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Central Intelligence Agency
Inspector General

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INTELLIGENCE ACTIVITY ASSESSMENT



(U//FOUO) COMPLIANCE WITH EXECUTIVE ORDER 12333: THE
USE OF [REDACTED] COLLECTION [REDACTED] FROM 1995-2000

(b)(1)

(b)(3) NatSecAct

(2000-6207-IG)

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(b)(3) NatSecAct

7 August 2002

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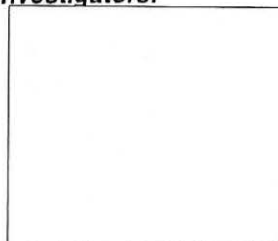
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John L. Helgerson
Inspector General

[REDACTED]
Deputy Assistant Inspector
General for Investigations

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Investigators:



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Assistants:

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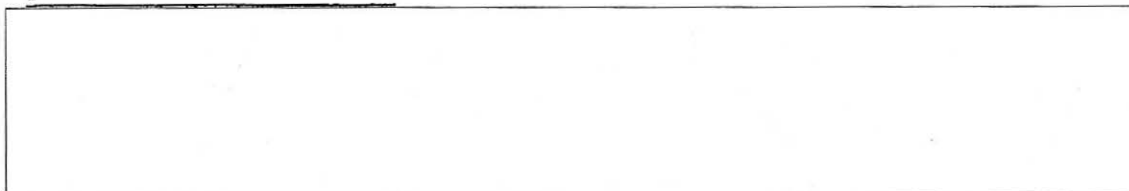
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**OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS STAFF****INTELLIGENCE ACTIVITY ASSESSMENT****(U//FOUO) COMPLIANCE WITH EXECUTIVE ORDER 12333: THE
USE OF [] COLLECTION [] FROM 1995-2000****(2000-6207-IG)**(b)(1)
(b)(3) NatSecAct**7 August 2002**(b)(1)
(b)(3) NatSecAct**(U) INTRODUCTION**(b)(1)
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(b)(3) NatSecAct

1. ~~(S)~~ This Assessment examines whether CIA's use of [] collection [] has complied with Executive Order (EO) 12333 and the Agency's implementing procedures. []
[] This Assessment examines how well legal requirements are understood, []
[] are considered but not implemented because of real or perceived legal or bureaucratic issues, and how the compliance process is working at whether it can be improved. It is intended to establish a baseline for future assessments.

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2. ~~(S)~~ The time period addressed in this Assessment ended before the 11 September 2001 terrorist attacks in the United States (U.S.). The findings and suggestions for management consideration contained in this Assessment are based on EO 12333 and relevant law as it existed at the time the activities reviewed were conducted. Any changes to rules governing intelligence collection directed at international terrorist activities should be taken into consideration in evaluating appropriate responses to this Assessment.

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(b)(3) NatSecAct(b)(1)
(b)(3) NatSecAct**(U) SUMMARY**

3. ~~(S)~~ The Agency's use of [] collection [] both within and outside of the U.S., is generally in compliance with EO 12333. Although the Agency conducts a significant number of electronic surveillance and unconsented physical search operations overseas, these activities have been directed primarily at individuals who are not U.S. persons. These techniques [] In some of the cases involving U.S. persons, the information that was acquired was valuable, particularly with regard to terrorist activities.

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4. ~~(S)~~ Agency officers are sensitive to the rules regarding targeting U.S. persons and take the EO seriously. No evidence was found that any CIA officer intentionally disregarded the requirements of EO 12333 or the Agency's implementing procedures. Agency officers understand that in order to conduct [] collection directed at U.S. persons, they must consult with legal personnel and seek the necessary approvals. Office of General Counsel (OGC) attorneys provide advice and assistance to Agency officers in interpreting the EO and its implementing procedures. Agency officers think highly of the guidance and support they receive from these OGC attorneys.

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(b)(3) NatSecAct

5. ~~(S)~~ There has also been some inadvertent, and probably unavoidable, collection against U.S. persons abroad. In these cases, the Agency directed technical collection at foreign targets and later discovered that some of them were U.S. persons. Collection was usually terminated and there was no further processing of the information acquired.

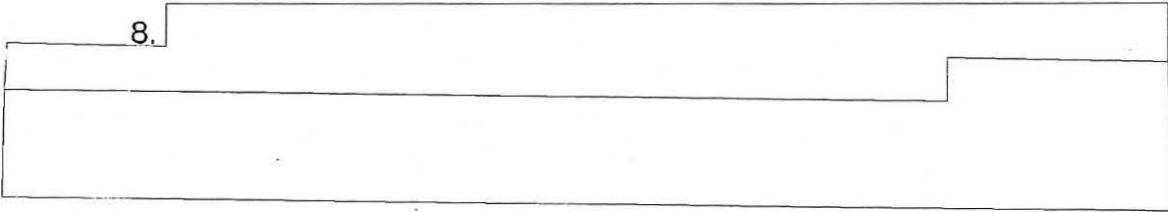
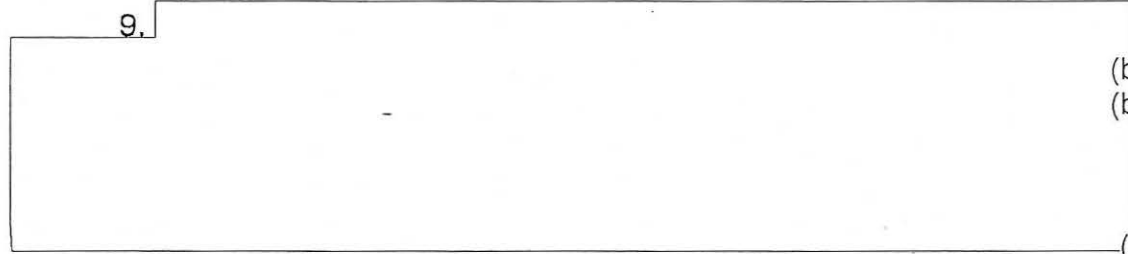
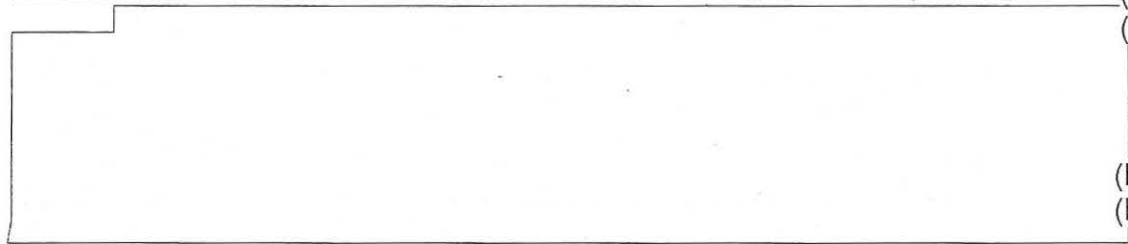
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6. ~~(S)~~ A few [] cases were found to raise compliance and other issues. The Agency did not always consult with the Department of Justice (DoJ) early in the process or seek Attorney General (AG) approval in cases where it would have been prudent to do so. In some of these cases, information of intelligence value obtained from [] collection may not have been (b)(1) disseminated in accordance with EO requirements. Failure to obtain req. (b)(3) NatSecAct approvals or prudential review by DoJ before proceeding with [] collection increases the risk that the activity may violate individual constitutional rights, the Foreign Intelligence Surveillance Act (FISA), EO 12333, Agency regulations or policies and that any evidence of criminal activity that may result from the collection may later be determined to be inadmissible in court.

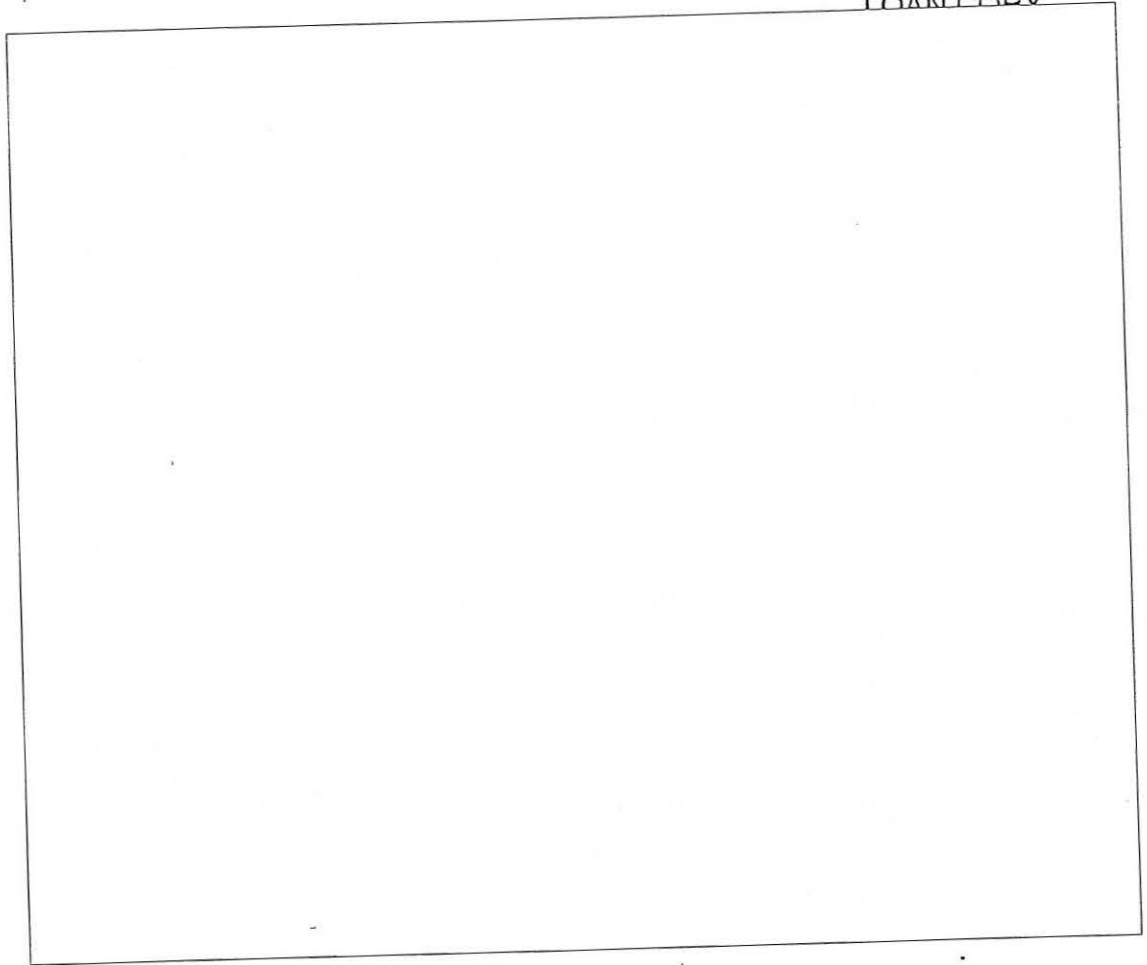
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11. (S) In the following discussion, this Assessment identifies those issues that pose the greatest potential for Agency mistakes in the use of  collection and suggests ways to limit this potential. These suggestions call for:

