



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 Los Alamos
National Laboratory Protective Force
Management




Department of Energy

Washington, DC 20585

January 24, 2006

MEMORANDUM FOR THE SECRETARY

FROM:


Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Inspection Report on "Electronic Recording of Telephone and Radio Conversations by Los Alamos National Laboratory Protective Force Management"

BACKGROUND

The mission of the Department of Energy's Los Alamos National Laboratory (LANL) includes helping to ensure the safety and reliability of the Nation's nuclear stockpile, prevent the spread of weapons of mass destruction, develop strategies to mitigate global threats, and protect the United States from terrorist attacks. LANL maintains a protective force that is trained and equipped to secure its facilities and operations.

During an inspection of security-related matters at Sandia National Laboratory-New Mexico (Sandia), information was brought to our attention that Sandia protective force management may be inappropriately recording telephone conversations. During our inquiry into the matter, we were provided information that LANL protective force management also may be inappropriately recording telephone conversations. As a result, we initiated a separate review at LANL to determine whether this information was accurate. During our preliminary inquiries, we confirmed that inappropriate recording activities were being conducted by Sandia and LANL protective force management. Since Sandia and LANL 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 to enable management to 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.

In September 2005, we issued a final report on our findings at Sandia. Attached is the final report on the results of our review at LANL, a summary of which follows.

RESULTS OF INSPECTION

We found that LANL protective force management was regularly recording both telephone and radio conversations on channels/lines assigned to its operation and that these recordings were not conducted 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,
- Electronic records of telephone and radio conversations were retained and used without provision for complying with records management requirements.

We made several recommendations to the Manager of the Los Alamos Site Office to address our findings.

MANAGEMENT REACTION

In responding to a draft of this report, NNSA management identified corrective actions taken or planned to address our recommendations. 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
Chief of Staff
Director, Office of Security and Safety Performance Assurance
Manager, Los Alamos Site Office
Director, Policy and Internal Controls Management (NA-66)
Director, Office of Internal Review (CF-1.2)

ELECTRONIC RECORDING OF TELEPHONE AND RADIO CONVERSATIONS BY LOS ALAMOS NATIONAL LABORATORY PROTECTIVE FORCE MANAGEMENT

TABLE OF CONTENTS

OVERVIEW

Introduction and Objectives	1
Observations and Conclusions	1

DETAILS OF FINDINGS

Background	3
Consent.....	4
Beep Tones Disabled	5
Records Management Requirements.....	5

RECOMMENDATIONS

6

MANAGEMENT COMMENTS

7

INSPECTOR COMMENTS

7

APPENDICES

A. Scope and Methodology	8
B. Management Comments.....	9

Overview

INTRODUCTION AND OBJECTIVES

The Department of Energy's (DOE's) Los Alamos National Laboratory (LANL) is one of the largest multidisciplinary science institutions in the world. The primary national security missions of LANL are to help ensure the safety and reliability of the Nation's nuclear stockpile, prevent the spread of weapons of mass destruction, develop strategies to mitigate global threats, and protect the United States from terrorist attacks. LANL maintains a protective force that is trained and equipped to secure its facilities and operations. LANL is under the cognizance of the National Nuclear Security Administration (NNSA) and is operated for the NNSA by the University of California.

During an inspection of security-related matters at Sandia National Laboratory-New Mexico (Sandia), the Office of Inspector General (OIG) received information that Sandia protective force management may be inappropriately recording telephone conversations. During our inquiry into the matter, we were provided information that LANL protective force management also may be inappropriately recording telephone conversations. As a result, we initiated a separate review at LANL to determine whether this information was accurate.

OBSERVATIONS AND CONCLUSIONS

We found that LANL protective force management was regularly recording both telephone and radio conversations on channels/lines assigned to its operation and that these recordings were not conducted 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,
- Electronic records of telephone and radio conversations were retained and used without provision for complying with records management requirements.

