

OPR Quarterly Email April 2018, Volume 49

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(U//FOUO) **OPR's Quarterly All Employee E-Mail – April 2018 Edition**

(U//FOUO) Set forth below are examples of cases adjudicated by the Office of Professional Responsibility (OPR) during the last quarter. OPR sends these Quarterly E-Mails to educate employees about the Bureau's standards of conduct and to aid employees in steering clear of ethical pitfalls and other violations. We do not include cases in which OPR found that the employee did nothing wrong (typically, more than one-third of the cases we adjudicate).

Employees are reminded that they must follow U.S. law and adhere to FBI policy when posted overseas.

To contact OPR, feel free to email us at: HQ_DIV00_OPR_QUESTIONS or go to our [website](#). Thank you.

Candice M. Will
Assistant Director
Office of Professional Responsibility
Woodies Building
1025 F Street, N.W., Suite 410
202-436-7470

(U//FOUO) **Examples of Recent Adjudications:**

1. (U//FOUO) DUI: Employee had several drinks at a bar and then attempted to drive home in Employee's personal vehicle. The police stopped Employee for driving the wrong way down a one-way street. Employee was found to have a BAC more than twice the legal limit. Employee was arrested for DUI. In mitigation, Employee had almost 30 years of FBI service and a positive performance record. In aggravation, this was Employee's second alcohol-related OPR matter. Employee had been previously suspended for driving to work while intoxicated and being disruptive on duty.

PENALTY: Dismissal

OFFENSE: DUI – Personal Vehicle, [Offense Code 4.4](#)

2. (U//FOUO) Theft: Employee stole approximately \$700 from the office's recreation fund kept in a supervisor's desk drawer. When initially questioned about the theft, Employee denied it. After repeated questioning, Employee finally admitted it. This was Employee's second theft from the office fund. In mitigation, Employee had 10 years of FBI service, an excellent performance record, personal stressors, and financial difficulties. In aggravation, Employee betrayed the trust of coworkers and the FBI.

PENALTY: Dismissal

OFFENSE: Theft, [Offense Code 4.5](#)

3. (U//FOUO) Unprofessional Conduct; Obstruction; Lack of Candor Under Oath: While serving as the President and Treasurer of an FBI Recreation Association (FBIRA), Employee mismanaged the FBIRA's bank accounts resulting in overdraft fees, unpaid invoices to vendors, and a negative account balance. Employee obstructed the investigation by falsely claiming there were no FBIRA bank records. Upon an initial search, no bank records were located. However, sometime later, the records appeared in a filing cabinet that had been searched and found to be empty weeks earlier. Employee also lacked candor during the investigation when Employee denied using the FBIRA debit card for personal purchases. In mitigation, Employee had over 20 years of FBI service. In aggravation, Employee was a supervisor, violated a fiduciary duty in managing FBIRA finances, and damaged the FBI's reputation due to unpaid FBIRA bills.

PENALTY: Dismissal

OFFENSE: Unprofessional Conduct on Duty, [Offense Code 5.22](#)

Obstruction of an Administrative Matter, [Offense Code 2.11](#)

Lack of Candor Under Oath, [Offense Code 2.6](#)

4. (U//FOUO) Unwelcome Sexual Contact; Rape: Probationary Employee sexually assaulted an acquaintance when she was passed out or sleeping following an afternoon of heavy drinking. Probationary Employee also made an unwelcome sexual advance on an intoxicated coworker by groping her breast under her shirt. In aggravation, Probationary Employee abused a position of trust because the victims held him to a higher degree of trust knowing he was employed by the FBI.

PENALTY: Dismissal

OFFENSE: Felony, [Offense Code 4.7](#)

Unwelcome Sexual Conduct, [Offense Code 5.20](#)

5. (U//FOUO) DUI; Misuse of Gvt Vehicle; Weapon Safety Violation; Unprofessional Conduct; Misuse of Position: Employee drove a Bureau vehicle to a bar, had multiple drinks, and then drove home with another person in the Bureau vehicle. While driving home, Employee was pulled over by the police. When the officer approached the car, Employee held up Employee's FBI badge and asked, "Will this do me any good?" The officer responded "no" and told Employee to get out of the car. Employee failed field sobriety tests, registered a blood alcohol content of .235, and was arrested for DUI. Employee repeatedly pressured the officer to "just let this go." Employee was armed with a weapon and knife and had several more weapons in the vehicle. Employee's drinking had previously interfered with job responsibilities, including missing a training class and arriving extremely late to a meeting with the U.S. Attorney's Office due to a late night of drinking. In mitigation, Employee expressed remorse and sought EAP counseling. In aggravation, Employee's repeated misbehavior and poor performance caused problems in the office and tarnished the FBI's reputation with the local police and the U.S. Attorney's Office.

