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Report No. 20121205-001943

November 25, 2013

(original dated August 20, 2013)

Inspector General

United States
Department of Defense



(CORRECTED COPY)

(b)(6) (b)(7)(C)

United States Air Force

WHISTLEBLOWER REPRISAL INVESTIGATION

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WHISTLEBLOWER REPRISAL INVESTIGATION

(b)(6) (b)(7)(C)

U.S. AIR FORCE

(b)(6) (b)(7)(C), **NATO TRAINING MISSION AFGHANISTAN**
KABUL, AFGHANISTAN

I. EXECUTIVE SUMMARY

We conducted this investigation in response to allegations that Lieutenant General (LTG) William B. Caldwell, U.S. Army, former Commander, NATO Training Mission-Afghanistan (NTM-A) and Combined Security Transition Command-Afghanistan, (b)(6) (b)(7)(C) restricted (b)(6) (b)(7)(C) (Complainant), U.S. Air Force, (b)(6) (b)(7)(C) to NTM-A, from communicating with a Department of Defense Inspector General (DoD IG) inspection team (b)(6) (b)(7)(C)

We found that LTG Caldwell sent three emails, one of which was sent to Complainant and his team, that attempted to restrict Complainant’s communication with DoD IG and required all communication with the DoD IG to be approved prior to release.

(b)(6) (b)(7)(C)

By letter dated June 24, 2013, we provided LTG Caldwell the opportunity to comment on the preliminary conclusions. In a memorandum dated June 27, 2013, LTG Caldwell responded to our preliminary report and disagreed with our conclusions and requested that the findings that he restricted or attempted to restrict Complainant be unfounded. After carefully considering LTG Caldwell’s response, we amended various sections of the report, but did not alter our original conclusions.¹

(b)(6) (b)(7)(C)

We recommend that the Secretary of the Army take appropriate corrective action against LTG Caldwell.

¹ While we have included what we believe is a reasonable synopsis of LTG Caldwell’s response, we recognize that any attempt to summarize risks oversimplification and omission. Accordingly, we incorporated his comments where appropriate throughout this report and provided a copy of his full responses to the cognizant management officials together with this report.

II. BACKGROUND

NTM-A was charged with giving the Afghan Ministry of Defense and Ministry of Interior the training and tools necessary to take over defense of their nation in 2014 when NATO hands off responsibility for security to Afghan forces. NTM-A officials were involved in training all aspects of the national defense apparatus and police forces, building legal systems, creating a viable medical system to support their newly robust Army and police, and army development.

NTM-A started with a small number of personnel, but grew to almost 5,000 U.S. and coalition forces. NTM-A advisors embedded with their Afghan counterparts, built relationships, directed funding, and trained the Afghans to take over. NTM-A was divided into functional areas each led by a colonel or general officer.

In addition to his (b) (6), Complainant (b) (6) MTAG's function was to train and advise the Afghan military medical system.

Most of the systems were essentially starting from scratch. According to the World Health Organization, the national medical system in Afghanistan has been ranked as one of the worst in the world. The military medical system, centered on the Dawood National Military Hospital (NMH), was slightly better, but was still less efficient and effective than a western medical system and was not sufficient to support the Afghan Army involved in daily combat.

Prior to October 28, 2010, NTM-A officials had been laying the groundwork for removing the corrupt Dawood NMH Commander and addressing concerns of pharmaceutical theft. There were several indications from the Afghan Attorney General, Afghan IG, and the Dawood NMH itself that pharmaceuticals and fuel were being stolen, and that corruption was rife throughout the system. Many individuals said that the corruption went all the way to Major General Ahmad Zia Yaftali, the Afghan Surgeon General and Commander of the Dawood NMH.

In late August 2010, (b) (6) (b) (7) (C), (b) (6) (b) (7) (C), briefed LTG Caldwell on information that he had gathered about the extent of the corruption in the Afghan medical system. He exchanged several emails with LTG Caldwell after the briefing identifying specifics of the problem. LTG Caldwell asked MG Patton to address the concerns.

On September 25, 2010, LTG Caldwell informed General (GEN) David H. Petraeus,² U.S. Army, former Commander, International Security Assistance Force, and U.S. Forces Afghanistan, via email:

...of ongoing fraud and abuse with respect to medications.
Activities include diversion, hoarding, and theft of US and MOD
[Ministry of Defense] purchased medications resulting in hundreds

² GEN Petraeus was LTG Caldwell's immediate Commander.

of ANA [Afghan National Army] soldiers being denied treatment or having to purchase medication at their own expense.

LTG Caldwell also stated:

Believe there will be leadership changes within the Surgeon General's Office. However, any change at the GO level will require engagement with PoA [President of Afghanistan]. Team will continue to address with MoD and ANA leadership to ensure action is taken to remove the corrupt actors.

LTG Caldwell forwarded his GEN Petraeus email to (b)(6) (b)(7)(C), (b)(6) (b)(7)(C); his Deputy; (b)(6) (b)(7)(C); and other senior members of his command.

Although LTG Caldwell was concerned about the corruption and directed his staff to take action to combat it, Complainant, (b)(6) (b)(7)(C), and several other officers grew increasingly concerned in early fall 2010 about the level of corruption and felt it was beyond their ability to evaluate and fix.

On October 28, 2010, Complainant, (b)(6) (b)(7)(C), and (b)(6) (b)(7)(C) met with Dr. Jackie Kem, Senior Executive Service, civilian Deputy to the Commander, NTM-A, to request an assistance visit from the DoD IG Special Plans and Operations Office (DoD IG SPO) to help root out the corruption. Dr. Kem directed (b)(6) (b)(7)(C) to contact DoD IG and said he would inform LTG Caldwell.