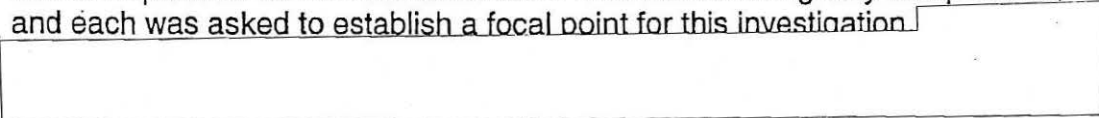
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(b)(3)**(U) SCOPE AND METHODOLOGY**

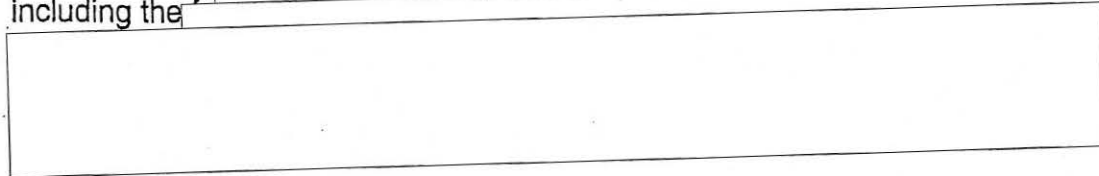
12. (U) The Investigations Staff assembled a team of ten Office of Inspector General (OIG) officers, including investigators, legal counsel, support personnel, and a senior DO consultant to conduct this Assessment.

13. (U//FOUO) A thorough search of Agency records was initiated. A formal request for all relevant documents was sent to all Agency components, and each was asked to establish a focal point for this investigation.

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14. (S) [redacted] current Agency employees were interviewed including the [redacted]

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Focus groups of DO officers were asked for their views regarding compliance issues. In addition, the Assessment team traveled to a [REDACTED]

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15. (TS) Although the Assessment team was unable to review every regulated activity, the team made every reasonable effort to follow up on cases that were identified with sufficient detail from available documentation or interview leads. [REDACTED]

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16. (S) The team interviewed officials outside the Agency, including representatives from [REDACTED]

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[REDACTED] Those officials described the practices of their offices in monitoring compliance with EO 12333 technical collection requirements. The team also met with the staffs of the Senate Select Committee on Intelligence (SSCI) and House Permanent Select Committee on Intelligence (HPSCI) to obtain information relevant to the Assessment.

(b)(3) NatSecAct

(U//FOUO) EO 12333 IMPLEMENTING PROCEDURES AND THE COMPLIANCE PROCESS AT THE CIA

17. (S) EO 12333, which was signed by President Reagan in 1981, governs the conduct of intelligence activities by CIA and other agencies within the Intelligence Community. [REDACTED]

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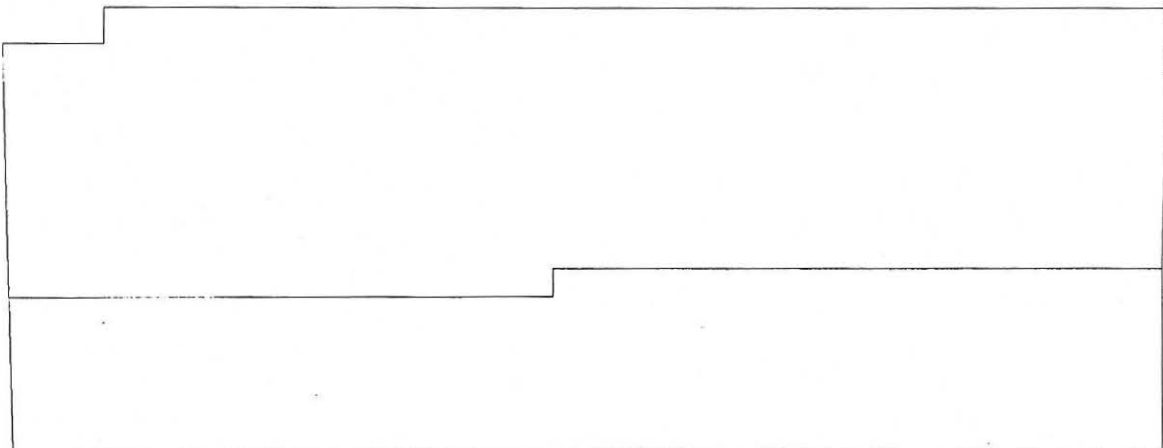
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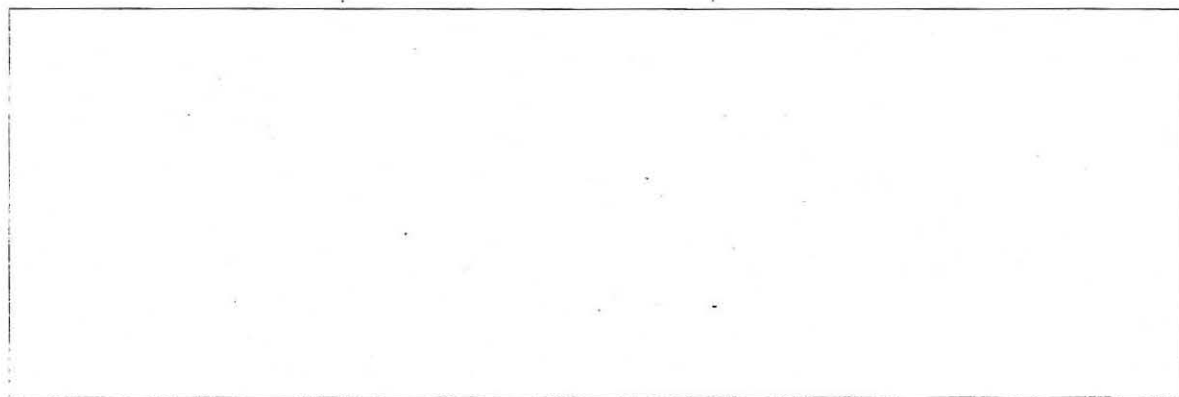
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18. ~~(S)~~ The FISA was passed in 1978 and requires that the federal government obtain a FISA Court order before conducting electronic surveillance directed at agents of a foreign power in the United States. [REDACTED]

[REDACTED] In 1994, the FISA was amended to require a FISA warrant for unconsented physical searches directed at agents of a foreign power in the United States. The FISA contains criminal penalties covering intentional violations.



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³ ~~(S)~~ The IRP, comprising representatives from the National Security Council (NSC), CIA, FBI, State Department, DoJ and NSA, reviews and approves requests for standing and ad hoc FISA collection.

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22. ~~(S)~~ U.S. persons are defined as citizens, lawful permanent residents,⁴ corporations incorporated in the United States, and certain associations. A person or organization outside the United States may be presumed not to be a U.S. person, unless specific information to the contrary is obtained.

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⁴ (U) Lawful permanent residents were formerly called permanent resident aliens.

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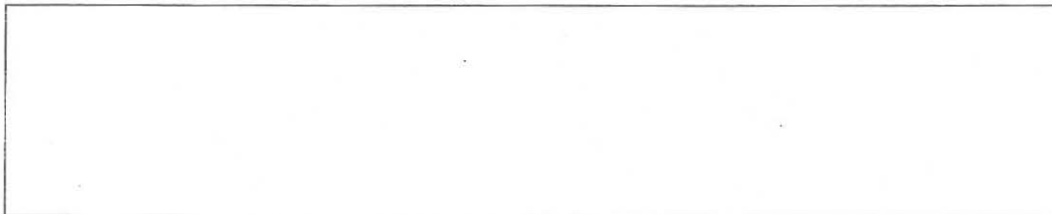
**(U//FOUO) RETENTION AND DISSEMINATION OF U.S. PERSON
INFORMATION**(b)(1)
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25. (S) Information about a U.S. person derived from [] collection must be processed in accordance with EO 12333 procedures. The rules regarding retention and dissemination of information derived from such collection are permissive, so long as there is intelligence value to the information. For example, information that is foreign intelligence, counterintelligence, concerns a person engaged in international terrorist or narcotics activities, or is about potential sources or contacts can be retained and disseminated along with the identity of the U.S. person so long as the identity is necessary to understand or assess the information. (See Exhibit A for retention and dissemination rules.)

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct This Assessment found that Agency components might not be applying these rules properly because of a general and widespread lack of understanding of the rules. Moreover, based upon interviews of [] retention and dissemination rules are not applied consistently. (See Exhibit B for detailed comments on retention and dissemination.)

