

OPR Quarterly Email July 2019, Volume 54

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(U//FOUO) OPR's Quarterly All Employee E-Mail – July 2019 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. Employees are reminded that they must follow U.S. law and FBI policies when posted overseas. To contact OPR, please email us at HQ_DIV00_OPR_QUESTIONS or go to our [website](#). Thank you.

Scott B. Cheney

A/AD, OPR

(U//FOUO) Examples of Recent Adjudications:

1. (U//FOUO) **Marijuana; False Information on Security Form:** Employee used marijuana five times and purchased marijuana at state-licensed dispensaries approximately three times while employed by the FBI. Although marijuana purchase and use is legal in the state in which Employee resides, it is not consistent with existing Federal Laws. It is important that all FBI employees be aware that there have been no changes in FBI policy as it relates to use of marijuana. Marijuana is still classified as a Schedule I substance under the Controlled Substances Act and FBI employees are prohibited from using and purchasing marijuana. As stated in the [Drug-Free Workplace Policy Guide](#), the FBI has a zero tolerance policy for illegal drug use. As part of Employee's five-year reinvestigation for a TS/SCI security clearance, Employee was required to complete an updated SF-86 Form. Employee falsely answered no to the question on the SF-86 regarding drug use and purchase. In mitigation, Employee has an excellent performance record and was dealing with personal stressors. In aggravation, Employee's drug use was repeated. Employee failed to show remorse or take

accountability for actions which were in violation of longstanding Bureau policy.

PENALTY: Dismissal

OFFENSE: False Information – Security Documents, [Offense Code 2.1](#)

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

2. (U//FOUO) **DUI**: While on travel for work, Employee became intoxicated and drove a rental car onto a military installation. In aggravation, when driving onto the military installation, Employee crashed into the gate, causing damage to the gate and the vehicle. Employee was verbally abusive with the arresting police officer and refused a BAC test. In mitigation, Employee has exemplary PARS and at the time of the misconduct was under severe personal stressors.

PENALTY: 55-day suspension

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

3. (U//FOUO) **Misuse of Position; Unprofessional Conduct; and Lack of Candor**: Employee activated the blue lights on the bucar and stopped a driver along an interstate for alleged traffic violations. Agents are prohibited from enforcing local traffic violations, as they are not "peace officer[s]" permitted to intervene in state crimes as part of the scope of their federal employment. According to the [FBI Domestic Investigations and Operations Guide](#), dated July 23, 2018, Section 19.3.3:

It is important to note that [the Department of Justice] has indicated that efforts to enforce minor infractions of the law, such as shoplifting or traffic violations, *are not generally considered within the scope of employment.*" (Emphasis added).

As a result, the Department of Justice will not provide legal representation to Agents in legal proceedings arising from traffic stops. Agents have no training or authority to enforce local traffic laws. Secondly, Employee was involved in a separate road rage incident in a bucar in which Employee struck another vehicle's rear bumper, then drove around the vehicle and made an obscene gesture. When questioned by a supervisor regarding the two incidents, Employee lacked candor. In mitigation, Employee has more than 15 years of FBI service and a favorable performance record. Since the administrative inquiry was initiated, Employee began acting in a more professional manner and Employee's work productivity remained positive. In aggravation, the local law enforcement personnel who investigated the matter were aware of the FBI's involvement, and it likely harmed the FBI's reputation. The FBI had to pay for repairs to the vehicle Employee struck with the bucar. Finally, Employee left the scene without exchanging insurance information with the other driver.

PENALTY: 35-day suspension

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

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

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

4. (U//FOUO) **Unprofessional Conduct; Misuse of Position:** After being randomly selected for enhanced screening, Employee exhibited unprofessional conduct while interacting with TSA employees at an airport by verbally berating them and becoming visibly impatient with screening procedures. Employee called the TSA employee incompetent, stupid, and unfocused. After demanding to speak to a supervisor, Employee called the supervisor a moron. Employee presented the supervisor with a business card, identifying Employee as an FBI employee. The TSA supervisor stated that Employee appeared to be attempting to avoid the screening process by presenting the FBI business card. In aggravation, the incident was reported to the Assistant Federal Security Director and the Federal Security Director with numerous other federal agency representatives present, causing embarrassment to the FBI and a negative effect on the FBI's reputation. In mitigation, Employee has more than 10 years of FBI service, an outstanding performance record, and has received numerous awards. Employee expressed sincere remorse for the incident.