PENALTY: Dismissal

OFFENSE: DUI – Government Vehicle, [Offense Code 4.3](#)

Misuse of Government Vehicle, [Offense Code 3.10](#)

Weapon Safety Violation, [Offense Code 5.13](#)

Unprofessional Conduct on Duty, [Offense Code 5.22](#)

Misuse of Position, [Offense Code 2.8](#)

6. (U//FOUO) Unprofessional Conduct: Employee was found in criminal contempt relating to Employee's divorce and child custody proceedings and sentenced to 60 days in jail. In finding Employee in contempt, the judge stated that in 39 years of practicing law, he had "never before observed the wholesale disobedience and disregard" for the rule of law displayed by Employee in this matter and the judge found it "particularly shocking and disheartening" based on Employee's position with the FBI. In mitigation, Employee had a solid performance record and numerous awards. In aggravation, as a federal law enforcement officer, Employee's failure to comply with repeated court orders was particularly troubling. Additionally, Employee was a supervisor and, as such, held to a higher standard. Employee had previously been suspended for being held in civil contempt by a different judge and had previously served 10 days in jail. Employee had been warned by OPR, his supervisors, and the court system that Employee's continued disobedience of court orders would meet with a strong negative reaction. Employee's continued refusal to comply with court orders rendered Employee unfit for continued FBI employment.

PENALTY: Dismissal

OFFENSE: Unprofessional Conduct Off Duty, [Offense Code 5.21](#)

7. (U//FOUO) Misuse of Government Charge Card: Employee moved into Temporary Quarters relating to a work transfer from one state to another. Employee admitted using voucher reimbursements on personal expenses and also using Employee's Government Charge Card (GCC) to pay rent and purchase meals in local restaurants. Employee's GCC

debt was in excess of \$13,000. In mitigation, Employee had more than 10 years of FBI service. In aggravation, Employee's job responsibilities included auditing other employees with GCC issues; Employee's last rating was Minimally Successful; Employee had twice been placed on Performance Improvement Plans; and Employee had a record of being frequently tardy, failing to complete assignments, and using work time to conduct personal business.

PENALTY: Employee resigned after being proposed for dismissal

OFFENSE: Misuse of Government Charge Card, [Offense Code 3.8](#)

8. (U//FOUO) False/Misleading Accident Report; Misuse of Bureau Cell Phone; Lack of Candor Not Under Oath: Employee was assigned by Supervisor to investigate a serious five-car accident involving a Bureau vehicle driven by a task force officer (TFO). FBI policy requires all accidents involving FBI vehicles to be investigated to assess liability and determine whether the employee (in this case, TFO) was driving within the scope of his/her official duties. Employee completed the official accident report, finding the TFO was acting in the scope of his official duties so that the Department of Justice (DOJ) would represent the TFO in the ensuing lawsuits. Employee failed, however, to tell Supervisor that Employee had been having a sexual relationship with the TFO and that the TFO had been at Employee's house prior to the car accident. Executive management later discovered Employee's relationship with the TFO and Employee's obvious conflict of interest in preparing the accident report. Employee also used a government-issued cell phone to exchange sexually-explicit texts with the TFO. In serious aggravation, Employee's flawed investigation could have resulted in the FBI paying thousands of dollars in settlement payments based on Employee's conclusion that the TFO was within scope when driving the Bureau vehicle. Ultimately, DOJ declined representation.

PENALTY: 60-day suspension and Last Chance Agreement

OFFENSE: False/Misleading Information, [Offense Code 2.3](#)

Misuse of Government Computer, [Offense Code 3.6](#)

Lack of Candor Not Under Oath, [Offense Code 2.5](#)

9. (U//FOUO) Misuse of Position; Unprofessional Conduct; Misuse of Gvt Vehicle: Employee misused Employee's FBI employment to intimidate employees at Employee's child's day care center and, in a separate matter, to obtain law enforcement information from the local police regarding a friend's suicide. Employee also engaged in an office romance that resulted in unprofessional conduct on duty and the misuse of a Bureau vehicle. Employee's conduct caused coworkers to avoid working with Employee, and tarnished the FBI's reputation with local law enforcement.