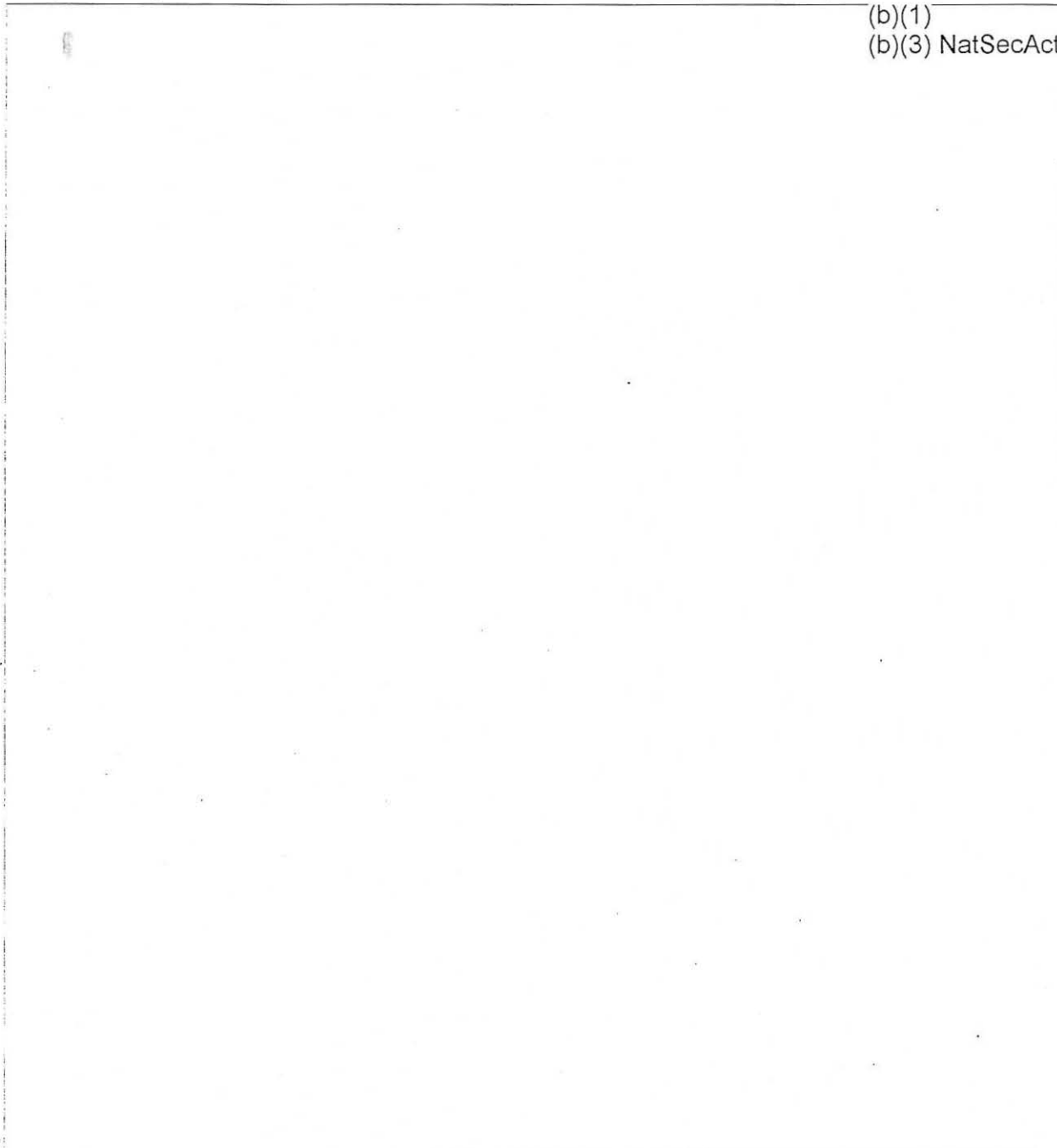
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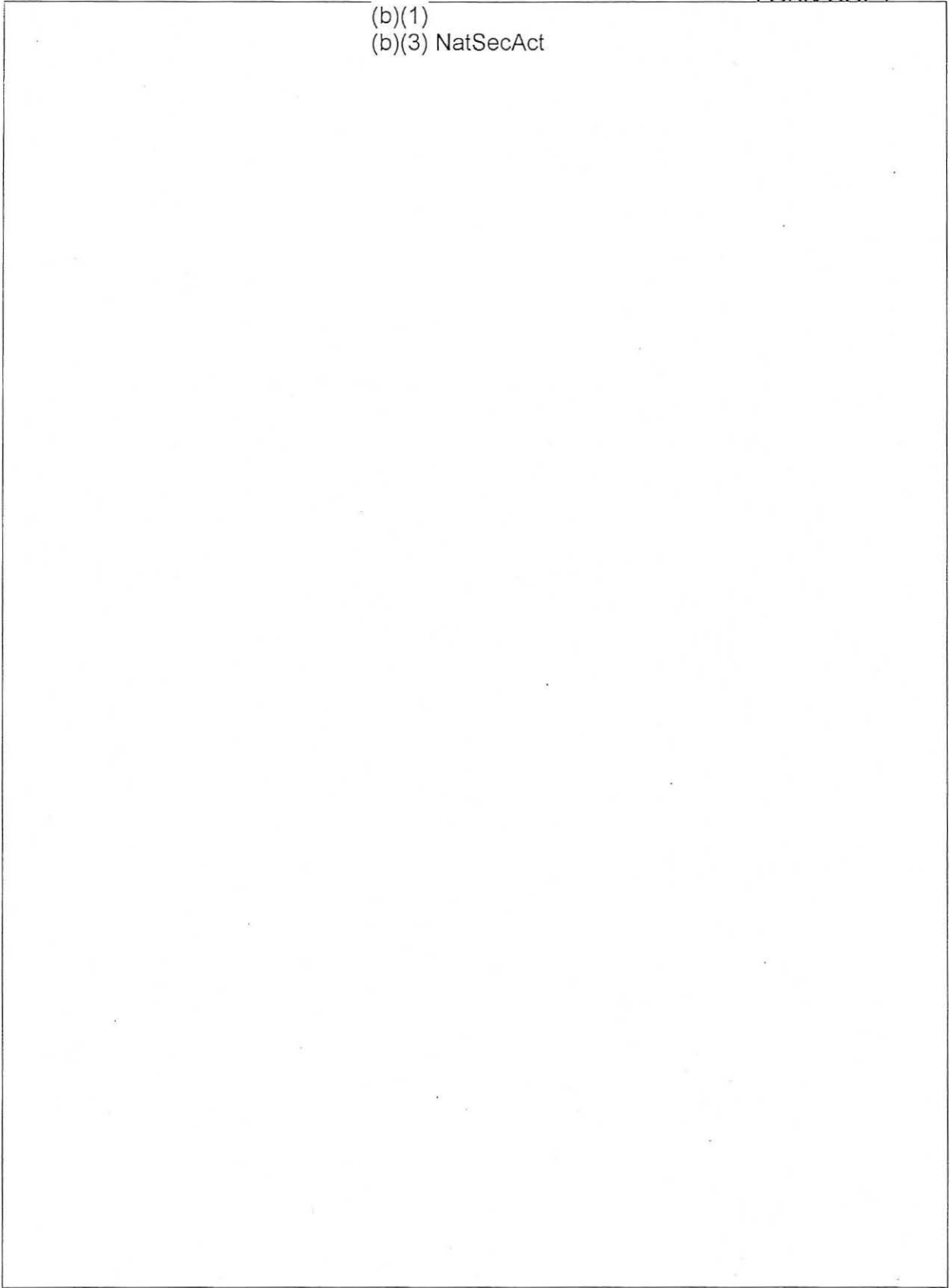
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(U//FOUO) CASES WITH COMPLIANCE ISSUES



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(U//FOUO) CASES WITH OTHER ISSUES

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**(U//FOUO) CASES IN WHICH [REDACTED] COLLECTION WAS
CONSIDERED BUT NOT UNDERTAKEN**

42. ~~(S)~~ Headquarters and field stations occasionally considered, but did not undertake, electronic surveillance directed at U.S. persons abroad because of real or perceived legal and policy concerns.

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[REDACTED]

45. [REDACTED]