Immediately after that meeting, (b)(6) (b)(7)(C) sent an email to Ambassador Kenneth P. Moorefield, Deputy Inspector General (DIG), SPO, requesting that a team from DoD IG SPO come to Afghanistan to assess the medical system. The email focused on "discrepancies concerning the distribution of and accounting for pharmaceuticals distributed to the ANA." The email concluded:

...We met with Dr. Kem today and he has briefed LTG Caldwell on the prospect of DOD IG SPO conducting this inspection/assessment. LTG Caldwell and Dr. Kem welcome your involvement. I am drafting a letter for LTG Caldwell to send to General Petraeus informing him of the decision to ask for the assistance of the DoD IG SPO. We do not need P4³ approval.

LTG Caldwell ordered (b)(6) (b)(7)(C) to withdraw the request until he informed GEN Petraeus and received permission for an inspection from the Afghan government. LTG Caldwell informed GEN Petraeus on October 29, 2010, and received approval from the Afghan government on November 10, 2010. On November 10, 2010, LTG Caldwell requested that DOD IG SPO inspectors assess the medical logistics system. The team from DoD IG SPO conducted that assessment in Afghanistan from December 1-16, 2010.

³ P4 was the Command shorthand for GEN Petraeus.

On February 1, 2011, (b)(6) (b)(7)(C) accompanied the Afghan MoD IG, MG Abul Fazil, and the Afghan Vice Chief of Staff LTG Akram on a follow-up inspection visit to the National Military Hospital. This inspection resulted in a seven-page report, (b)(6) (b)(7)(C) (b)(6) (b)(7)(C), which included six numbered findings/recommendations. Subsequently, (b)(6) (b)(7)(C) sent this report to DoD IG. While the previous DoD IG SPO visit focused on logistical limitations and pharmaceuticals, this report addressed shortcomings in patient care. It included pictures of starving Afghan soldiers in Dawood NMH and reflected the poor treatment they received. The report was titled "MoD IG CJIG Follow-up Inspection of the National Military Hospital 1 February 2011." (b)(6) (b)(7)(C) showed it to (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) but not to LTG Caldwell or anyone else in the U.S. military leadership prior to its transmission to DoD IG.

After receipt of (b)(6) (b)(7)(C) February 2011 report, the DoD IG leadership sent a team back in late February 2011 for a "quick look" with a focus on patient care. A Senior Program Analyst, DoD IG SPO, was embedded in the NTM-A command and emailed (b)(6) (b)(7)(C) (b)(6) (b)(7)(C), on February 18, 2011, that Mr. Gordon Heddell, DoD Inspector General, was concerned about the information in (b)(6) (b)(7)(C) report, and a follow-up inspection would be conducted the following week. A team from DoD IG already in Afghanistan evaluated patient care at the hospital from February 21 to 23, 2011.

III. SCOPE

This investigation evaluated NTM-A Command actions from late October 2010 to March 2011. WRI investigators interviewed more than 20 witnesses including Complainant, (b)(6) (b)(7)(C), LTG Caldwell, and MG Patton. We also reviewed email records, letters, and memoranda, and consulted with the Army Human Resources Command, United States Central Command IG, NTM-A Staff Judge Advocate, and the Defense Criminal Investigative Service.

IV. STATUTORY AUTHORITY

The Department of Defense Inspector General (DoD IG) conducted this whistleblower reprisal investigation pursuant to Title 10, United States Code, Section 1034 (10 U.S.C. 1034), "Protected communications; prohibition of retaliatory personnel actions," which is implemented by DoD Directive 7050.06, "Military Whistleblower Protection."

⁴ The time and date stamp on some of the emails gathered for this investigation are out of sequence by several hours, apparently due to some servers being located in Kuwait, some in Afghanistan, and some in the United States.

V. FINDINGS AND ANALYSIS**A. A1. LTG Caldwell Restriction**

Did the responsible management official restrict Complainant from communicating with an Inspector General? Yes