PENALTY: 60-day suspension and Last Chance Agreement

OFFENSE: Misuse of Position, [Offense Code 2.8](#)

Misuse of Government Vehicle, [Offense Code 3.10](#)

Unprofessional Conduct on Duty, [Offense Code 5.22](#)

10. (U//FOUO) Misuse of FBI Databases; Lack of Candor Not Under Oath: Employee conducted unauthorized searches in an official database. An audit showed that Employee ran searches for Employee's spouse, mother, father, aunt, uncle, cousin, spouse's cousin, and multiple friends. Employee had received instruction regarding the prohibition against performing database searches for personal purposes and had been cautioned not to search the names of family members and friends. When Employee's access to the database was withdrawn, Employee contacted the person in charge to request that access be restored, during the course of which Employee falsely claimed to have received the required database training. When questioned by the ASAC, Employee again falsely claimed to have attended the required training and was evasive about how many personal searches had been run. In aggravation, Employee was a relatively new employee when Employee misused the database and had also been instructed not to run personal searches.

PENALTY: 40-day suspension

OFFENSE: Misuse of FBI Databases, [Offense Code 3.5](#)

Lack of Candor Not Under Oath, [Offense Code 2.5](#)

11. (U//FOUO) Accidental Discharge: Employee accidentally discharged a Bureau-issued weapon in the middle of the night while in a hotel room. Employee performed a brief search of the room, noted a bullet hole in the carpet, but took no further action. Instead, Employee went to sleep. In the morning, the police knocked on Employee's door to question Employee about a bullet that had penetrated the occupied room below. The occupants of the room heard the gunshot in the middle of the night but mistakenly assumed it was something else. When they discovered the bullet in the morning, they called the police. Employee was charged with Discharge of a Firearm, a misdemeanor in the state. In mitigation, Employee has an excellent performance record, is remorseful, and has undergone firearms re-training. In aggravation, Employee failed to properly investigate and/or report the accidental discharge after it happened, in flagrant disregard of the safety of the other hotel guests. Additionally, the FBI Offense Codes and Penalty Guidelines specifically call for aggravation in cases of a "violation of weapons law, regulation, or policy." Moreover, Employee's actions were known by the local police and hotel staff, which negatively impacted the reputation of the FBI. Finally, Employee failed to self-report the incident until one year later.

PENALTY: 14-day suspension

OFFENSE: Misuse of Weapon – Accidental Discharge, [Offense Code 5.14](#)

12. (U//FOUO) Unwelcome Sexual Contact: While intoxicated, Employee made an unwanted sexual advance toward a coworker at a holiday party. Employee asked coworker for a kiss, pulled coworker into Employee, and attempted to kiss coworker. In mitigation, Employee has over 10 years of FBI service with no prior disciplinary matters. The misconduct appears to be a one-time, out-of-character occurrence, not a pattern of conduct. Employee has accepted responsibility, sought counseling, and taken steps to reduce alcohol consumption. In aggravation, Employee had to be escorted out of the party

and got into a drunken argument with another coworker. Employee's actions reflected poorly on the FBI. Employee had to be reassigned to prevent further contact with the victim of Employee's unwanted sexual advance.

PENALTY: 10-day suspension

OFFENSE: Unwelcome Sexual Conduct, [Offense Code 5.20](#)

13. (U//FOUO) Unprofessional Conduct: Employee took a required Virtual Academy training about evidence handling for a contractor who was having trouble with the training. All employees must complete their own training. In mitigation, Employee has a long career of unblemished service. In aggravation, Employee, as the person responsible for training other employees, should have been keenly aware of the impropriety of taking a mandatory test for a trainee.

PENALTY: 1-day suspension

OFFENSE: Unprofessional Conduct On Duty, [Offense Code 5.22](#)

For further information, please refer to the complete [Offense Codes and Penalty Guidelines Governing the FBI's Internal Disciplinary Process](#). Also, all FBI policies are available to employees at the Internal Policy Office's [Policy Portal](#).

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