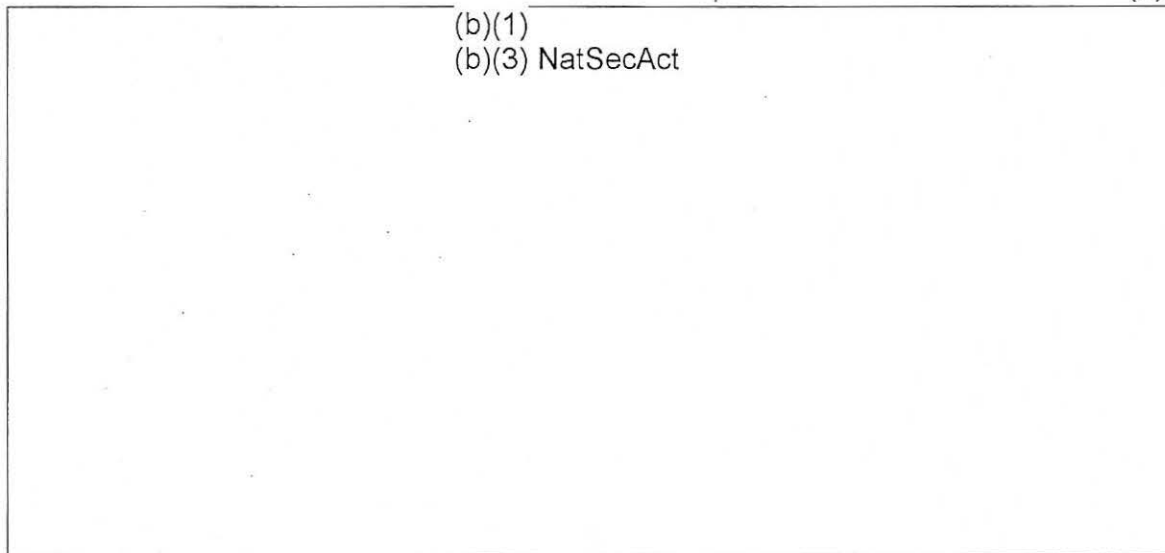
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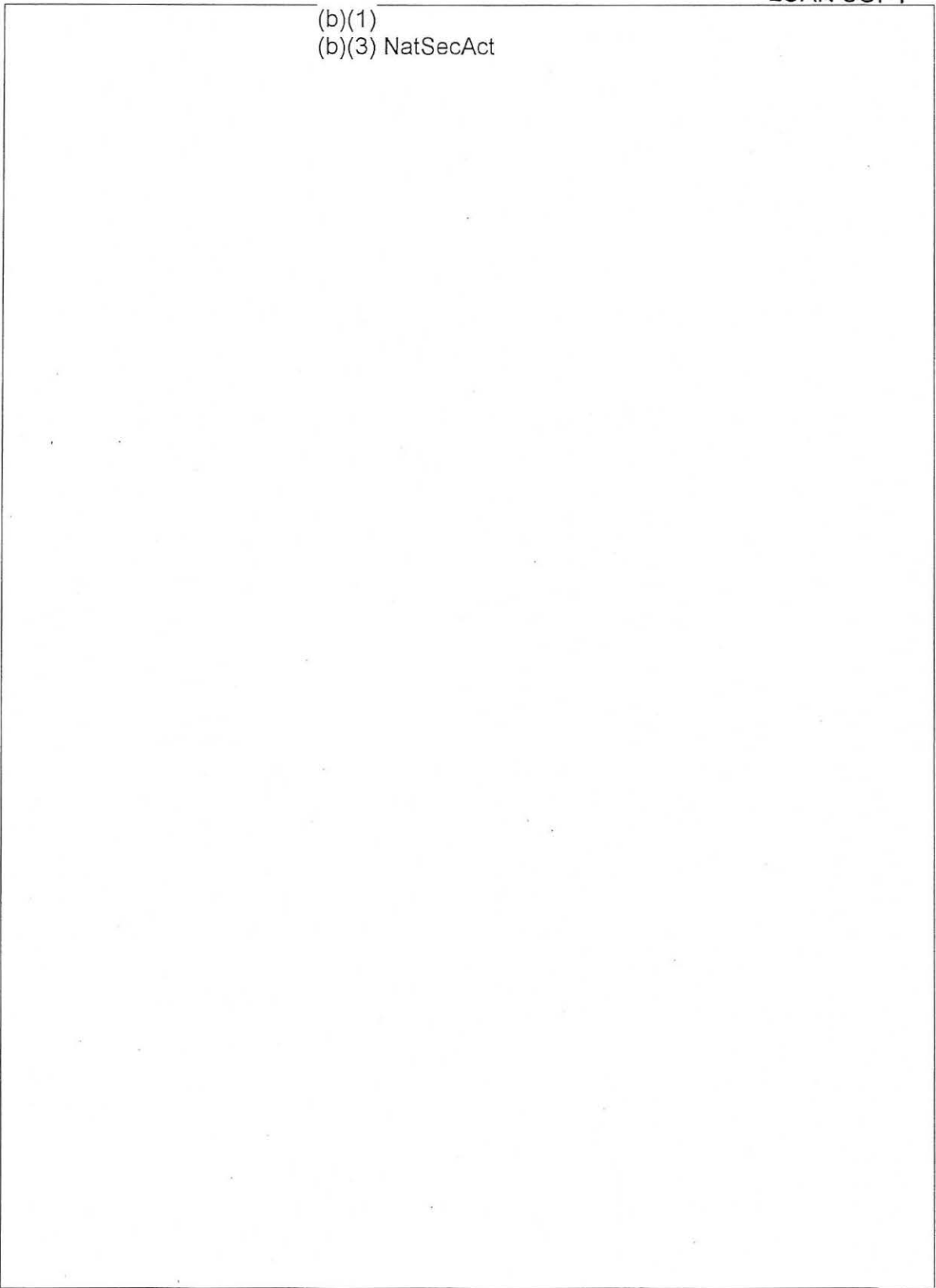
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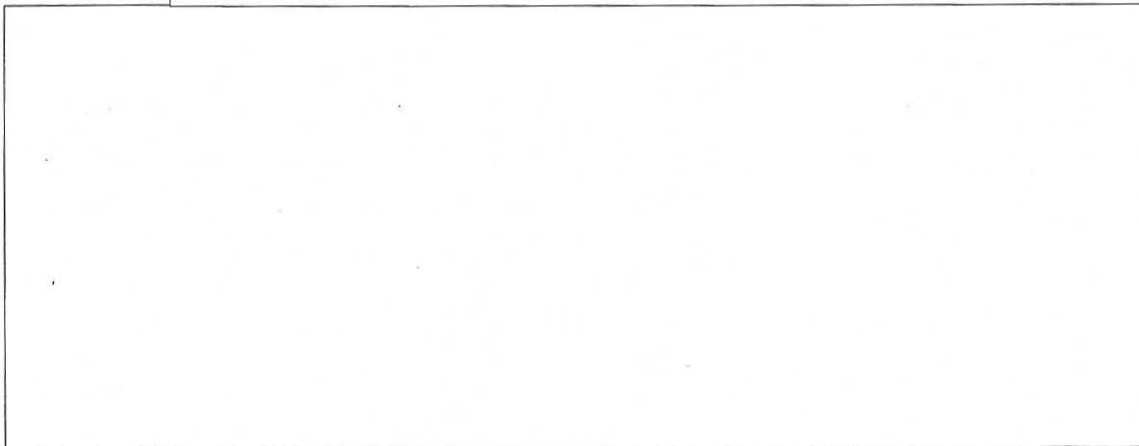
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LOAN COPY**(U//FOUO) IMPEDIMENTS TO LEGITIMATE COLLECTION****(U//FOUO) LACK OF UNDERSTANDING OF THE EXECUTIVE ORDER AND PERCEPTION THAT [REDACTED] COLLECTION CANNOT BE DONE OR IS TOO DIFFICULT**(b)(1)
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60. (S) Most Agency officers know that there must be good reason to direct [REDACTED] collection at a U.S. person and that appropriate approvals need to be obtained. Most officers interviewed, however, including managers in the field and at Headquarters, do not understand the specific requirements of [REDACTED] collection [REDACTED] including the standards for targeting and when collection directed at a U.S. person is justified. Many do not distinguish or understand the different legal standards that apply to technical and human collection. Moreover, few managers or other officers, whether in the field or at Headquarters, could state the appropriate procedures for retaining or disseminating U.S. person information that is obtained incidentally in the course of collection against foreign targets.

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61. [REDACTED]

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62. (S) A number of reasons, including inadequate training, were cited for the lack of understanding. A senior [REDACTED] officer [REDACTED] says that, with the influx of new case officers, there may be a lack of experience in dealing with EO issues. While [REDACTED] officers are often better at identifying potential issues, many of them, including managers, were also unfamiliar with the standards for targeting and dissemination. Officers in [REDACTED] collection operations generally seem to be more knowledgeable of EO 12333 issues.

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(U) TRAINING

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70. (S) Agency officers expressed a range of opinions about whether
EO 12333 has kept up with changes in technology.

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(U) TARGETING STANDARDS

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(U) TIMELINESS, RENEWALS AND DURATION

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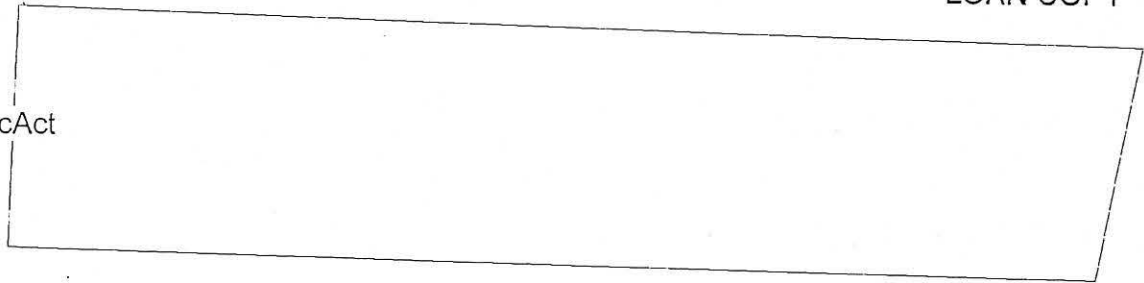
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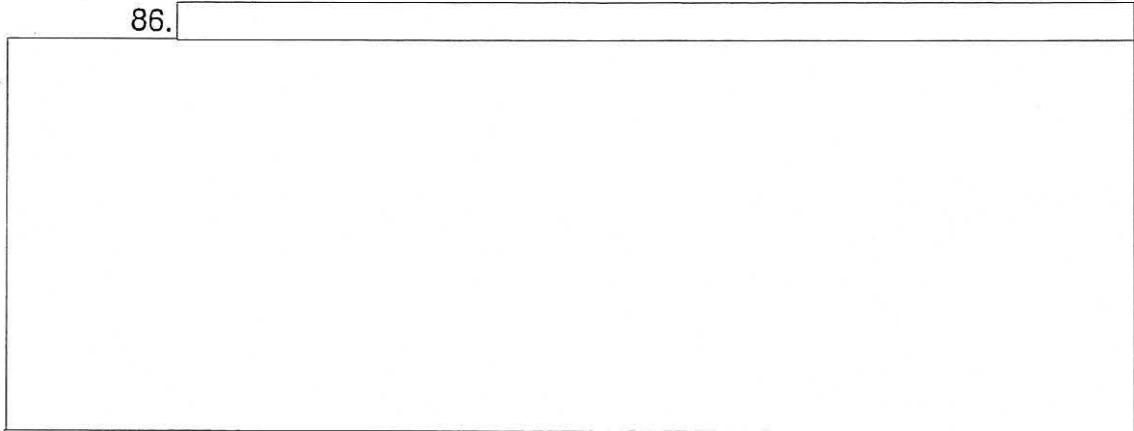
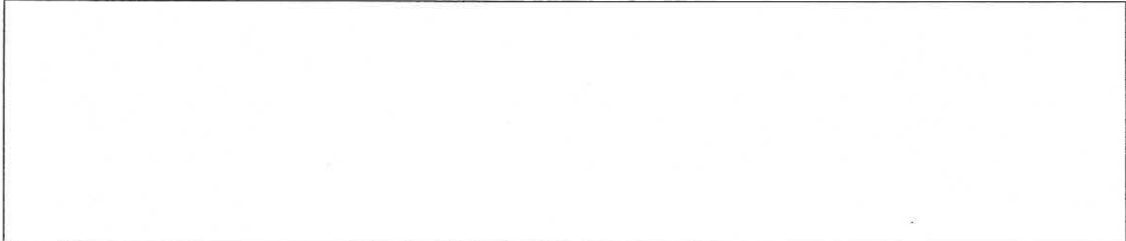
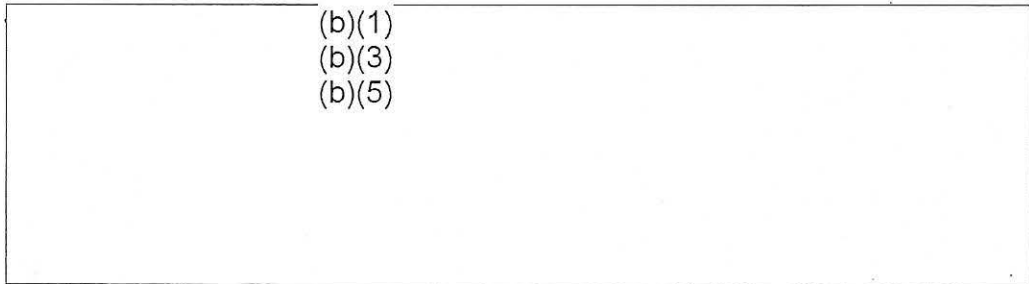
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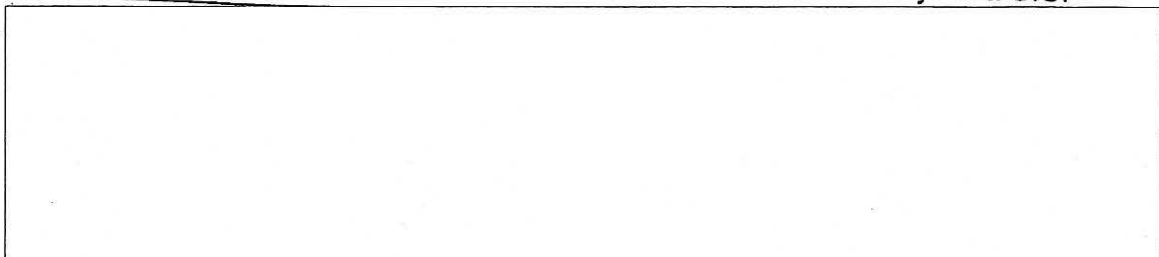
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(b)(5)**(U//FOUO) DIFFICULTY IN DETERMINING U.S. PERSON STATUS**