Because of the potential implications of our preliminary findings at LANL and Sandia, on May 16, 2005, we issued a Management Alert on “Issues Associated with the Recording of Telephone and Radio Conversations” to the Administrator of the NNSA. 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 provided the alert to certain other key Department officials so that 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.” The NNSA subsequently advised us that all NNSA sites and its Service Center were tasked to review local policies, procedures, and activities relating to the recording of telephone and radio conversations.

On September 30, 2005, we issued a final report on our findings regarding Sandia, entitled “Electronic Recording of Telephone and Radio Conversations by Sandia Protective Force Management” (DOE/IG-0701). We note that the Sandia report contained a finding that is also relevant to this report. Specifically, we found that the DOE Order pertaining to consensual listening-in to or recording telephone/radio conversations, which was issued in 1992, was significantly outdated. We recommended that the appropriate DOE offices take action to update the Order, and management concurred with this recommendation.

Details of Findings

BACKGROUND

The LANL Protective Force operates central alarm stations (CASs) that monitor alarms, remote entry control systems, and operational communications with protective force personnel. DOE Manual 470.4-2, “Physical Protection,” requires that “A continuous electronic recording system must be provided for all security radio traffic and telecommunications lines that provide support to the CAS.” The manual also states that “This recording requires the approval of the Office of Chief Information Officer and the Office of Security or the Office of the Associate Administrator for Defense Nuclear 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 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. This includes telephone conferences, secretarial recording, and other acceptable administrative practices. Strict supervisory controls shall be maintained to eliminate any possible abuse of this privilege.

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 conversations.

CONSENT

We found that telephone conversations requiring all-party consent for each specific instance were recorded without obtaining such consent. Specifically, protective force management was routinely recording all incoming and outgoing calls on the telephone lines for the scheduling supervisors, shift captains, and Special Operations Division supervisor. 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 obtaining the required consent. Protective force management also recorded telephone conversations involving individuals outside the protective force without their consent, such as other Los Alamos personnel, Federal Los Alamos Site Office staff, and individuals outside the Los Alamos complex.

We were told by Los Alamos protective force officials that the recording of telephone conversations relating to administrative and disciplinary matters was done in order to have an exact record of conversations between protective force managers and officers on the protective force. We were also told that recording of conversations was routine and that all protective force officers were informed during new employee orientation that conversations on the telephone lines for the scheduling supervisors, shift captains, and Special Operations Division supervisor were recorded.

It was unclear whether the notification to the protective force officers during new employee orientation met the DOE Order requirement for “consent for all parties for each specific instance.” Clearly, if callers were provided some type of notification during the conversation, such as telephone line beep tones, the notification of the protective force officers during their orientation might have been sufficient. Nevertheless, individuals from outside the protective force who called on these telephones lines were not notified that their conversations were being recorded. Los Alamos Site Office officials told us they were not aware of the full nature and scope of the protective force recording activities and confirmed that no deviations, waivers, variances, or exceptions to the consent requirements of DOE policy had been authorized.

**BEEP TONES
DISABLED**

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 contained the beep tone feature. However, during our field work, we observed that the beep tone was disabled on several recorded lines, to include the telephone lines in the CAS, the shift captains' offices, and the scheduling supervisors' telephone lines.

A LANL official monitoring the performance of the protective force contractor told us that the beep tones on the CAS telephone lines were disabled because "portions of conversations were being overwhelmed" by the beep tones and the beep tones sometimes interfered with receiving critical information. Protective force officials could not explain why the beep tones were disabled on the shift captains' and scheduling supervisors' telephone lines. Further, protective force officials 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 officials told us they did not realize that the beep tones had been disabled on the telephone lines in the CAS, the shift captains' offices, and the scheduling supervisors' telephone lines. The officials told us they did not know how this had occurred. Protective force management officials acknowledged that they did not have written procedures for the use and operation of the recording system, to include specific authorities and procedures for enabling or disabling recording features.

**RECORDS
MANAGEMENT
REQUIREMENTS**

We found that electronic records of telephone and radio conversations 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 establishment and maintenance of a system of records.

