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NAVAL CRIMINAL
INVESTIGATIVE
SERVICE

Fraud Interview Policies
Similar to Other Federal
Law Enforcement
Agencies



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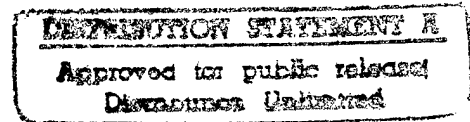
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National Security and
International Affairs Division

B-276500

April 7, 1997

The Honorable Strom Thurmond
Chairman
The Honorable Carl Levin
Ranking Minority Member
Committee on Armed Services
United States Senate



The Honorable Floyd Spence
Chairman
The Honorable Ronald Dellums
Ranking Minority Member
Committee on National Security
House of Representatives

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Section 1046 of the National Defense Authorization Act for Fiscal Year 1997 (P.L. 104-201) directed us to review the policies and practices of the Naval Criminal Investigative Service (NCIS) regarding agent interviews of suspects and witnesses during procurement fraud investigations. Specifically, this report addresses (1) NCIS policies on interviewing, including agent conduct and demeanor and the carrying and display of weapons; (2) controls to deter inappropriate conduct by agents; and (3) the desirability and feasibility of audio- or videotaping interviews and making the recording or transcription available to the person interviewed.

Background

Under authority of the Inspector General Act of 1978, the Defense Criminal Investigative Service (DCIS) and the military criminal investigative organization within each of the services investigate alleged procurement fraud. NCIS has primary responsibility for investigating alleged procurement fraud affecting the Navy. Within the Department of Justice, the Federal Bureau of Investigation (FBI) investigates fraud. Each of these investigating agencies provides evidence to support the prosecuting authorities.

Between January 1989 and July 1996, NCIS agents participated in over 114,000 criminal investigations. In March 1997, 113 NCIS fraud agents were involved in the investigation of 811 cases for crimes such as antitrust violations, cost mischarging, product substitution, and computer intrusion. Although NCIS agents generally investigate procurement fraud cases independently, investigative jurisdiction in 320 of the 811 cases, or about

39 percent, was shared with DCIS, FBI, and other military or civilian criminal investigative organizations.

Agents interview individuals to obtain evidence in criminal investigations. An interview is the formal questioning of an individual who either has or is believed to have information relevant to an investigation. Interviews are normally conducted with willing witnesses and informants. An interrogation is a special type of interview that has an added purpose of securing an admission or confession of guilt regarding the commission or participation in the crime or obtaining pertinent knowledge regarding the crime. Interrogations are normally conducted with suspects or unwilling witnesses. According to NCIS officials, most testimonial evidence in fraud cases is acquired through interviews; however, policies covering areas such as agent demeanor and the display of weapons are the same whether the format of questioning is an interview or interrogation.

Over the years, allegations have been made regarding the use of inappropriate interview techniques by NCIS agents when questioning suspects and witnesses. In January 1995, a Department of Defense (DOD) advisory board, commissioned by the Secretary of Defense to review criminal investigations within the agency, reported that it had heard complaints of abusive interview techniques by NCIS agents.¹ In its report, the advisory board noted that several defense attorneys suggested that subjects should be provided with additional protection against potential abuses by requiring that all interviews be videotaped.

Results in Brief

According to federal law enforcement experts, Naval Criminal Investigative Service interview policies are in accordance with generally accepted federal law enforcement standards and applicable laws. They are also similar to the Defense Criminal Investigative Service's and Federal Bureau of Investigation's interview policies. Specifically, Naval Criminal Investigative Service interview policies prohibit the indiscriminate display of weapons or the use of threats, promises, inducements, or physical or mental abuse by agents attempting to influence an individual during interviews.

The Naval Criminal Investigative Service has established controls to deter, detect, and deal with agent misconduct. Naval Criminal Investigative Service agents are trained in interview policies at their initial training at

¹Report of the Advisory Board on the Investigative Capability of the Department of Defense, Volumes I and II, January 1995.

the Federal Law Enforcement Training Center and through in-house and contractor training. Other controls include (1) periodic inspections of Naval Criminal Investigative Service field offices, (2) internal investigations of alleged agent misconduct, (3) oversight of cases and allegations of agent misconduct by the DOD Inspector General, and (4) the involvement of the U.S. Attorney's offices in grand jury investigations and prosecutions.

