

# OPR Quarterly Email July 2017, Volume 46

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UNCLASSIFIED//FOUO

## **NOT FOR PUBLIC DISSEMINATION**

### (U//FOUO) **OPR's Quarterly All Employee E-Mail – July 2017 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 FBI'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. To contact OPR, email us at HQ\_DIV00\_OPR\_QUESTIONS or go to our [website](#). Thank you.

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

**1. (U//FOUO) Investigative Deficiencies:** Employee seized two thumb drives and notebook from a fugitive during an arrest. Employee imaged the thumb drives without a warrant, and removed a page from the notebook that contained information about another government agent. The notebook and the thumb drives constituted evidence that Employee had a duty to enter into evidence and properly document, but failed to do so. [The Field Evidence Management Policy Guide](#) states:

All FBI personnel who handle physical evidence, including SAs, professional staff, and others working on behalf and under the direction of the FBI, in addition to the specific responsibilities of their respective positions, must:

Handle and document evidence in accordance with this PG and other applicable FEU procedures.

Ensure that all evidence is handled, stored, reviewed, and marked in accordance with the relevant FBI dissemination marking policy, including requirements related to federal

grand jury (FGJ) material and federal taxpayer information (FTI).

Maintain the chain of custody of all evidence in accordance with this PG and other applicable FEU policies and procedures.

In mitigation, Employee had no prior disciplinary history and the misconduct did not affect the criminal case.

PENALTY: 5-day suspension

OFFENSE: Investigative Deficiency, [Offense Code 1.6](#)

**2. (U//FOUO) WebTA Fraud; Unauthorized Outside Employment; Security Violation; Unprofessional Conduct; Weapon Safety Violation:** Employee committed time and attendance fraud by arriving late, leaving early, and taking extended lunch breaks on a regular basis while recording a full eight-hour day in WebTA. Employee also engaged in unreported and unauthorized outside employment as an Uber driver, which significantly interfered with the performance of Employee's FBI duties since Employee was driving during FBI work hours. Employee also performed maintenance on his car and the vehicles of friends and family during duty hours. In addition, Employee allowed friends and family access to FBI space in violation of the [Access and Visitor Control Policy Implementation Guide](#), which requires visitors to present picture identification, wear a "Visitor-Escort Required" badge, and be escorted. Finally, Employee brought a personal firearm into FBI space on multiple occasions in violation of [Firearms in FBI-Controlled Facilities and FBI/Vehicles Policy Directive](#) and 18 U.S.C. § 930, which prohibit the possession of firearms in a Federal facility. More specifically, the [Firearms Policy Guide](#) states that "[n]onagent personnel not authorized by the FBI to carry firearms must not carry or possess firearms within federal workspace or during the performance of their duties."

PENALTY: Employee resigned after being proposed for dismissal

OFFENSE: False Information – Fiscal Matters, [Offense Code 2.2](#)

Violation of Ethical Guidelines, [Offense Code 2.12](#)

Security Violation, [Offense Code 5.17](#)

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

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

**3. (U//FOUO) Lack of Candor Not Under Oath:** Employee falsely denied having received letters from the FBI, while on extended leave, concerning Employee's pending workers' compensation matter. The FedEx receipt showed that Employee signed for one letter, and Employee left a voicemail on another employee's mailbox admitting receipt of both letters. In mitigation, Employee has over 25 years of FBI service, received numerous awards, and due to Employee's injuries that led to the workers' compensation claim, Employee was taking medication that interfered with Employee's memory. In aggravation, Employee unnecessarily prolonged his workers' compensation leave, was unresponsive to the Bureau's legitimate inquiries, and was rude and condescending to personnel attempting to assist Employee.

PENALTY: 7-day suspension

OFFENSE: Lack of Candor – No Oath, [Offense Code 2.5](#)

**4. (U//FOUO) Unprofessional Conduct; Failure to Report; Misuse of FBI Database; Lack of Candor Not Under Oath:** The local police received two separate complaints about Employee, one from a woman who worked at a grocery store who stated Employee made her uncomfortable, and the second from a 16-year old girl employed in an ice cream shop who said Employee passed her a note with his cell phone number and an inappropriate expression of interest. When questioned by the SAC, Employee was not fully forthcoming about his misconduct and had failed to report earlier police contact about a third incident when the police were called to Employee's home concerning an argument between Employee's ex-wife and another woman. Employee also misused an FBI database to look up the private telephone number of the wife of a subject who was incarcerated, who he later called to discuss personal matters. In aggravation, this was Employee's second administrative matter. Employee had previously been disciplined for inappropriate remarks to female coworkers; leaving an inappropriately aggressive voicemail message for a member of the public; and disrupting the office through inappropriate interactions. When Employee was previously suspended, he was warned that further offensive interpersonal interactions would not be tolerated by the Bureau.