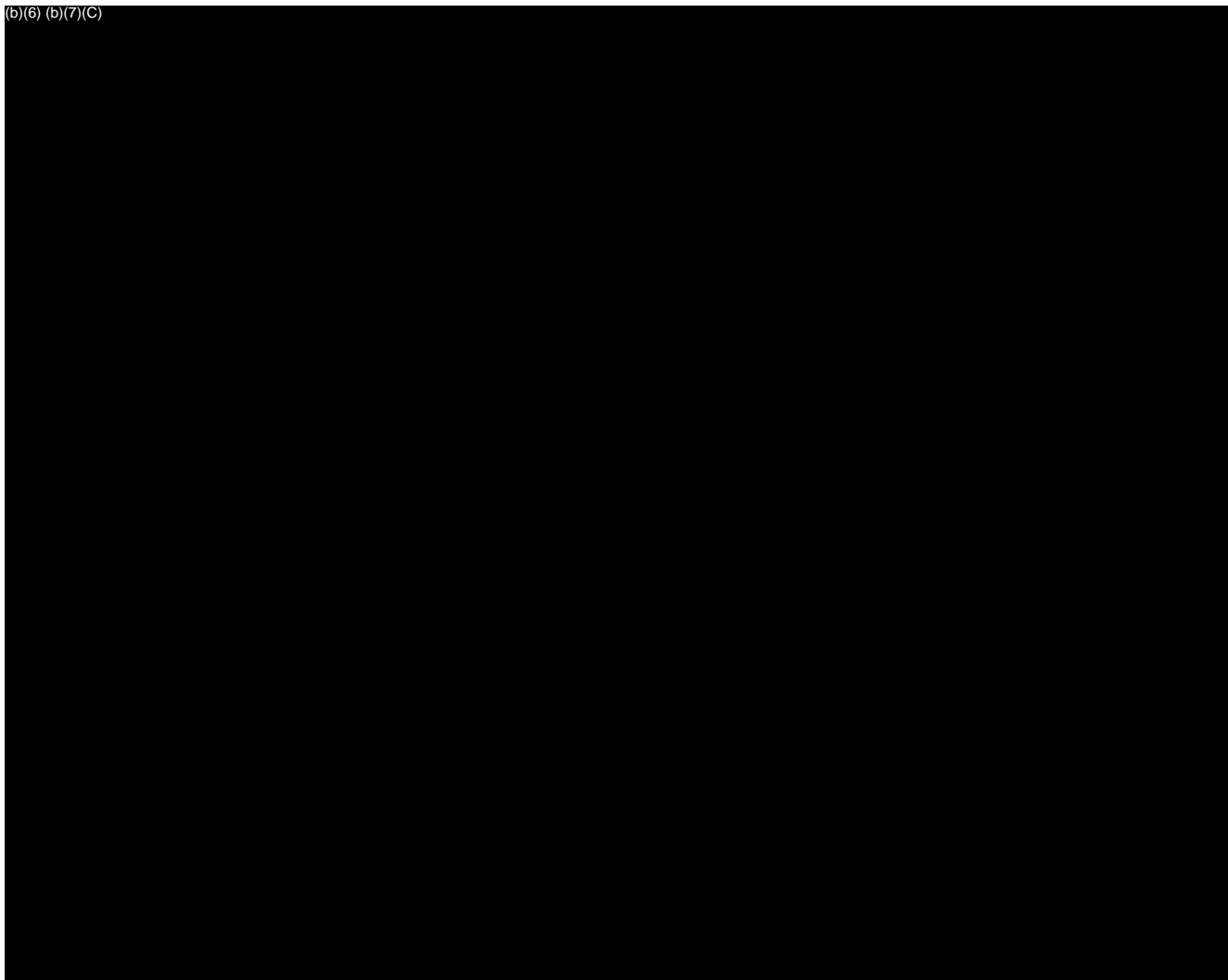
Complainant alleged that LTG Caldwell attempted to restrict communication with DoD IG SPO inspectors during (b)(6) (b)(7) DoD IG visits. Complainant testified that he believed he was under a “gag order” during the (b)(6) (b)(7)(C) and February 2011 DoD IG SPO visits. We considered these (b)(6) (b)(7)(C) allegations of restriction and analyzed them as such.

Title 10 U.S.C. 1034(a)(1) states:

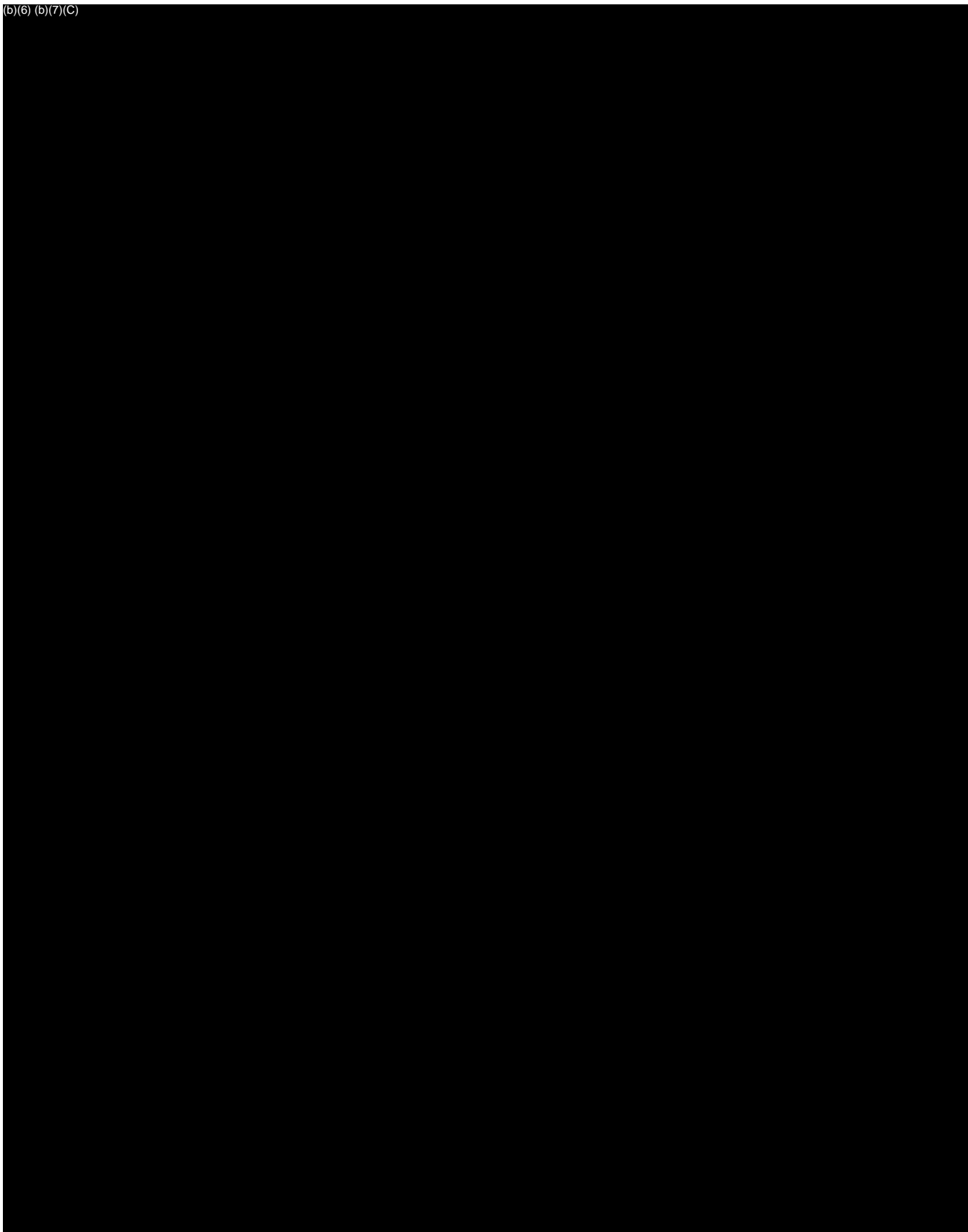
(a) Restricting communications with Members of Congress and Inspector General prohibited.—