Furthermore, judicial review of evidence presented also acts as a deterrent to inappropriate agent conduct since inappropriate or illegal behavior may result in the evidence obtained not being admissible in court. The DOD Inspector General and Naval Criminal Investigative Service could identify only six cases since January 1989 in which misconduct was substantiated, and none of those cases involved procurement fraud investigations. Interviews with selected Assistant U.S. Attorneys, the Navy's General Counsel, and Naval Criminal Investigative Service agents identified no additional substantiated cases. In its 1995 report, DOD's advisory board also reported no widespread abuse of subjects' rights by military criminal investigative organization agents.

Naval Criminal Investigative Service policies do not prohibit audio- or videotaping of interviews or distributing the written or taped results to the interviewee. The Naval Criminal Investigative Service does not routinely tape interviews. In 1996, Naval Criminal Investigative Service agents videotaped 79 interviews, 23 of which were interrogations. About 65 percent of the tapings involved child abuse cases. Officials from the Defense Criminal Investigative Service and the Federal Bureau of Investigation stated that their agencies also do not routinely tape interviews.

Officials from the Naval Criminal Investigative Service, the Defense Criminal Investigative Service, the Federal Bureau of Investigation, and selected Assistant U.S. Attorneys did not support the idea of routinely taping interviews. The Naval Criminal Investigative Service considers routine taping of interviews to be unjustified, given the equipment and transcription costs and the large volume of interviews associated with procurement fraud investigations. DOD and Department of Justice officials noted that routine audio- or videotaping would not improve the quality of the investigation or court proceedings. The DOD advisory board agreed that the routine taping of interviews was unnecessary, given the lack of any evidence supporting a widespread abuse of subjects' rights by agents from military criminal investigative organizations.

NCIS Interview Policies Are Consistent With Those of Other Federal Law Enforcement Agencies

NCIS interview policies are consistent with those of both DCIS and FBI. Generally, policies of all three agencies seek to ensure that interviews of witnesses and suspects are done in a professional manner without the use of duress, force, and physical or mental abuse. More specifically, these policies prohibit agents from making promises or threats to gain cooperation; using deceit, which courts could view as overcoming an interviewee's free will; or indiscriminately displaying weapons. A detailed comparison of the policies is in appendix I.

To ensure that constitutional rights are not violated, NCIS, DCIS, and FBI policies elaborate on the rights of individuals as witnesses and suspects and provide guidance and direction to agents. For example, NCIS policies emphasize that both military and civilian suspects must be informed that they have a right to remain silent and to consult with an attorney and that any statement made may be used against them.² In addition, NCIS policies address an individual's right to have counsel present and to terminate the interview at any time.

Under 10 U.S.C. 1585 and DOD Directive 5210.56, civilian officers and DOD employees may carry firearms while on assigned investigative duties. NCIS and DCIS policies authorize agents, unless otherwise prohibited, to carry firearms when conducting criminal investigations. FBI policies also require agents to be armed when on official duty.

NCIS, DCIS, and FBI policies do not specifically prohibit carrying firearms during interviews. NCIS agents told us that they usually carry weapons during interviews because of the organization's policy requiring that firearms be carried when conducting criminal investigations. However, NCIS policy states that agents should avoid any unnecessary reference to the fact that they are carrying a firearm. In March 1996 correspondence to all NCIS agents, NCIS Headquarters noted that references to the carrying of a firearm include not only verbal, but also physical references, including display of the firearm. DCIS and FBI policies also prohibit the careless display of firearms in public. NCIS policy states that, unless unusual conditions prevail, an agent should not be armed during an interrogation and that the presence of two agents is preferable.

NCIS fraud agents told us that, unlike witness interviews, which are typically held at a home or place of employment, formal interrogations of

²Article 31 of the Uniformed Code of Military Justice (10 U.S.C. 831) requires that, before any questioning, a warning be given to military personnel suspected of an offense. According to *Miranda v. Arizona*, 384 U.S. 436 (1966), such warnings must be given to civilian personnel only when they are in custody or when various other conditions exist, such as probable cause to arrest the individual.

suspects in general crime cases are usually held in a controlled environment in an NCIS field office or a custodial environment, such as a jail. Procurement fraud investigations are usually very long, the target of the investigation is known early in the investigation and has normally obtained legal counsel, and an Assistant U.S. Attorney communicates directly with the suspect's counsel. Interrogations in procurement fraud cases are rare due to the nature of the investigation.