PENALTY: Dismissal

OFFENSE: Lack of Candor – No Oath, [Offense Code 2.5](#)

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

Failure to Report, [Offense Code 5.8](#)

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

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

**5. (U//FOUO) Lack of Candor Not Under Oath:** After becoming lost during a training exercise, Probationary Employee lied to coworkers, stating she was the victim of an attempted abduction. Probationary Employee's supervisor reported the attempted abduction to the local police, who immediately opened an investigation, including interviewing possible witnesses, looking for the alleged male abductors and white cargo van, and reviewing surveillance cameras. When the investigation failed to produce any corroborating evidence, the lead detective asked Probationary Employee if she was possibly under too much stress and provided her several opportunities to come clean regarding the true course of events. Employee was adamant that she was telling the truth, even saying, "I swear on my kids' lives." When the results of a polygraph came back "Inconclusive," Employee finally admitted that she lied about the attempted abduction. In aggravation, Employee wasted the time and resources of the local police and the FBI, and damaged the FBI's reputation with our law enforcement partners.

PENALTY: Dismissal

OFFENSE: Lack of Candor – No Oath, [Offense Code 2.5](#)

**6. (U//FOUO) Failure to Perform Prescribed Duties; Lack of Candor Not Under**

**Oath:** Employee failed to process hundreds of pieces of incoming and outgoing mail. Employee's supervisor discovered stacks of undelivered letters in Employee's overhead cabinet and desk drawer. Some of the unprocessed mail was up to six months old. When the supervisor asked for an explanation, Employee stated he just did not get around to processing the mail. The supervisor instructed Employee to take care of it immediately and explained that there could be serious consequences to the Bureau's mission if mail is not properly processed. Employee later told the supervisor that all of the mail was taken care of, which turned out to be a lie when another employee found a box containing old mail under Employee's desk. More unprocessed mail was later found in other locations.

PENALTY: Dismissal

OFFENSE: Lack of Candor – No Oath, [Offense Code 2.5](#)

Failure to Perform Prescribed Duties, [Offense Code 5.6](#)

**7. (U//FOUO) Lack of Candor Under Oath; Improper Relationship with Criminal Element; Failure to Report; Possession of Drugs:**

Employee dated a man who had prior criminal convictions and a pending felony charge. Employee allowed him to move in with her. Employee failed to report that he was living with her, as required under the FBI's [Cohabitant and Roommate Policy](#):

All FBI personnel planning to share living quarters with an intended roommate for 30 consecutive days or more are required to report relevant information regarding this individual via an Enterprise Process Automation System (EPAS) FD-773, "Cohabitant/Roommate Background Data" form, at least 60 calendar days prior to sharing living quarters.

Employee was also aware that her boyfriend was illegally purchasing prescription drugs and she was assisting him by driving him to meet his dealer. She also allowed him to store his drugs in her home. Employee eventually purchased a car for her boyfriend, even though she was aware that his license was revoked due to his past history of DUIs. When questioned by the CSO and ASAC, Employee lied about the status of the relationship, her boyfriend's criminal history, being present when he purchased drugs, and his storage of drugs in her home.

PENALTY: Dismissal

OFFENSE: Lack of Candor – No Oath, [Offense Code 2.5](#)

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

Failure to Report, [Offense Code 5.7](#)

Improper Relationship – Criminal Element, [Offense Code 5.9](#)

Drugs – Use or Possession, [Offense Code 4.2](#)

**8. (U//FOUO) Misuse of Position; Assault & Battery; Unprofessional Conduct; Failure to Report; Lack of Candor Under Oath:** Employee was involved in multiple domestic violence incidents and failed to report his police contact. According to the [Personnel Security Self-Reporting Requirements Policy](#), all FBI employees must report "[a]ny arrest, domestic violence incident report, driving while intoxicated/under the influence (DWI/DUI) offense, and/or other aggravated/unusual offense involving a law enforcement official." Employee located his wife at a hotel where she was staying with their children after she left him. Employee repeatedly attempted to gain access to her hotel room by telling hotel employees that he was in pursuit of a fugitive who was under FBI surveillance. When questioned by investigators during the OPR proceedings, Employee lacked candor when he claimed he only told hotel representatives that he needed to get into his wife's room to pick up clothes for their children.

PENALTY: Dismissal

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

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

Assault/Battery, [Offense Code 4.1](#)

Failure to Report, [Offense Code 5.8](#)

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

**9. (U//FOUO) Failure to Safeguard Weapon:** Employee placed an FBI-issued shotgun on top of the trunk of his Bureau vehicle while replacing equipment in the car. Employee forgot about the shotgun and drove off. A citizen found the shotgun on the street and turned it in to the local police. In mitigation, Employee has a positive service record. In aggravation, Employee had two prior administrative inquiries, including a suspension for not properly securing a weapon and an accidental discharge.

