



CHAIRMAN OF THE JOINT CHIEFS OF STAFF NOTICE

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CJCS Notice 5786
1 October 2014

LITIGATION HOLD REGARDING UNITED STATES V. SUM OF \$70,990,605, ET AL., NO. 12-01905 (D.D.C.) (RWR)

1. Purpose. To preserve and maintain information relating to the civil forfeiture action filed against Hikmatullah Shadman and his assets.
2. Superseded/Cancellation. None.
3. Applicability. This notice is applicable to U.S. Central Command (USCENTCOM) and U.S. Special Operations Command (USSOCOM).
4. Background. The Civil Division and the United States District Court for the District of Columbia, (Department of Justice (DoJ)) has filed a civil forfeiture action against assets controlled by, or for the benefit of, Hikmatullah Shadman.

a. In accordance with the Federal Rules of Civil Procedure and DoJ instructions, USCENTCOM and USSOCOM are obligated to ensure the preservation of all information that references or pertains to the following terms:

- (1) Hikmatullah Shadman;
- (2) His brothers Rohullah and Nijibullah “also known as Yaser Elham”;
and
- (3) Their companies Hikmat Shadman Logistics Services Company; Faizy Elham Brothers Ltd.; Hikmat Shadman General Tracing, LLC; and Everest Faizy Logistics Services Company.

b. Electronically stored information should be preserved in its originally created or native format along with related metadata to enable efficient discovery review.

c. For email, creation of electronic folders into which pertinent emails can be easily moved may be one method for preservation in native format, but you will need to determine the capabilities of your information technology (IT) system.

d. Information should be preserved even if it is believed to be privileged, otherwise protected from disclosure, or would be unduly burdensome to produce. Failure to preserve and retain information may result in sanctions. If there is any doubt as to whether information is covered by this memorandum, the information should be preserved until someone from your component has had an opportunity to consult with DoJ.

e. The preservation of all such information does not necessarily mean that the United States will be required to produce such information in the course of discovery in this litigation.

5. Statutory Requirement

a. Upon receipt of this Preservation Notice, applicable entities are advised of their legal obligation to preserve and retain any below referenced material in their possession, custody, or control.

b. Destruction of documents, information, records, and other material described, including destruction that would otherwise take place in the normal course of the disposition of official information or records, is prohibited and may result in disciplinary action.

c. The Federal Rules of Civil Procedure requires DoD to preserve or produce the material in whatever form it is generated and maintained.

d. This preservation requirement applies to information responsive to the stated requests, regardless of any applicable privileges.

e. Additional instructions will be provided under separate cover for the production of information.

6. Action or Procedure. To ensure that the United States can defend itself and its employees from this suit as effectively as possible, the Department should search for and preserve *all* information, including electronically stored information, hard copy materials, and tangible evidence pertaining to this event.

a. Your search should be calculated to locate all records, documents, and material in your organization's possession, custody, or control, including e-mail and other electronic communications, word processing documents,

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spreadsheets, databases, calendars, telephone logs, photographs, audio or video recordings, Internet usage files, network access information, and information on other kinds of media, including PDAs (such as Palm Pilots and Blackberries) and digital voicemail. The records, documents, and material must be retained until resolution of this matter.

b. In addition, your component should retain non-electronic documents and evidence in whatever format it exists, including personal or desk files, calendars, notes, correspondence, drafts (partial or complete), policies, manuals, or other things relevant to the case.

c. Document any search terms/procedures used in electronic and hard copy searches and steps taken within your organization to preserve relevant material in the event of future inquiry by the court and/or plaintiffs. Coordinate with your IT personnel to ensure relevant material is not destroyed during the pendency of this litigation, to include overriding normal document destruction policies.


7. Releasability. UNRESTRICTED. This directive is approved for public release; distribution is unlimited on NIPRNET. DoD Components (to include the Combatant Commands), other Federal agencies, and the public may obtain copies of this directive through the Internet from the CJCS Directives Electronic Library at http://www.dtic.mil/cjcs_directives. JS activities may also obtain access via the SIPR directives Electronic Library websites.

8. Effective Date

a. The Joint Staff point of contact is Ms. Teresa Black, Information Management Division, Joint Secretariat, 703-697-8862, teresa.l.black6.civ@mail.smil.mil.

b. Please disseminate immediately throughout your organization. This notice will remain in effect until formally canceled.

For the Chairman of the Joint Chiefs of Staff:


FREDERICK S. RUDESHEIM
Major General, USA
Vice Director, Joint Staff

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to the SIPR and NIPR Joint Electronic Library Web sites.

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