NCIS, DCIS, and FBI policies also address agent ethics, conduct, and demeanor during interviews. For example, NCIS policy states that interviews should be conducted in a business-like manner. DCIS policy likewise notes that, when conducting an interview, the agent should maintain a professional demeanor at all times and protect the rights of persons involved in a case, as well as protect himself or herself from allegations of misconduct. The FBI has similar policies regarding agent conduct and demeanor during interviews.

Controls Are in Place to Deter Inappropriate NCIS Agent Behavior

NCIS requires an investigation of allegations of agent misconduct. Between January 1989 and July 1996, the NCIS Office of Inspections investigated 304 allegations against agents. However, only 10 cases involved agent conduct during the interview process, and none involved cases of procurement fraud. Corrective actions, ranging from required counseling to job termination, were taken against NCIS agents in the six cases that were substantiated.

DOD and NCIS have also established controls to protect individual rights and act as deterrents to inappropriate agent conduct during interviews. These controls include basic and continued agent training; a field office inspection program; and DOD Inspector General oversight of NCIS investigations, including alleged misconduct by agents. The judicial review inherent in the legal process also acts as a deterrent to inappropriate agent behavior.

Entry-Level and Subsequent Agent Training

NCIS agents receive considerable training on interview techniques and appropriate interview behavior. At the basic agent course given at the Federal Law Enforcement Training Center, NCIS agents receive 18 hours of instruction concerning interviewing techniques. During their first 24 months with the agency, agents are exposed to a wide range of general crime investigations as they work with and are evaluated by more

experienced agents. After the first 24-month period, selected agents are given the opportunity to specialize in procurement fraud investigations.

Additional procurement fraud-specific training, both internal and external, and additional interview training is given throughout an agent's career. The internal and external training is supplemented by correspondence issued periodically to agents on various subjects, including interviewing techniques, updates on policy or procedural changes as a result of court cases, or lessons learned from completed investigations. The 23 dedicated fraud agents we interviewed at NCIS field offices in Los Angeles and Washington, D.C., had been with NCIS for an average of 12 years and had worked in the fraud area for an average of 6-1/2 years.

Oversight Controls

NCIS conducts regular operational inspections of headquarters and field locations. Two objectives of the inspections are to assess compliance with established policies and procedures and evaluate anomalies that prevent or inhibit compliance. NCIS guidelines require that these inspections include interviews with all agents and supervisors and a review of all ongoing case files and correspondence. In addition, inspections may include interviews with selected Assistant U.S. Attorneys, military prosecutors, and managers and agents of other federal criminal investigative agencies with whom NCIS agents work. Within 45 days of receipt of the inspection report, the special agent-in-charge of the field location is to report on actions taken, in progress, or proposed to correct all recommendations made during the inspection. Between January 1992 and December 1996, NCIS conducted 45 of these inspections. Our review of inspection reports for all 11 inspections conducted during the 3-year period ending December 1996, found no indications of problems with agent conduct regarding interviews.

The Inspector General Act of 1978 gives the DOD Inspector General the responsibility for oversight of investigations performed by the military criminal investigative organizations, including NCIS. During the last 4 years, the DOD Inspector General completed oversight reviews of 29 NCIS cases involving allegations of misconduct against 11 NCIS agents. The Inspector General determined that none of these allegations were substantiated. In April 1996, the Secretary of Defense requested that the DOD Inspector General look into allegations of NCIS agent misconduct during a 4-year procurement fraud investigation that ended in acquittal of the two

defendants in early 1995.³ At the time of our review, the inquiry into these allegations had not been completed.

Judicial Review

U.S. Attorneys and other prosecuting authorities rely on the results of NCIS investigations to be upheld in the courts. Under rights afforded under the fifth amendment to the U.S. Constitution and Article 31 of the Uniform Code of Military Justice, evidence acquired in violation of the rights of the accused can be inadmissible. Defendants and their attorneys have the right to petition the courts to suppress or exclude any evidence not legally obtained. In addition, civilian witnesses and suspects can bring civil suits against agents if they believe their rights have been violated or laws have been broken.

According to the Navy's General Counsel, once a case is accepted for prosecution in federal court, the Assistant U.S. Attorney assumes responsibility for the investigation and determines the need for further investigation, the witnesses who will be interviewed, and the timetable for referring the case to the grand jury for indictment. Thus, the Assistant U.S. Attorney closely monitors the information obtained for its admissibility. We interviewed nine Assistant U.S. Attorneys, all of whom had many years of experience in working with NCIS agents. They characterized the NCIS agents as professional and could not recall any instances in which evidence was suppressed or cases were negatively impacted as a result of misconduct by NCIS agents during interviews. Some of the attorneys said they had attended interviews with NCIS fraud agents and observed nothing that was out of line.