(1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

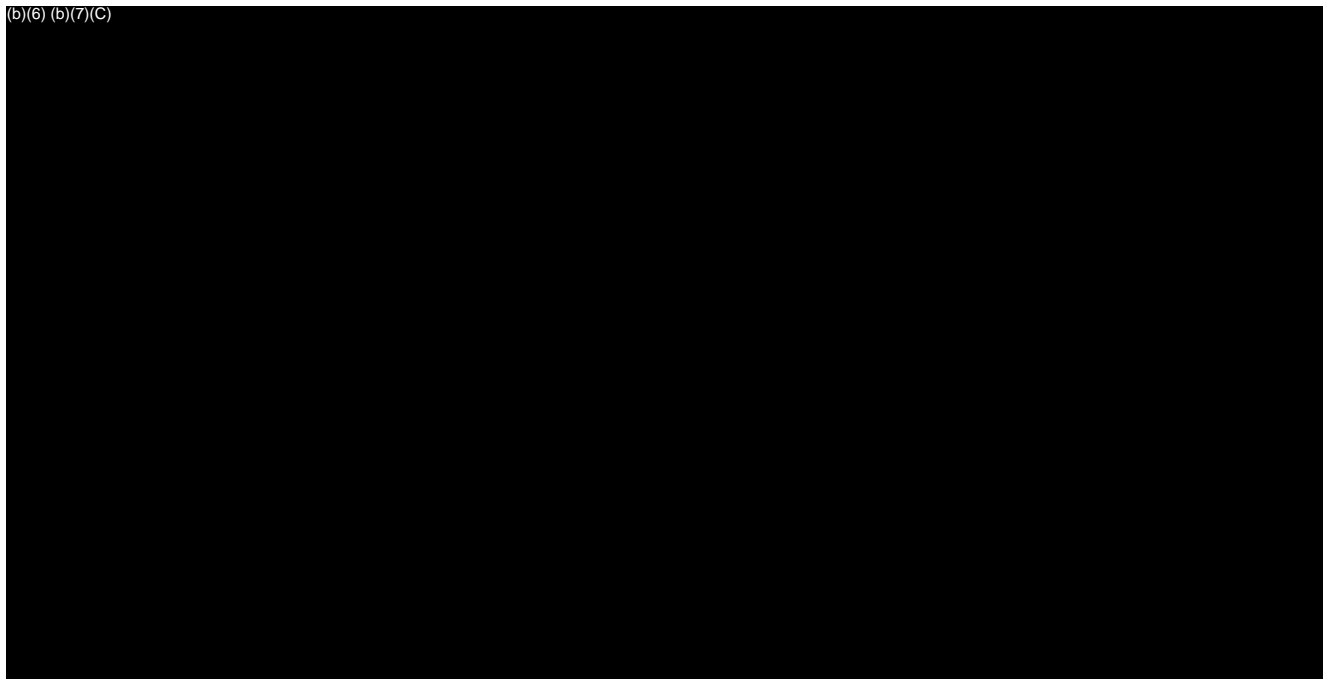
(b)(6) (b)(7)(C)



(b)(6) (b)(7)(C)



(b)(6) (b)(7)(C)



Alleged Restriction in February 2011


On February 19, 2011, LTG Caldwell was scheduled to fly to Brussels for a NATO conference. Either (b)(6) (b)(7)(C) or (b)(6) (b)(7)(C) told him about (b)(6) (b)(7)(C) February 1, 2011, report before he left. LTG Caldwell acknowledged in his testimony that he was upset that (b)(6) (b)(7)(C) had once again sent a command product outside the command without giving him the courtesy of seeing it first.

In his memorandum dated June 27, 2013, LTG Caldwell stated that our summary in the preceding paragraph mischaracterized his testimony. We have modified the last sentence in the paragraph to more accurately reflect LTG Caldwell's testimony. However, his comments on this part of the report did not lead us to modify our conclusions.

Prior to his departure, either late Friday, February 18, 2011, or early Saturday, February 19, 2011, LTG Caldwell gave a verbal order to his Command staff that nothing was to go outside of the Command without his approval. Although this was prompted by (b)(6) (b)(7)(C) report, the order was not limited to (b)(6) (b)(7)(C), Complainant, or Dawood NMH. We received credible witness testimony that literally nothing was to go outside the Command without LTG Caldwell's approval. LTG Caldwell stated that he did not recall giving this order.

In the days leading up to the February 2011 DoD IG SPO visit, while at the NATO conference in Brussels, LTG Caldwell sent three emails to the general officers and senior colonels on his staff expressing his displeasure with (b)(6) (b)(7)(C) report and gave them direction regarding how they were to respond to DoD IG SPO inspectors. Each email reiterated that no information was to be shared outside of the Command without approval.