88. (S) Many field officers explain that it is very difficult to determine if a U.S. person may be the subject of technical collection. They state that it is not always apparent prior to initiating collection that an individual may be a U.S.

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person.

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(U//FOUO) COMPLIANCE PROCESS

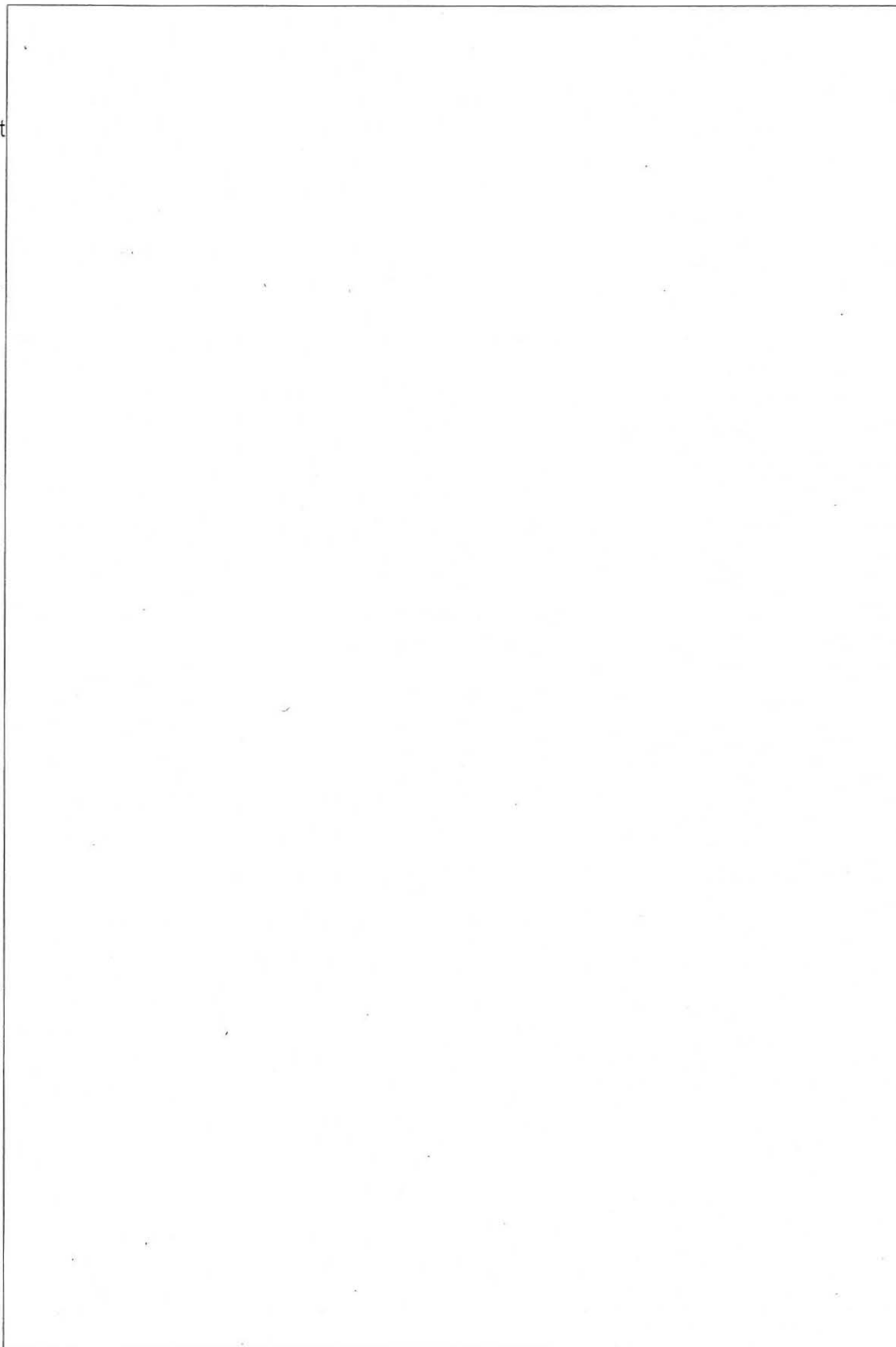
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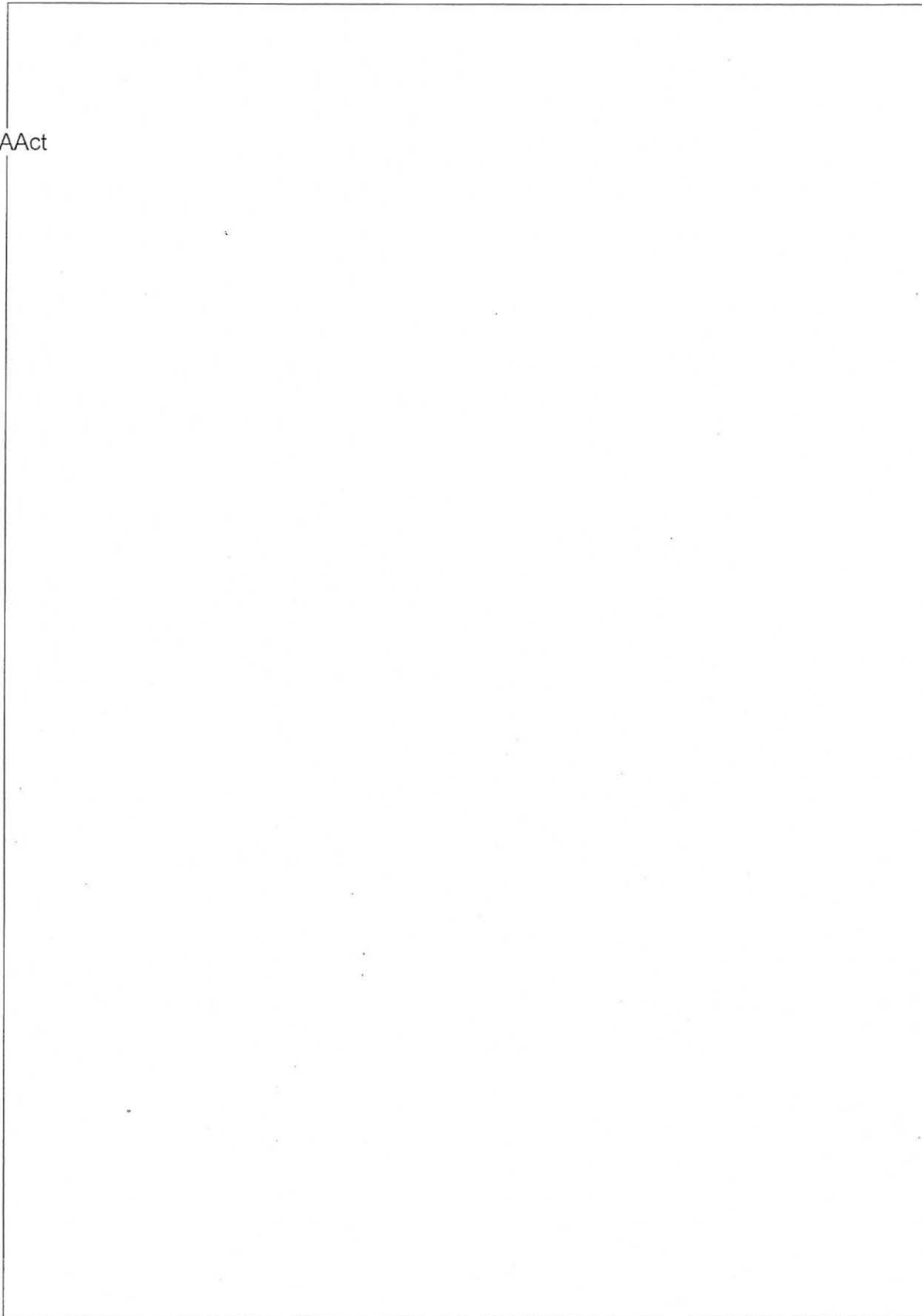
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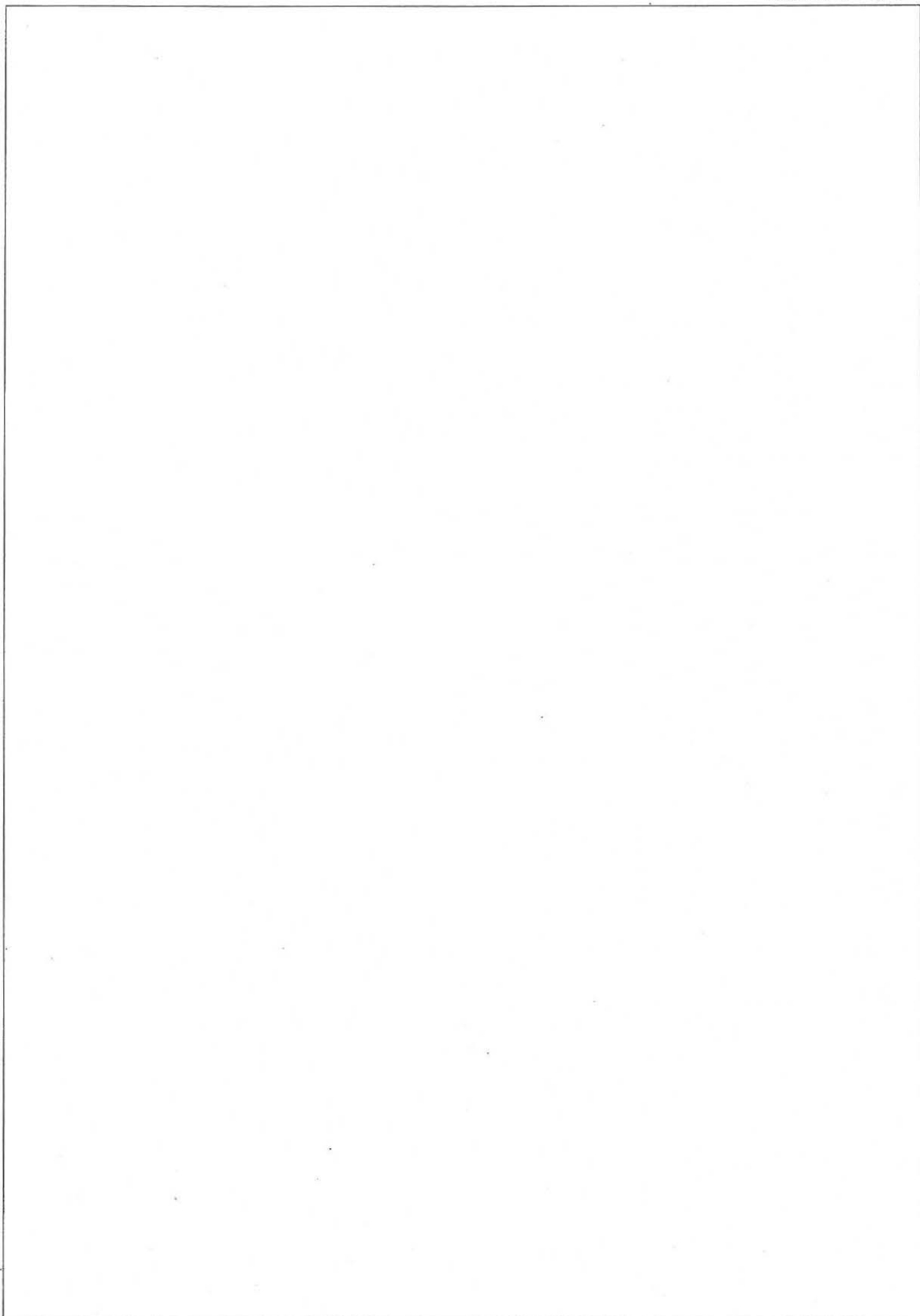
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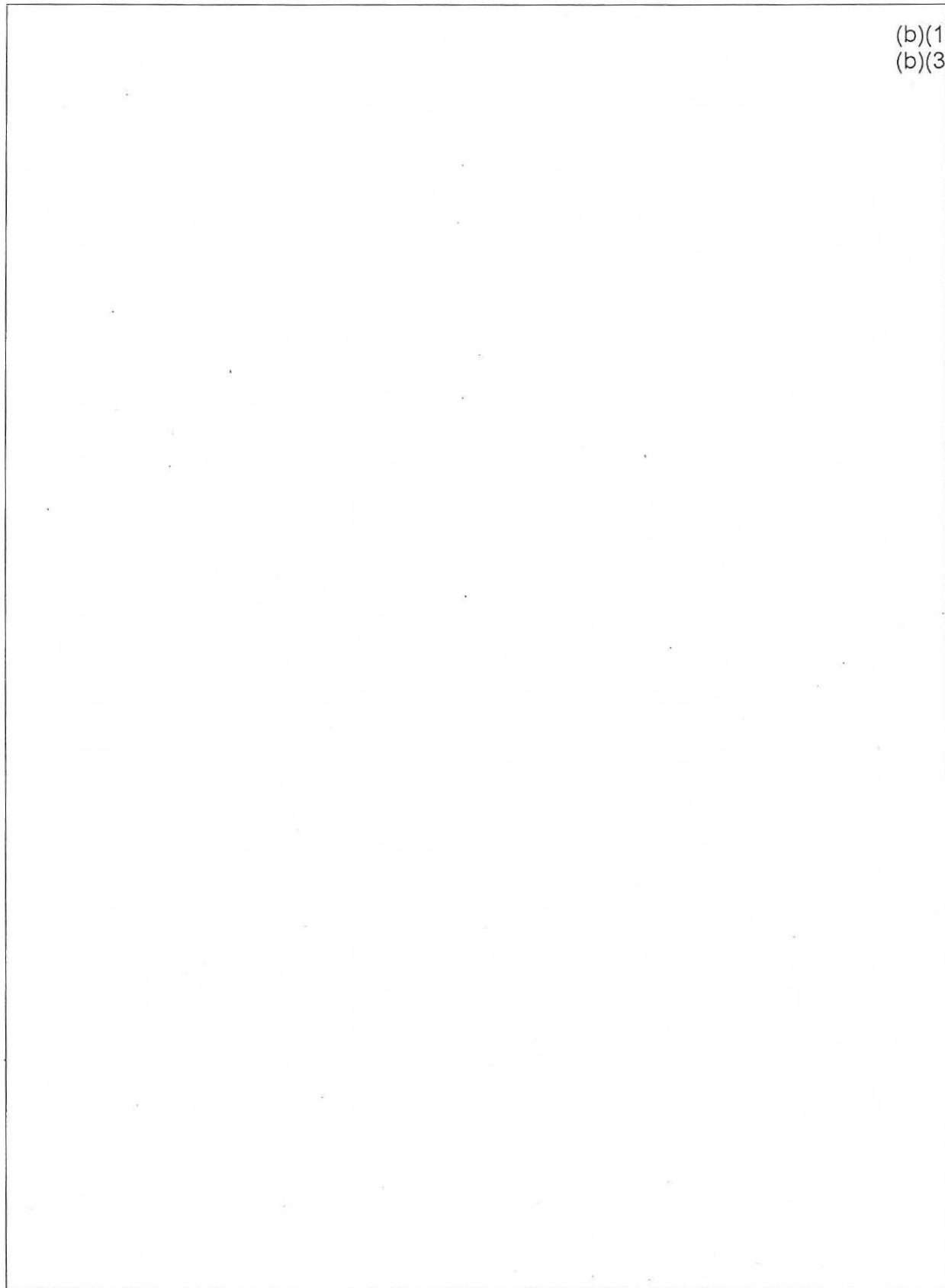