Little Support Exists for Routine Recording of Interviews

NCIS, DCIS, and FBI policies permit audio or video recordings of witness or suspect interviews in significant or controversial cases. However, little support exists for routine taping of interviews, except in particular kinds of cases. In fiscal year 1996, NCIS agents videotaped 56 interviews and 23 interrogations, 51 (or 65 percent) of which involved child abuse cases. Most of the remaining videotapings involved cases of assaults, homicides, and rapes. NCIS fraud agents said that they audiotape very few interviews.

Neither DOD nor the Department of Justice favor routinely audio- or videotaping interviews. Both agencies believe that such a practice would not improve the quality of investigations or court proceedings and that the resources necessary to institute such a practice could be better used

³United States of America v. Ralph Bernard and William Ayers, CR No. F-93-5100-REC.

elsewhere. In its 1995 report, DOD's advisory board recognized that routine videotaping of interviews is a topic of debate within the law enforcement community. However, the board concluded that videotaping was unnecessary in all cases since its study found no widespread abuse of subjects' rights, but it might be advisable under some circumstances.

The Navy's General Counsel, NCIS agents, and the Assistant U.S. Attorneys we spoke with expressed concern regarding the routine recording of interviews. They consider routine recording to be unnecessary because the courts do not require it; the practice would take time better used for more productive activities; and, given the large volume of cases, such recordings would be cost-prohibitive and add little value to the process. The Assistant U.S. Attorneys stressed that grand jury hearings and court proceedings are the most appropriate places to obtain testimonial evidence, since witnesses are under oath.

NCIS agents and the Assistant U.S. Attorneys we spoke with favored the current NCIS policy of interviews being taped only when a specific reason exists for doing so. The attorneys favored recording interviews of small children in child abuse cases to preclude multiple interviews and possibly the need for the children to appear in court. The agents and attorneys also favored recording witnesses who were likely to be unavailable during court proceedings and those that might be expected to change their story.

Officials told us that an NCIS pilot test of videotaping all interviews in the early 1970s did not support routine use because (1) the agents found that they were devoting disproportionate time and energy to the care of equipment rather than gathering facts; (2) the number and breadth of interviews declined, as did the overall quality of investigations; and (3) investigators' productivity decreased due to their inability to conduct a sufficient number of in-depth interviews.

NCIS had not computed the additional cost of taping all interviews. However, the Navy's General Counsel noted that the expense of equipment, tapes, transcription, and duplication would be extremely high and could only be justified if no safeguards were already built into the legal system. As an example of the potential transcription cost that could be incurred, we were told that, in one case that was recorded, the interview lasted about 3 hours, filled 4 microcassettes, and ended up being 127 single-spaced typed pages. Information provided by the NCIS Los Angeles field office, one of the larger offices for procurement fraud cases, showed that about 7,600 interviews had been completed for the 117 cases

assigned as of January 1997, which translates to an average of about 65 interviews per case. According to officials of the NCIS Washington, D.C., field office, 16 major procurement fraud cases that were essentially completed and awaiting some type of disposition had required 628 interviews—an average of about 39 interviews per case. NCIS closed 533 procurement fraud cases in fiscal year 1995 and 534 in fiscal year 1996.

A 1990 study commissioned by the Department of Justice sought to determine the use of audio- and videotaping of interrogations by police and sheriff departments nationwide.⁴ The study concluded that videotaping was a useful tool and that one-third of the departments serving populations of 50,000 or more videotaped suspect interrogations and confessions in cases involving violent crime. The benefits claimed by the departments that taped interrogations and confessions included (1) better interrogations because agents prepared more extensively beforehand, (2) easier establishment of guilt or innocence by prosecutors, and (3) increased protection of subjects' rights against police misconduct. Local prosecutors tended to favor videotaping, but defense attorneys had mixed feelings.

NCIS has no written policy that specifically addresses whether recordings or written transcriptions of interviews should be made available on demand to the subject or witness. However, NCIS, DCIS, and FBI policies regarding witness statements and confessions do not prohibit copies from being given to the individual making the statement. Also, a 1993 NCIS memorandum said that all witness statements must be provided to the defense counsel and that quotes from a witness are to be considered witness statements.