⁵ (b)(6) (b)(7)(C)



After arriving in Brussels, LTG Caldwell received an email from (b)(6) (b)(7)(C) at 11:15 p.m. on February 19, 2011. (b)(6) (b)(7)(C) email informed LTG Caldwell of a conversation he had with DIG SPO and the topics the DoD IG SPO inspectors would review during their visit. (b)(6) (b)(7)(C) email to LTG Caldwell had seven addressees. On February 19, 2011, at 10:40 p.m. (as noted above, the date stamp on several emails are out of sequence), LTG Caldwell responded to (b)(6) (b)(7)(C) and added seven more addressees including Complainant, (b)(6) (b)(7)(C), and MG Patton. Although Complainant had nothing to do with (b)(6) (b)(7)(C) February 1, 2011, report, LTG Caldwell included him on this restrictive email, and reiterated that MEDTAG (MTAG) was not to communicate anything outside of the Command without his approval. LTG Caldwell wrote:

(b)(6) (b)(7)(C) -- roger on all...thanks. Believe we have reminded all that NOTHING⁷ goes out of our command that I have not personally been, briefed on and approved, and am not delegating this to anyone...we need to ensure our MEDTAG and (b)(6) (b)(7)(C) folks clearly understand this order...thought I was clear on this before-- would appreciate my orders being followed.

On February 20, 2011, LTG Caldwell informed GEN Petraeus that the DoD IG was doing a short notice follow-up visit to the December 2010 visit. At this point, LTG Caldwell realized that his focus needed to be on the NATO conference in Brussels, and that he could not manage the DoD IG SPO visit from Belgium. He delegated approval and information release authority to MG Patton. LTG Caldwell forwarded to MG Patton his informational email to GEN Petraeus, and copied nine others, including (b)(6) (b)(7)(C) and (b)(6) (b)(7)(C), but not Complainant. In the forwarded email, he wrote:

(b)(6) (b)(7)(C) - full support from ALL of the staff and our entire command behind MG Patton on this...is our top priority, ALL reporting on this approved by MG Patton...NO ONE will report outside our headquarters anything unless he personally approves.⁸

MG Patton acknowledged LTG Caldwell's order via email. On February 21, 2011, in response to MG Patton's acknowledgement, LTG Caldwell replied to MG Patton and 11 others, including (b)(6) (b)(7)(C), but not Complainant:

Thanks much Gary....appreciate you taking this one on personally. Apologize it has gotten out of control and reporting has failed to follow the chain of command....have been clear to all-- absolutely nothing leaves our headquarters in response to anyone on this subject unless I personally clear it-- OR you do...but bottom line (b)(6) (b)(7)(C) will NOT release any info that you or me has not personally cleared.

⁶ (b)(6) (b)(7)(C)

⁷ Capitalization in original.

⁸ Capitalized words were taken directly from the relevant email.

MG Patton forwarded LTG Caldwell's February 21, 2011, email to (b) (6), (b) (7)(C), saying: "(b) (6), (b) (7) can you pls inform our (b) (6), (b) (7) team of this order by CG, if you have not already. Thanks Bill."

(b) (6), (b) (7)(C) forwarded the email to Complainant and (b) (6), (b) (7)(C) and added:

(b) (6), (b) (7)(C)

If the point has not been driven home completely by now, please ensure that you comply to the letter with this direction. ABSOLUTELY NOTHING to leave the HQ on this subject without consent of Gen Patton or CG.

Complainant forwarded the email to his (b) (6), (b) (7)(C)

He said:

(b) (6), (b) (7)(C)

I understand the DoD IG is asking for information today regarding the briefings and the inspections yesterday at NMH. As directed below specifically to MTAG and the NTM-A IG, please assure all of your people know that any information requested from outside organizations regarding the DoD IG SPO inspections and reporting is to be cleared by MG Patton or LTG Caldwell, personally before release. RFI's from the DoD IG directly to any of you or your people must use the same process, i.e., must go through our IG for release after cleared by one of the two GO's noted as ordered below.

(b) (6), (b) (7)(C) replied to that email saying, (b) (6), (b) (7)(C) - MG Patton approves of anything discussed during the briefing or related to the hospital tour as being cleared for release."

It is common practice for a Command to have one person consolidate requests for information to an IG during an inspection in order to not overwhelm an inspection team, as MG Patton noted in his testimony. Nevertheless, LTG Caldwell's instructions to (b) (6), (b) (7)(C) that "...NOTHING goes out of our command that I have not personally been, briefed on and approved, and am not delegating this to anyone....we need to ensure our MEDTAG and (b) (6), (b) (7)(C) folks clearly understand this order" goes beyond having one person consolidate responses.

LTG Caldwell testified that "an individual has the right to reach out to Congress, to the IG, do whatever they want in their personal capacity to whatever they want to communicate about. I mean, I'm not going to interfere with that." But if an individual reaches out in his official capacity, representing the Command, LTG Caldwell expressed his belief that it was legitimate to require that individual to coordinate through the chain of command. He testified:

However, if you're going to communicate my command position then that's where the whole thing I think comes into question. Because if you're communicating command position, if you're representing me, communicating my position, my command's position, then as I had stated to him on multiple occasions then I did want to have the ability to see and understand what was sent on my behalf.

LTG Caldwell testified that context matters when evaluating his emails, and that it was never his intent to limit personal communications. He denied attempting to restrict Complainant from communicating with the IG. He also stated that he believed the recipients of the emails understood his order was not a blanket restriction against talking to the IG; rather, it was narrowly focused on communications made in an "official capacity." He also stated that it was not accurate or fair to take one or two emails out of context.

It was clear that LTG Caldwell did not adequately communicate to his staff a distinction between personal and official capacity in communication with an IG, and that his staff did not view LTG Caldwell's statements as making such a distinction. Although LTG Caldwell did speak to his staff and others on multiple occasions about the general importance of transparency, he was unable to provide us an example, either written or verbal, where he explained any "official capacity" distinction. LTG Caldwell's emails appear to broadly limit the ability of members of the Command to contact outside entities, including the IG and members of Congress. LTG Caldwell's encouragement of transparency as a general concept did not change the restrictive nature of the emails sent to his staff.

