstated the

use of an audible “beep” tone on designated (approved) recorded lines. The Protective Force (PF) system administrator is responsible for testing and documenting this capability on a weekly basis.

2. Obtains “proof of consent” to record conversations, as required by DOE Order 1450.4.

The Site Office has already implemented this corrective action as part of the response stated for Recommendation 1.

3. Conducts a full review of the use, maintenance, and storage of recordings and records pertaining to recorded conversations to assure full compliance with the Departmental records management program.

The Protective Force Department conducted a review with the Recorded Information Management Department and developed standard procedures that are in place for the recording system. The procedures also put into place a process for recorded management that is consistent with privacy and the Departmental Records Management Program.

4. Develops policies and procedures regarding storage, retrievability, access controls, retention, and disposal of records relating to recorded conversations, consistent with the Departmental records management program.

Corrective actions stated for recommendation three include the corrective actions for this recommendation.

5. Ensures that DOE Order 1450.4 is included in Sandia’s contract.

The Site Office incorporated DOE Order 1450.4 Consensual Listening-In to or Recording Telephone/Radio Conversations in Sandia’s contract via Modification M233, which was executed on July 20, 2005. Although DOE O 1450.4 was not specifically identified on Appendix G, *List of Applicable Directives and NNSA Policy Letters*, contractual coverage for this Order existed. That is, the Contractor Requirements Document (CRD) of DOE M 473.1-1, Physical Protection Program Manual required contractor compliance with all requirements contained in DOE M 473.1-1 of which DOE O 1450.4 was identified in Chapter XII, Communications, of the Manual (reference paragraph 1, General Requirements, subparagraph b. Recording of Communication). Having said this, DOE O 1450.4 was added to the contract to ensure clarity of applicability. It should be noted that Sandia is not of the opinion that DOE O 1450.4 was applicable since it was not specifically called out in Appendix G. The Site Office agrees that DOE Order 1450.4 needs to be updated and should include a CRD.

Due to the separation of duties between the SSO and the NNSA Service Center, SSO will work with the Service Center to determine path forward requirements that pertain to annual approvals from the Office of Chief Information Officer for recorded lines.

Finally, on a separate but related note, SSO requested that Sandia specify locations where recordings of telephone conversations are currently conducted. Sandia identified four separate locations, three of which are the PF Central and Secondary Alarm Stations, and the fourth location is the Sandia Emergency Operations Center.

Should you have any questions regarding this response, please contact Richard Speidel, Director, Policy and Internal Controls Management.

cc: Patty Wagner, Manager, Sandia Site Office
Bill Desmond, Associate Administrator for Defense Nuclear Security
Bob Braden, Senior Procurement Executive
Karen Boardman, Director, Service Center

**Department of Energy**

Washington, DC 20585

September 9, 2005

MEMORANDUM FOR ALFRED K. WALTER
ASSISTANT INSPECTOR GENERAL
FOR INSPECTIONS AND SPECIAL ORDERS

FROM: GLENN S. PODONSKY
DIRECTOR
OFFICE OF SECURITY AND SAFETY
PERFORMANCE ASSURANCE

SUBJECT: Comments – Draft Inspection Report on “Electronic Recording
of Telephone Conversations by Sandia Protective Force
Management” (S05IS028)

This is in reply to your August 22, 2005, memorandum requesting comments on the subject draft report.

The recommendations in the report are appropriate to the documented findings. Recommendation number 6 should be revised to reflect the Chief Information Officer’s lead role in the update to DOE Order 1450.4 as that directive has a greater scope and addresses more than security. Consequently, it is suggested that the sentence be revised to read: “We recommend that Chief Information Officer, in coordination with the Director, Office of Security and Safety Performance Assurance, take action to: Update DOE Order 1450.4.”

If you have any questions or if you need any further information regarding this matter, please contact me at (301) 903-3777.

cc: Director, Office of Program Liaison and Financial Analysis (ME-100)
Director, Policy and Internal Controls Management (NA-66)
Chief Information Officer (IM-1)
Director, Office of Independent Oversight, OA-1
Director, Office of Security, SO-1
Director, Office of Resource Management (SP-1.2)
Director, Office of Safeguards and Security Policy and Classification
Management (SO-10)



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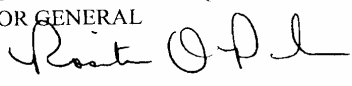


Department of Energy

Washington, DC 20585

September 23, 2005

MEMORANDUM FOR ALFRED K. WALTER
ASSISTANT INSPECTOR GENERAL
FOR INSPECTIONS AND SPECIAL INQUIRIES
OFFICE OF INSPECTOR GENERAL

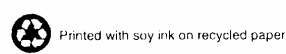
FROM: ROSITA O. PARKES 
CHIEF INFORMATION OFFICER

SUBJECT: Draft Inspection Report on "Electronic Recording of Telephone
Conversations by Sandia Protective Force Management"
(S05IS028)

This is in response to your August 22, 2005, memorandum regarding the Draft Inspection Report on "Electronic Recording of Telephone Conversations by Sandia Protective Force Management" (S05IS028).

The Office of the Chief Information Officer (OCIO) is in agreement with Recommendation 6 which states "Update DOE Order 1450.4." The OCIO will plan to update the Order.

cc:
Director, Office of Security and Safety Performance Assurance (SP-1)
Director, Policy and Internal Controls Management (NA-66)



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