The Assistant U.S. Attorneys we spoke with and NCIS officials believe that written transcripts of audio or video recordings, especially those taken during the early stages of an investigation, would not necessarily reflect all the known facts and might be misleading and subject to inappropriate use. Currently, interview writeups are not provided to witnesses or suspects for their review, since they are considered a summary of the interview results from the agent's perspective. According to the Navy's General Counsel, much of the information in interview writeups is likely to be irrelevant to the case after the issues are narrowed. This official also said that the potential increase in the accuracy of individual interviews would

⁴National Institute of Justice, Videotaping Interrogations and Confessions, Research in Brief, March 1993.

not contribute as much to the total accuracy of an investigation as verifying or disproving the information provided in initial interviews.

Agency Comments and Our Evaluation

DOD and the Department of Justice reviewed a draft of this report. The Department of Justice provided informal comments, which we incorporated as appropriate. DOD concurred with our findings.

Scope and Methodology

We interviewed officials responsible for fraud investigations at NCIS, DCIS, and FBI headquarters to identify policies and procedures relating to interviewing suspects and witnesses. We focused on the policies and procedures concerning agent conduct and demeanor, the carrying and display of weapons during interviews, and use of audio- and videotaping. To document actual NCIS interview practices, we interviewed fraud case supervisors and agents at the two NCIS field offices responsible for the highest number of closed procurement fraud investigations in fiscal years 1995 and 1996—Los Angeles and Washington, D.C.

To determine whether NCIS policies are in line with generally accepted federal law enforcement standards, we compared NCIS interview policies, especially with regard to agent conduct and demeanor and the carrying and display of weapons, with those of DCIS and FBI—two of the larger federal law enforcement agencies involved in procurement fraud investigations. We also reviewed the Federal Law Enforcement Training Center's and NCIS internal training curriculum on interviews. In addition, we reviewed agent training records and discussed interview training with instructors at the Federal Law Enforcement Training Center and NCIS fraud supervisors and agents.

To address agent adherence to guidance and identify controls in place to deter inappropriate agent conduct and demeanor during interviews, we interviewed NCIS headquarters officials and the Navy's General Counsel. Through discussions and document reviews, we compared these controls with those of DCIS and FBI. We reviewed cases of alleged agent misconduct investigated internally by NCIS' Office of Inspections and externally by the DOD Inspector General. We also reviewed and documented the results of the 11 operational inspections of NCIS field offices conducted since January 1994. In addition, we reviewed summaries of all NCIS procurement fraud cases closed during fiscal years 1995 and 1996.

Regarding oversight of NCIS, we interviewed DOD Inspector General officials responsible for the oversight of NCIS investigative activities and examined cases of alleged NCIS agent misconduct that received oversight by the DOD Inspector General. We also reviewed documents regarding Navy policies and interviewed the Navy's General Counsel and the Navy's Principal Deputy General Counsel. The Assistant U.S. Attorneys we spoke with provided us with insight regarding the adequacy of policies and laws dealing with subject and witness interviews and the performance of NCIS agent interviewing practices, especially with regard to impact on the prosecution of procurement fraud cases.

We discussed with NCIS and DCIS managers, NCIS agents, and Assistant U.S. Attorneys, the use of audio and video equipment to tape interviews and the desirability and feasibility of providing the transcripts to witnesses and subjects. We obtained the official positions of the Department of Justice and NCIS regarding these issues. We identified two studies that addressed using audio- and videotaping for recording interviews and discussed these issues with the studies' authors. We also discussed these issues with homicide detectives from one city police department that uses video equipment in interrogations. In addition, we discussed with appropriate DOD and Department of Justice officials any legal and practical ramifications of interviews being taped and transcriptions being provided to witnesses and suspects.

We performed our work from July 1996 to March 1997 in accordance with generally accepted government auditing standards.

We are sending copies of this report to other interested congressional committees; the Secretaries of Defense and the Navy; the General Counsel of the Navy; the Director of the Naval Criminal Investigative Service; and the Attorney General. Copies will also be made available to others on request.

Please contact me at (202) 512-5140 if you or your staff have any questions concerning this report. Major contributors to this report are William E. Beusse, Hugh E. Brady, Kenneth Feng, Mark Speight, and Harry Taylor.

A handwritten signature in black ink that reads "Mark E. Gebicke". The signature is written in a cursive style with a large, stylized initial "M".