We found elements of LTG Caldwell's email communications restrictive for the following reasons:

- a) By including MTAG and (b)(6) (b)(7)(C) in his response to (b)(6) (b)(7)(C), LTG Caldwell made it clear that he was concerned not just with (b)(6) (b)(7)(C) February 1, 2011, report, but with what and how Complainant and (b)(6) (b)(7)(C) might communicate to the DoD IG SPO inspectors in the future. In his June 27, 2013, memorandum LTG Caldwell wrote that he "included MTAG and (b)(6) (b)(7)(C) on those e-mails not to restrict them, but to include them in the proper synchronization of the issues and to remind them that the official command items/products had to be properly staffed." LTG Caldwell's intent, as stated in his memorandum, may have been reasonable in light of the limited staffing of the February 1, 2011, report. However, his emails did not reflect that intent as they contain no reference to proper synchronization. Further, it is unclear why LTG Caldwell felt it necessary to include MTAG as there is no evidence that Complainant failed to properly staff anything.
- b) LTG Caldwell wrote three emails in February 2011 that were restrictive; none of them explained or clarified the distinction between personal communications and communications made in an "official capacity."
- c) He required that all communication be seen and approved.

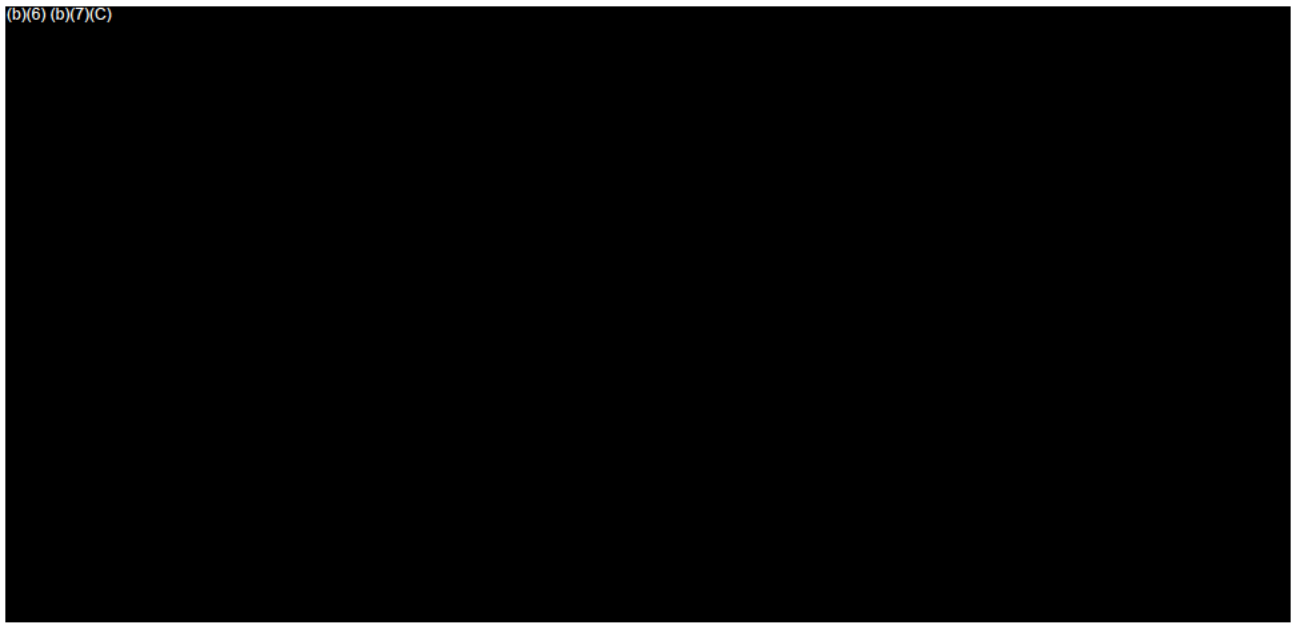
- d) He closed the top paragraph of his response to (b)(6) (b)(7)(C), which he also addressed to Complainant, with "...thought I was clear on this before-- would appreciate my orders being followed." LTG Caldwell's June 27, 2013, memorandum stated that his comments did demonstrate his frustration that proper staffing was not being conducted by certain individuals and he wanted them to know that the directive for proper staffing of command products came "from the top." However, LTG Caldwell's emails did not use the terms "proper staffing" or "command products." Therefore, we have not changed our conclusion.

In his memorandum dated June 27, 2013, LTG Caldwell reiterated that his emails should not be read in isolation or out of context and that his staff knew that he was talking about official command products in his emails. While LTG Caldwell's intent may indeed have been to ensure proper staffing of command products, the plain language of his emails, considered in their proper context, makes no such limitation. Moreover, the evidence established that recipients of the emails, to include Complainant, reasonably interpreted LTG Caldwell's emails as restrictive.


LTG Caldwell also noted that we did not find that anyone failed to communicate with the IG team based on his guidance. In fact, according to LTG Caldwell, all individuals were able to communicate with the IG team because no one was restricted. The fact that members of his command communicated with the DoDIG team does not negate the restrictive nature of his emails.

We concluded that LTG Caldwell attempted to restrict Complainant's communication with the DoD IG in February 2011 in violation of 10 U.S.C. 1034.