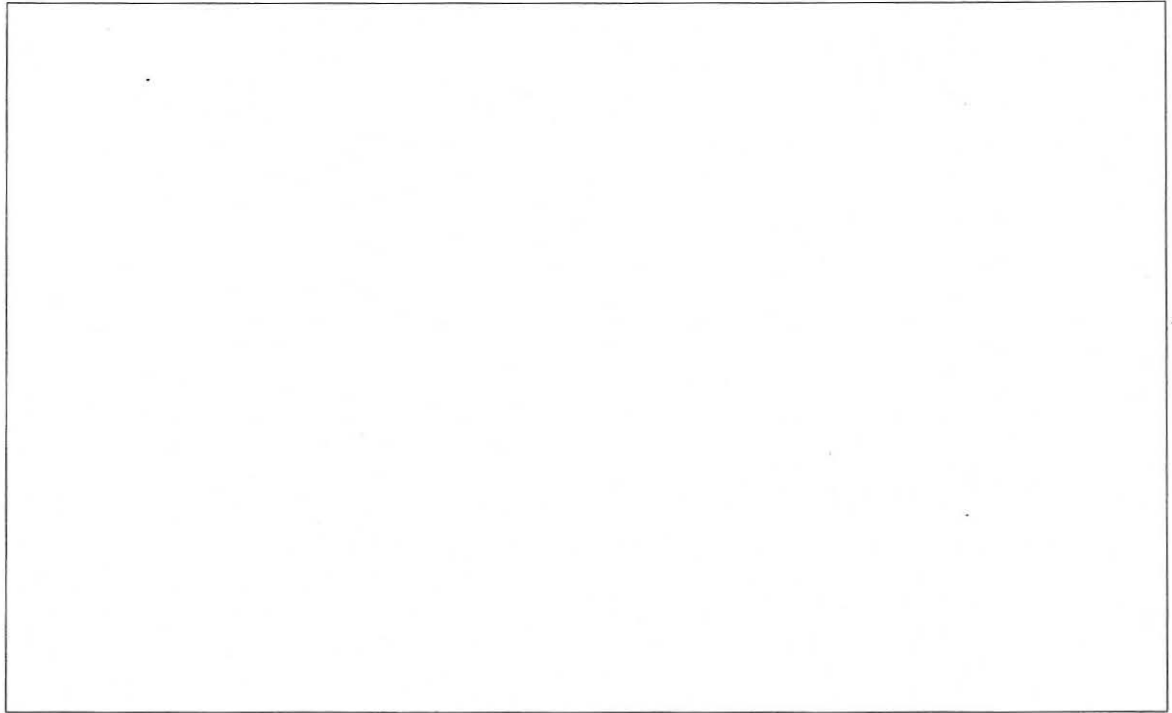
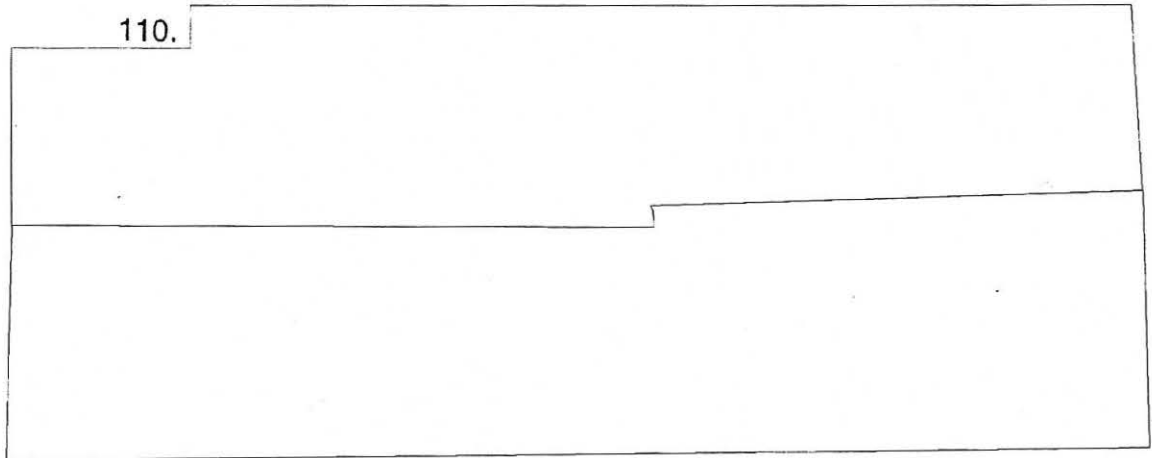
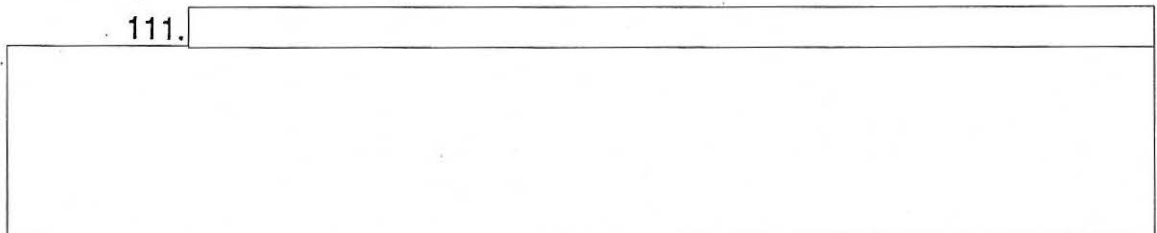
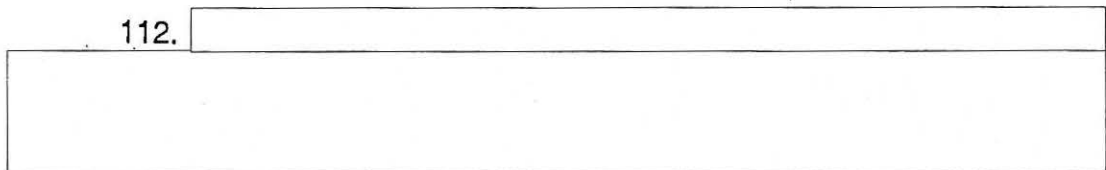
(b)(1)
(b)(3) CIAAct