PENALTY: 5-day suspension

OFFENSE: Loss of Weapon, [Offense Code 3.4](#)

**10. (U//FOUO) Failure to Safeguard Weapon:** Following weapons qualification at the range, Employee placed a Bureau-issued firearm in a bag in the back of a Bureau SUV. The SUV did not have a trunk or trunk security chain, and had not been outfitted with a lockbox. Employee left the firearm in the back of the vehicle for an extended period of time. Employee failed to comply with Bureau policy regarding storing a weapon in a vehicle. The [Firearms Policy Guide](#) provides the following direction:

Outside of emergency or exigent circumstances, a firearm must never be left unsecured or unattended in the passenger compartment of a car, a truck, or a sport utility vehicle (SUV) [The entire interior compartment of a vehicle is considered the passenger compartment.] unless (1) the firearm is affixed to the vehicle via a locked firearms mount or within a locked security container (preferably constructed of metal); (2) the firearms mount or container is secured to the vehicle itself; and (3) the vehicle is equipped with an alarm, a manufacturer's theft-deterrent system, or a similar anti-theft device.

Section 4.1.2.5. further states:

Overnight storage of firearms in vehicles requires prior written approval in a serialized electronic communication (EC) from a GS-15-level supervisor (or higher) who is in the direct chain of command of the requestor. The EC must (1) indicate that an operational need exists for overnight storage of a firearm(s), (2) provide the duration of the authorization, and (3) state that the individual requesting such authorization is aware of all the elements and is in compliance with this [Policy Guide].

Approximately two months later, Employee realized that the firearm had been stolen from the vehicle. In mitigation, Employee has over 25 years of FBI service, and was working long hours supporting a high priority case. In aggravation, Employee left the weapon stored in the vehicle for nearly two months and is uncertain of exactly when or where the weapon was stolen. Employee also has prior administrative inquiries.

PENALTY: 7-day suspension

OFFENSE: Loss of Weapon, [Offense Code 3.4](#)

**11. (U//FOUO) DUI; Alcohol on Duty:** Coworkers observed Employee slurring his speech, staggering while walking, and smelling of alcohol. Employee fell asleep at work. Employee's supervisor and FBI police were alerted. Employee's BAC was found to be more than twice the legal limit. Employee admitted driving to work after consuming a significant amount of alcohol. In mitigation, Employee was dealing with marital issues. In aggravation, only two years ago, Employee was suspended for 60 days for a DUI and misusing his position in an attempt to avoid arrest for DUI. After Employee's DUI conviction, Employee attempted to contravene a court order to use an ignition Interlock device so that Employee could continue to drink and drive.

PENALTY: Dismissal

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

Alcohol – Under the Influence While on Duty, [Offense Code 5.1](#)

**12. (U//FOUO) Misdemeanor:** Employee failed to purchase an Antlerless Deer Permit before shooting an antlerless deer. In mitigation, Employee self-reported the incident to the appropriate wildlife officials, accepted responsibility, and has an outstanding performance record.

PENALTY: Letter of Censure

OFFENSE: Misdemeanor, [Offense Code 4.8](#)

**13. (U//FOUO) Alcohol on Duty:** Employee quickly planned a surveillance operation based on new information from a source. The surveillance took place in a bar and Employee drank one beer "to blend in." [The FBI's Alcohol Policy Guide](#) provides that "FBI employees may not . . . consume alcohol while on duty . . . with limited exceptions necessary for Special Agents in certain undercover or surveillance assignments." Authorization to drink while on duty is required. Employee failed to obtain preauthorization. In mitigation, Employee has over 15 years of FBI service and an excellent performance record. Employee is considered

reliable and productive. Employee consumed a single beer based on legitimate operational concerns and in an effort to remain covert. Employee was not impaired by the beer and his actions did not result in any adverse consequences to the case or the Bureau's reputation.

PENALTY: Letter of Censure

OFFENSE: Alcohol – Under the Influence While on Duty, [Offense Code 5.1](#)

**14. (U//FOUO) Unprofessional Conduct; Failure to Report:** Employee sent a threatening and vile email to his girlfriend's ex-husband. Following the threats, the ex-husband obtained a temporary protective order against Employee. A process server attempted to serve a subpoena on Employee. When the process server knocked on Employee's door, Employee threatened to shoot him. Employee failed to report to his supervisor or SecD that a temporary protective order had been issued against him and that he had an upcoming hearing.

PENALTY: 25-day suspension

OFFENSE: Failure to Report, [Offense Code 5.8](#)

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

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](#).