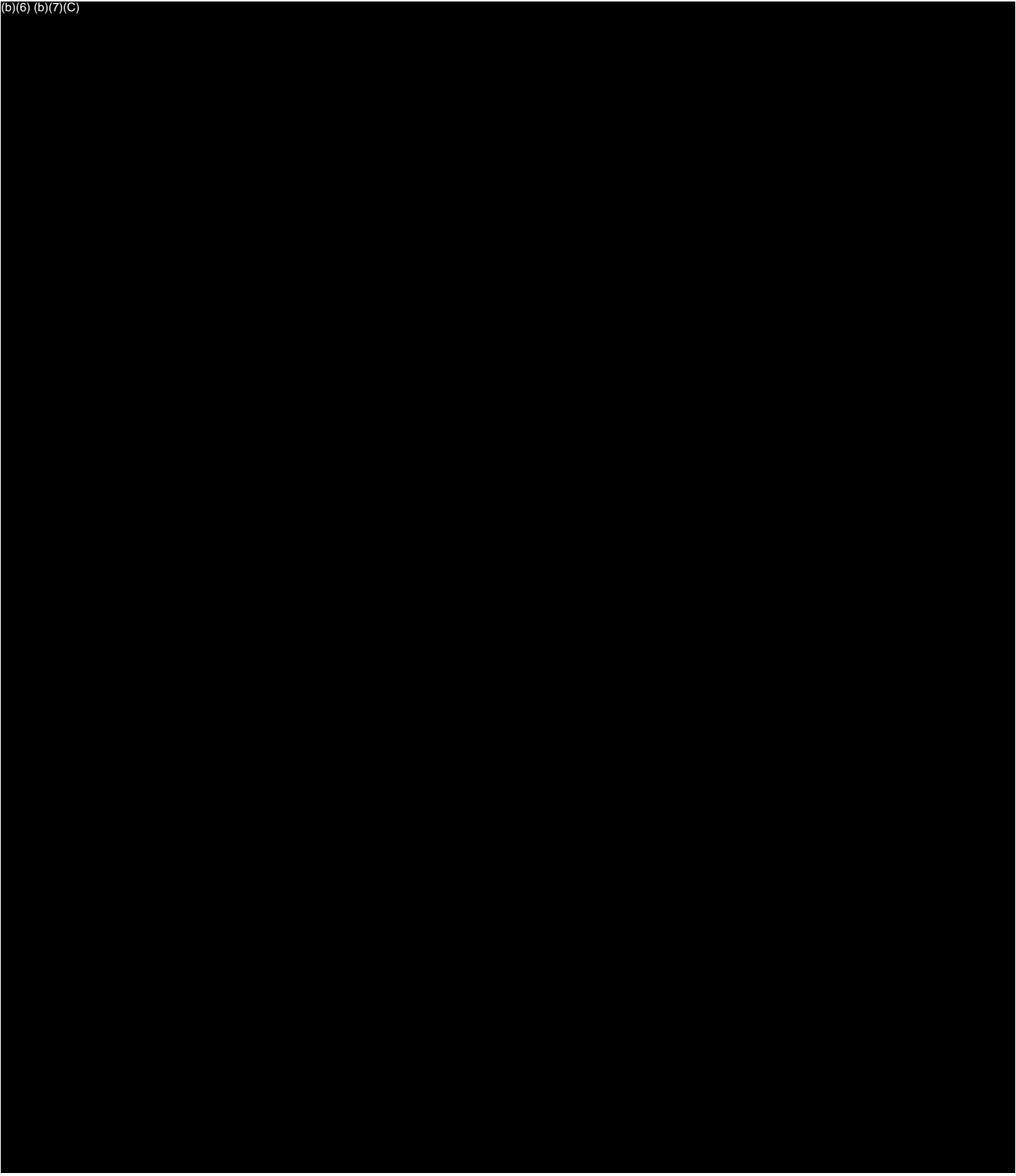
(b)(6) (b)(7)(C)




⁹ (b)(6) (b)(7)(C)



(b)(6) (b)(7)(C)