We were told that the LANL protective force had archived numerous recordings of conversations over a period of at least five years. These archived files contained individual recorded

conversations related to disciplinary action taken or contemplated by protective force management, overtime discussions, and work schedule and vacation issues. In some cases, written transcripts of these recorded conversations were made and provided to protective force management. However, the protective force had no policies or procedures regarding storage, retrievability, access controls, retention, or disposal of these recorded conversations. We were told by protective force officials that protective force management had not provided any guidance on these issues.

Protective force management officials stated that some recorded conversations were used to “verify the facts” when questions arose concerning notification by Laboratory employees that individual vaults needed to be secured. They said that Laboratory managers sometimes “challenged us” when the protective force identified failures of Laboratory employees to perform appropriate steps to ensure alarms were set on vault doors. Protective force management officials acknowledged that the protective force had no policies or procedures that implemented the DOE records management program. Further, the officials acknowledged they were not familiar with the requirements of the DOE records management program as the requirements related to the recorded conversations.

RECOMMENDATIONS

We recommend that the Manager, Los Alamos Site Office, take immediate action to ensure that LANL:

1. Terminates recording operations that are not consistent with DOE Manual 470.4-2 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’s 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’s records management program.

**MANAGEMENT
COMMENTS**

In comments on our draft report, NNSA management identified specific corrective actions that LANL has taken or will take to address the report recommendations. Management's comments are included in their entirety at Appendix B.

**INSPECTOR
COMMENTS**

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

Appendix A

SCOPE AND METHODOLOGY

We conducted the majority of our inspection fieldwork from April to June 2005. We interviewed LANL protective force and Los Alamos Site Office management officials regarding the recording system. We interviewed individual protective force officers and reviewed protective force records relating to recording operations. We also reviewed DOE policies 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.

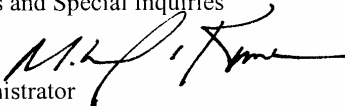


Department of Energy
National Nuclear Security Administration
Washington, DC 20585



JAN 06 2006

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 LANL Electronic Listening Draft
Report; S05IS029/2005-55047

The National Nuclear Security Administration (NNSA) appreciates the opportunity to review the Inspector General's (IG) draft report "Electronic Recording of Telephone and Radio Conversations by Los Alamos National Laboratory Protective Force Management" (S05IS029). We understand that this inspection was initiated based on information received while conducting a similar inspection at the Sandia National Laboratory.

Since the IG first contacted the Laboratory's security organization in May 2005, actions were taken to address all issues raised by the inspection as detailed below.

- Terminate recording operations that are not consistent with DOE Manual 470.4-2 and DOE Order 1450.4

Recorded telephone lines and radio communications channels that are recorded are identified and recorded in accordance with Departmental Directives. Additionally, the recording of lines and channels now meets the requirements of Appendix A of the Protective Force Services Subcontract Statement of Work, Section 2.5.3.G. NNSA believes this is responsive to the recommendation.

- Obtain "proof of consent" to record conversations, as required by DOE Order 1450.4.

To meet this recommendation, the Protective Force element enabled the audible beep function of the recording system. Additionally a pre-recorded notification was installed at the beginning of the call on Captains and Shift

2

Scheduling Supervisors. The automatic, audible beep and the pre-recorded notification alerts all callers that the line is recorded. NNSA believes this is responsive to the recommendation.

- Conduct a full review of the use, maintenance, and storage of recordings and records pertaining to recorded conversations to assure full compliance with the Department's records management program.

The end of August 2005, the security element completed a comprehensive evaluation of recorded management to ensure compliance with Departmental Directives. Additionally, the security element is following requirements specified by the State of New Mexico and is reviewing the National Archives Records Administration policies to determine if there are any unique associated retention requirements. NNSA believes this is responsive to the recommendation.

- Develop policies and procedures regarding storage, retrievability, access controls, retention, and disposal of the records relating to recorded conversations, consistent with the Department's records management program.

The appropriate element will provide guidance on retrievability and access controls and on storage and disposal of recorded conversations by the end of September 2006.

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

cc: Edwin Wilmot, Manager, Los Alamos Site Office
Robert Braden, Senior Procurement Executive
William Desmond, Associate Administrator for Defense Nuclear Security
Karen Boardman, Director, Service Center

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