(U) INADEQUATE RECORDS

(b)(1)
(b)(3) CIAAct



(b)(1)
(b)(3) NatSecAct**(U//FOUO) THE DEPARTMENT OF JUSTICE'S ROLE IN EO COMPLIANCE**(b)(1)
(b)(3) NatSecAct(b)(1)
(b)(3) NatSecAct(b)(1)
(b)(3) NatSecAct

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[Redacted]

(b)(1)
(b)(3) NatSecAct

113.

[Redacted]

(b)(1)
(b)(3) NatSecAct

114.

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(b)(1)
(b)(3) NatSecAct

[Redacted]

(b)(1)
(b)(3) NatSecAct

116.

[Redacted]

(b)(1)
(b)(3) NatSecAct

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(b)(1)
(b)(3) NatSecAct

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(b)(3) CIAAct

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CONCUR:

(b)(3) CIAAct

[Redacted]

/ John L. Helgeson
Inspector General

8/7/02
Date

~~TOP SECRET//X1~~CIA/OIG
LOAN COPY**EXHIBIT B – DETAILED DISCUSSION OF
RETENTION AND DISSEMINATION**(b)(1)
(b)(3) NatSecAct

1. ~~(S)~~ **Rules:** Information about a U.S. person [redacted] (b)(1)
[redacted] including information about a U.S. person who is a party to (b)(3) NatSecAct
or subject of a conversation that is acquired through electronic surveillance,
which is obtained in the course of targeting a U.S. person or a foreign target,
must be processed in accordance with EO 12333 procedures. Under these
procedures, U.S. person information may be retained or disseminated within the
Agency or to recipients outside the Agency "if the identity of the U.S. person and
all personally identifiable information are deleted." The identity of the U.S.
person may also be retained and disseminated along with the information,
however, if the identity is necessary or reasonably believed to become
necessary, to understand or assess the information and the information
constitutes foreign intelligence or counterintelligence, is about a person engaged
in international terrorist or narcotics activities, pertains to potential sources or
contacts, or falls within one of several other categories of information specified in
the procedures. For these reasons, the rules regarding retention and
dissemination [redacted] are permissive, so long (b)(1)
as there is intelligence value to the information. (b)(3) NatSecAct

2. ~~(S)~~ [redacted] (b)(1)
[redacted] (b)(3) NatSecAct
[redacted] Retention and
dissemination of information must also be "in strict accordance" with "any special
minimization procedures approved by the Attorney General (AG)." If information
about a U.S. person does not qualify for retention or dissemination, it must be
destroyed.

3. ~~(S)~~ **Agency activities:** Agency components may not be applying
these retention and dissemination rules properly. This assessment found that (b)(1)
there is a widespread lack of understanding of the rules. Based on interviews (b)(3) CIAAct
with [redacted] officers, retention and dissemination (b)(3) NatSecAct
rules are not being applied consistently.

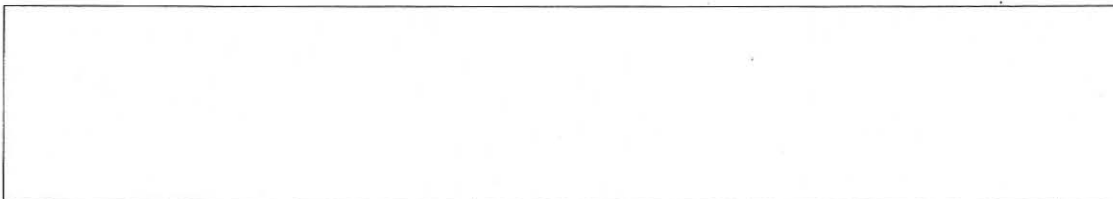
4. ~~(S)~~ Few officers, whether in the field or at Headquarters, could (b)(1)
accurately state the appropriate procedures for retaining or disseminating U.S. (b)(3) NatSecAct
person information. [redacted]

(b)(3) CIAAct

(b)(1)
(b)(3) NatSecAct

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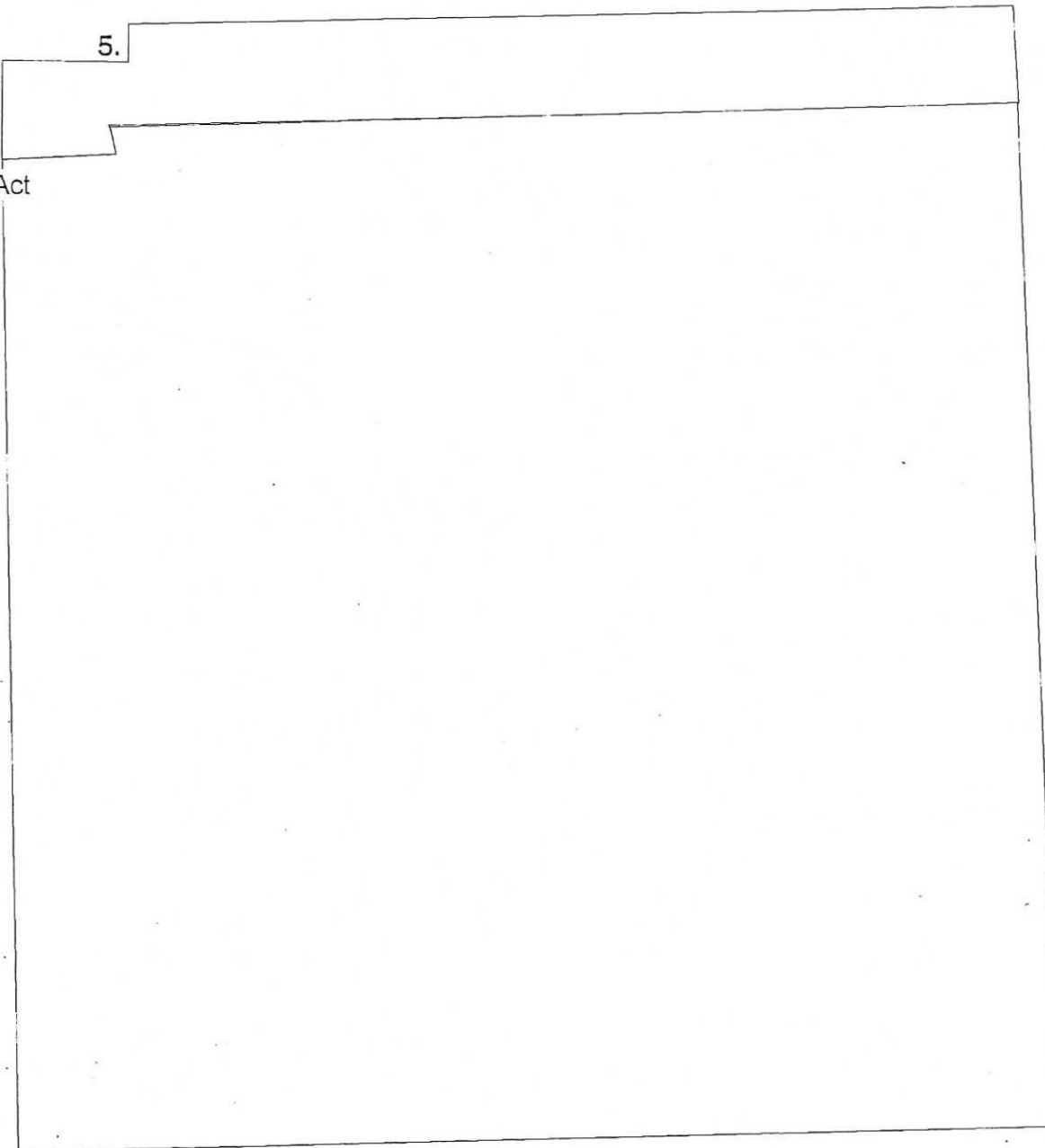
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Nevertheless, consulting with management or legal officers remains the primary method for determining the appropriate retention rules.