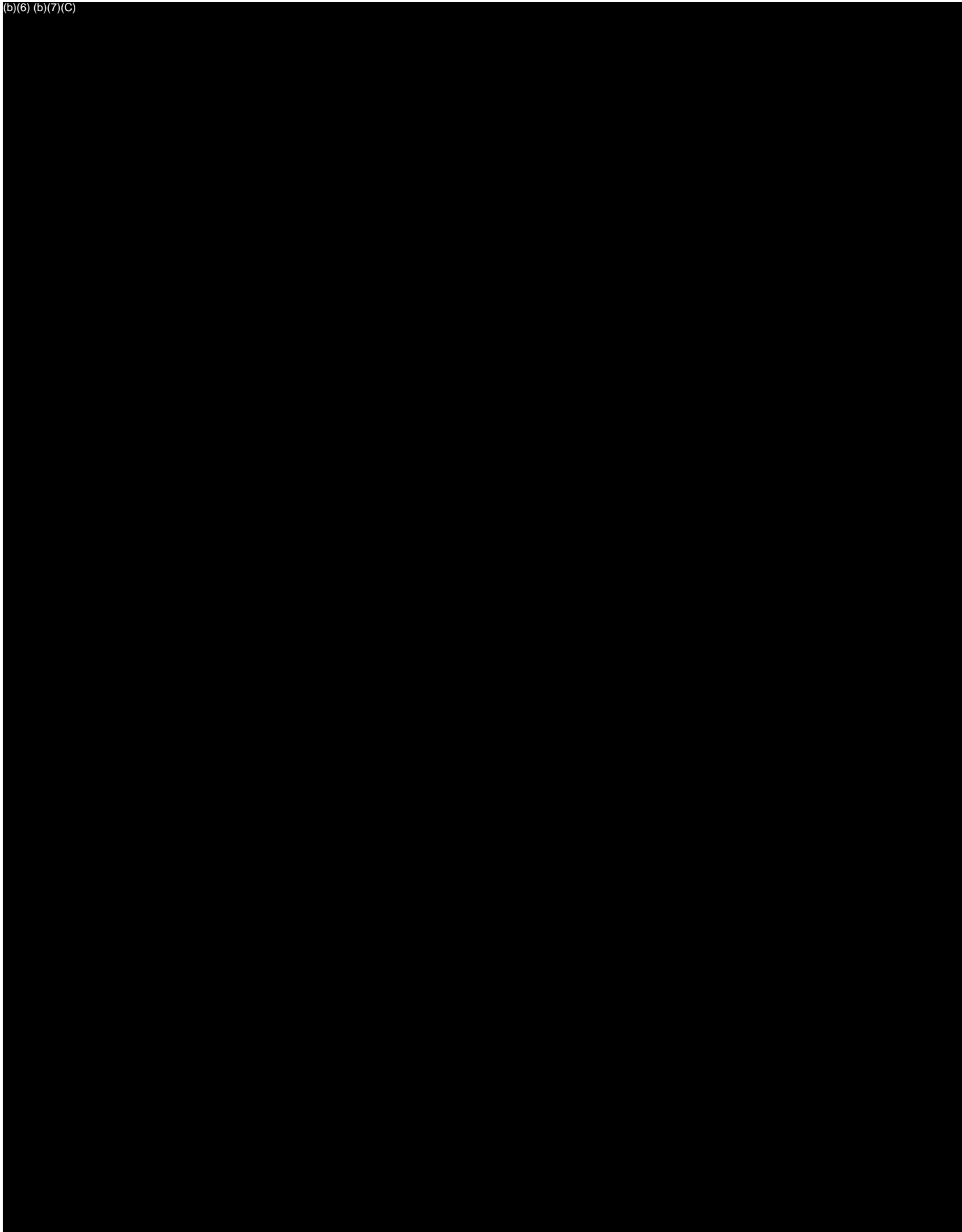


10 (b)(6) (b)(7)(C)

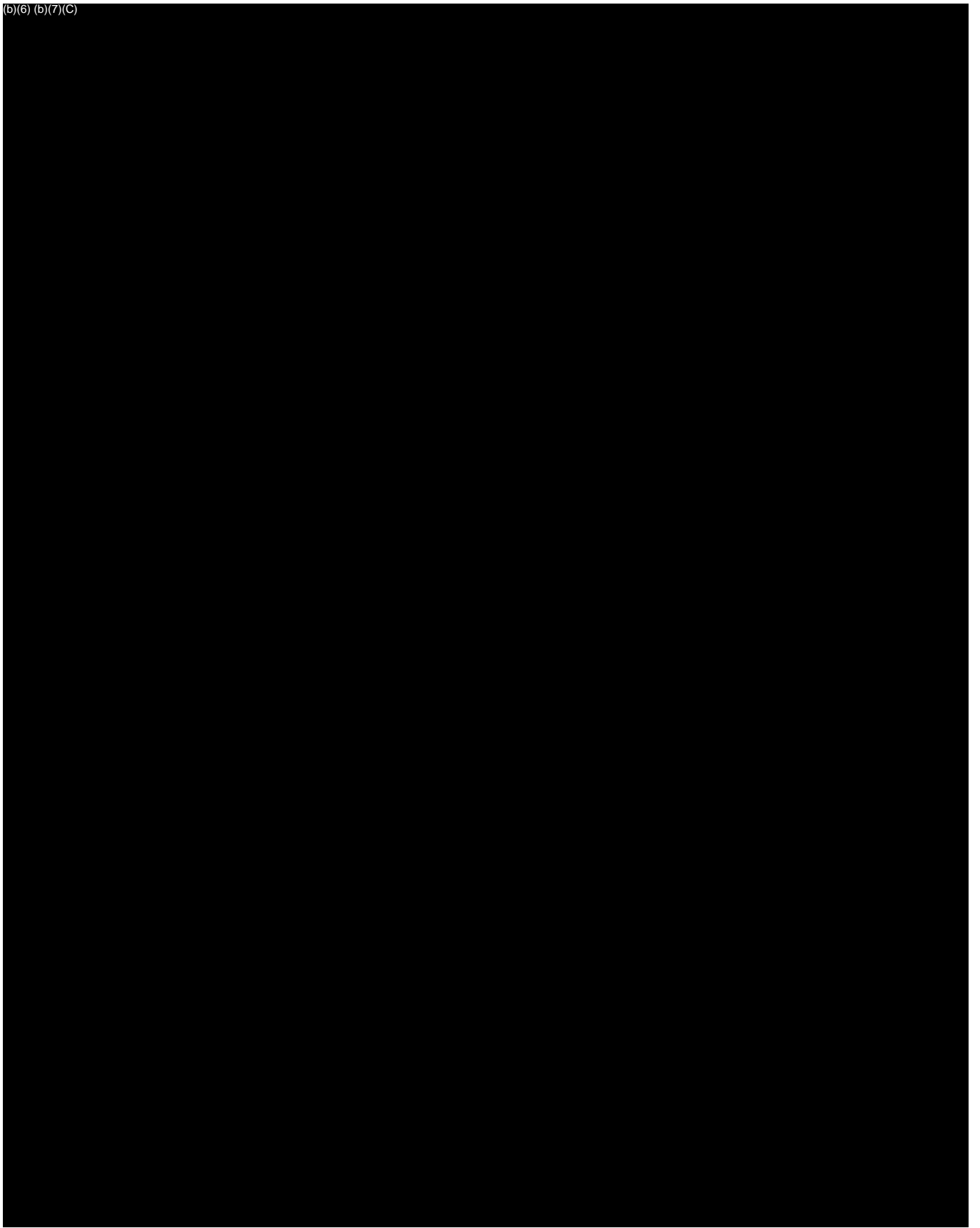


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(b)(6) (b)(7)(C)



(b)(6) (b)(7)(C)



(b)(6) (b)(7)(C)

VI. CONCLUSION(S)

We conclude:

A. (b)(6) (b)(7)(C)

B. LTG Caldwell did restrict Complainant's communication with an Inspector General in violation of 10 U.S.C. 1034 in February 2011.

C. (b)(6) (b)(7)(C)

D. (b)(6) (b)(7)(C)

VII. RECOMMENDATION(S)

We recommend that the Secretary of the Army take appropriate corrective action against LTG Caldwell.

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