Mark E. Gebicke
Director, Military Operations and
Capabilities Issues

NCIS, DCIS, and FBI Interview and Interrogation Policies

Policy area	NCIS	DCIS	FBI
Carrying firearms while on assigned investigative duties.	Agents are required to carry firearms while on assigned investigative duties.	Agents must carry firearms when conducting criminal investigations, except where prohibited or when carrying a firearm is inappropriate.	Agents must be armed when on official duty, unless good judgment dictates otherwise. They are authorized to be armed anytime.
Displaying weapons during an interview or interrogation.	Any unnecessary reference to the fact that an agent has a firearm on his or her person should be avoided. An agent should not be armed during an interrogation unless unusual conditions prevail. It is better to have two agents present than to be armed. Normally, agents may be armed during interviews because the policy requiring them to be armed while on investigative duties prevails.	Area is not specifically addressed, but unnecessary display of firearms, which may heighten the sensitivity of non-law enforcement personnel, is prohibited. In addition, careless display of firearms in public is prohibited.	Area is not specifically addressed, but unnecessary display of weapons in public is prohibited. Good judgment must be exercised in all situations.
Ethics, conduct, and demeanor of agents.			
(1) Warning of individual rights	Military suspects must not be interrogated without having first been given the prescribed warning. For civilian suspects, Miranda warnings are applicable in custodial situations, and informing individuals of their right to terminate the interview at any time is required.	In addition to the obligation to give the suspect the required warnings, agents are required to be familiar with civil and criminal laws and the Uniform Code of Military Justice so they can recognize an incriminating statement.	In addition to the obligation to give the suspect the required warnings, the policies state that the suspect must be advised of the names and official identities of the interviewing agents and the nature of the inquiry. It is desirable that the suspects acknowledgement of the warnings be obtained in writing.
(2) Making promises and threats	Agents do not have the authority to make any promises or suggestions of leniency or more severe action to induce a suspect to make a statement.	Agents must refrain from making or implying promises of benefits or rewards or threats of punishments to unlawfully influence the suspect.	No attempt is to be made to obtain a statement by force, threats, or promises. Whether a suspect will cooperate is left entirely to the individual. The policies take into account that the court will decide whether the interrogation practices overpowered the accused's ability of self-determination.

(continued)

**Appendix I
NCIS, DCIS, and FBI Interview and
Interrogation Policies**

Policy area	NCIS	DCIS	FBI
(3) Lying or deceit by agent	Although tricks or other tactics may not be used to prevent a suspect from exercising constitutional rights, once a suspect makes a valid waiver of rights, deceptions are allowable as long as they are not used to obtain an untrue confession.	Playing one suspect against another is an allowable interrogation technique. However, agents must ensure that information developed conforms to rules regarding admissibility of evidence and that the rights of persons involved in a case are protected.	The presence of trickery, ruse, or deception will not necessarily make a statement involuntary. The courts consider a number of factors in making this determination, including whether the statement resulted from a free and unconstrained choice or from interrogation practices that overpowered the individual's ability of self-determination.
(4) Professional demeanor	Interrogations should be conducted in a business-like and humane manner. Legal restrictions are based on the premise that a person will make false statements to stop any physical or mental discomfort.	Agents should be friendly and business-like and maintain a professional demeanor at all times. Agents should also be receptive and sympathetic.	Policies prohibit any tactics that may be considered coercive by courts, stressing that tactics that overpower a suspect's ability of self-determination should not be used.
Audio and video recording of interrogations and interviews	Recommended for interviews considered to be potentially significant or controversial but only with the knowledge and concurrence of the interviewee.	Recommended for compelling situations with approval from the interviewee, the head of the DCIS field office, and prosecutor.	Authorized on a limited, selective basis with approval of the special agent-in-charge and consent of the interviewee. In addition, recording equipment must be in plain view of the interviewee, tapes must not be edited or altered, and the chain of custody must be ensured.
Providing copies of witness statement or transcriptions to witnesses or defense attorneys.	No policy.	When the individual making a statement asks for a copy, one will be provided. However, prior approval for doing so must be obtained from the cognizant U.S. Attorney or military Staff Judge Advocate, as appropriate.	Agents should not volunteer to furnish a copy of a confession or signed or unsigned statement to the subjects or their attorneys. However, if the confession or statement is requested and certain conditions are met, it should be provided.
Providing copies of video or audio recordings to suspects, witnesses, or defense attorneys.	No policy. A determination is made on a case-by-case basis by the U.S. Attorney.	No policy. A determination is made on a case-by-case basis by the U.S. Attorney.	No policy. A determination is made on a case-by-case basis by the U.S. Attorney.