5.

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(b)(3) NatSecAct



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EXHIBIT C – CASES WITHOUT COMPLIANCE ISSUES

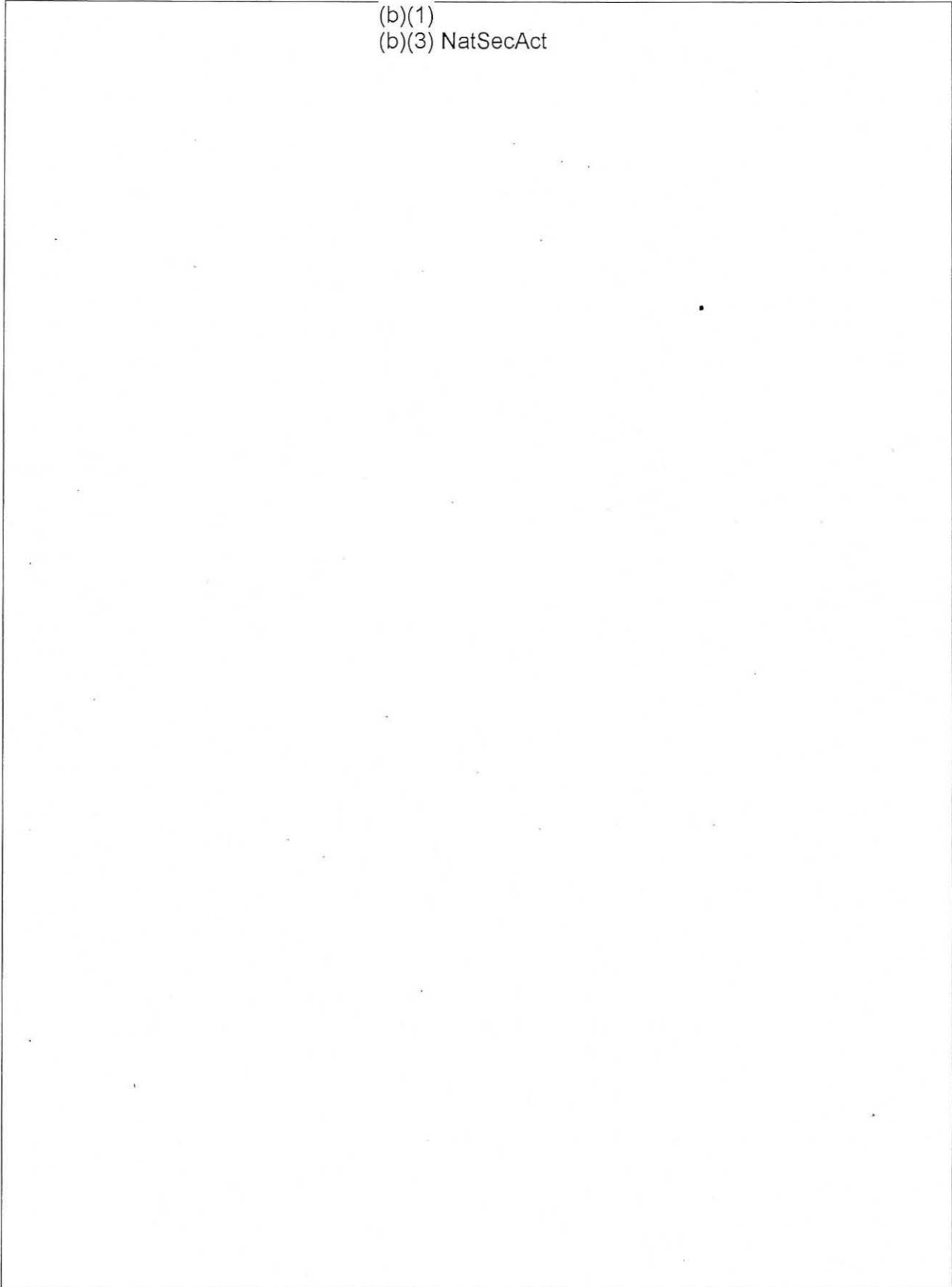
(b)(1)
(b)(3) NatSecAct

(b)(3) CIAAct

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(b)(1)
(b)(3) NatSecAct



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(b)(1)
(b)(3) NatSecAct

Exhibit D

LAUNCH

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(b)(1)
(b)(3) NatSecAct



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EXHIBIT D – MONITORING

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(b)(3) NatSecAct

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Exhibit E

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(b)(3) NatSecAct

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8. ~~(S)~~ **Rules:** Under EO 12333, CIA may provide specialized equipment and technical knowledge to another U.S. Government agency conducting lawful electronic surveillance in the United States. [REDACTED]

(b)(1)
(b)(3) NatSecAct

9. [REDACTED]

(b)(1)
(b)(3) NatSecAct

10. [REDACTED]

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

11. [REDACTED]

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

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(b)(1)
(b)(3) NatSecAct

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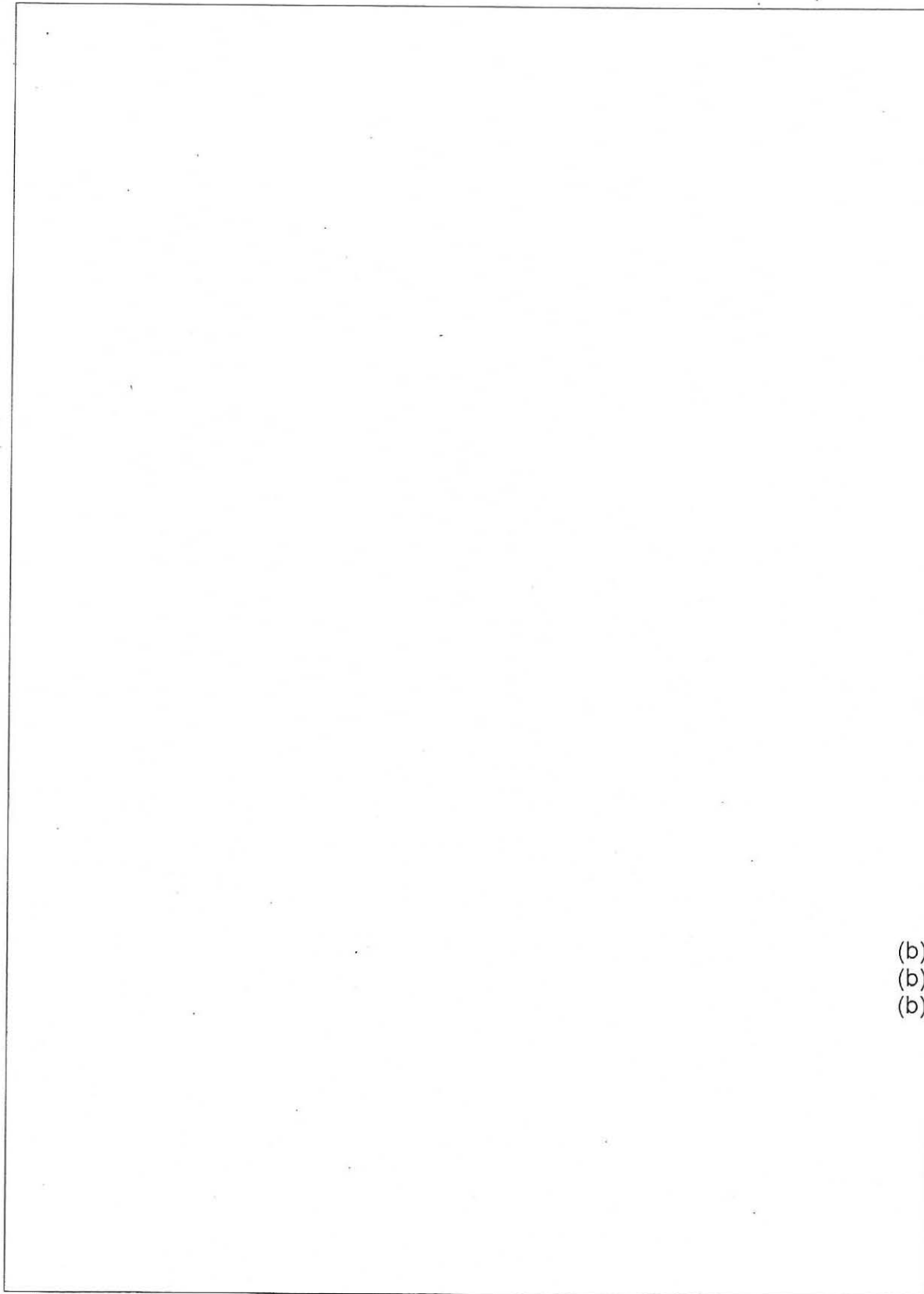
(b)(1)
(b)(3) NatSecAct

[Redacted]

(b)(1)
(b)(3) NatSecAct

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(U//FOUO) TESTING AND TRAINING IN THE UNITED STATES



(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

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(b)(3) NatSecAct

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(U//~~FOUO~~)

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(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

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21.

[Redacted]

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(b)(1)
(b)(3) NatSecAct

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