PENALTY: 6-day suspension

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

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

5. (U//FOUO) **Failure to Report:** Employee failed to report losing FBI credentials. According to the [FBI Credentials, Special Agent Gold Badges, and Qualified Separated Law Enforcement Officers ID Card Policy Guide](#), Section 4.5, "[i]f a credential or SA gold badge is lost or stolen, employees and non-FBI employees must complete the *Report of Lost or Stolen Property form* (FD-500) and document the lost property in Sentinel via an EC." In aggravation, Employee waited approximately four years to report losing FBI credentials and only did so when asked to produce them as part of the Issued Personal Property inventory. This was the second time Employee had lost credentials and Employee was on notice of the requirement to report it. In mitigation, Employee has more than 20 years of FBI service and a positive performance record. Employee was traveling extensively at the time the credentials were lost.

PENALTY: 3-day suspension

OFFENSE: Failure to Report - Administrative, [Offense Code 5.7](#)

6. (U//FOUO) **Loss of Badge:** Employee lost assigned gold FBI badge. In mitigation, Employee has more than 20 years of FBI service and an outstanding performance record. Employee accepted complete responsibility for the loss of the badge. In aggravation, this was the seventh instance of Employee losing Bureau property, and the second time Employee had lost a badge. Employee had received a letter of censure for similar misconduct in the past.

PENALTY: 3-day suspension

OFFENSE: Loss of Badge, [Offense Code 3.2](#)

7. (U//FOUO) **WebTA Fraud; Lack of Candor; Bucar Misuse; and Unprofessional Conduct:** Employee consumed alcohol at a bar during working hours while falsely claiming a full work day in WebTA. According to recorded exit and entry times, Employee failed to work full work days over an 11-month period. Employee also touched a subordinate's buttocks while off-duty at a bar. Employee was unprofessional in interactions with subordinates in the workplace, exhibited inappropriate and intimidating behavior towards subordinates concerning the annual Climate Survey, and repeatedly manipulated and bullied coworkers and subordinates. Employee used a bucar for personal purposes and drove the vehicle after consuming alcoholic beverages. Employee lack candor, under oath, during the administrative inquiry. In mitigation, Employee had more than 10 years of FBI service and had an exemplary performance record. In aggravation, Employee was a supervisor at the time of the misconduct and held to a higher standard. Employee encouraged a subordinate to commit misconduct. Employee's disruptive behavior garnered a negative reputation for the FBI with the U.S. Attorney's Office.

PENALTY: Proposed for Dismissal / Resigned Under Inquiry

OFFENSE: False/Misleading Information – Fiscal Matter(s), [Offense Code 2.2](#)

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

Misuse of Government Vehicle, Title 31, [Offense Code 3.10](#)

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

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

8. (U//FOUO) **Lost Laptop:** While traveling overseas, Employee lost a FBI-issued laptop. Employee removed the laptop from a backpack for airport security screening. After boarding the flight, Employee realized the laptop was missing. In

mitigation, Employee has a strong performance record. The laptop did not contain sensitive information and was encrypted. In aggravation, the laptop was never recovered and its loss occurred overseas, exposing it to exploitation by foreign intelligence services since its unclassified sticker identified it as U.S. Government property.

PENALTY: Letter of Censure

OFFENSE: Loss of Government Property, [Offense Code 3.3](#)

9. (U//FOUO) **Failure to Pay Debts; False Information in Security Documents; and Lack of Candor:** Employee failed to timely pay state and federal taxes and honor other debts and obligations (see Assistant Attorney General's [Memorandum for All Department Employees](#)). Employee's wages had been subject to garnishments, Employee filed for bankruptcy twice in five years, and multiple credit reports reflected past due debt obligations, court liens, and judgments. Employee failed to accurately report financial delinquencies in the annual required SFDFs over the course of many years. Employee also lacked candor when questioned during a PSI about Employee's finances. In mitigation, Employee had an excellent performance record. In aggravation, Employee's financial delinquencies and false reporting issues were repeated and occurred throughout Employee's Bureau career. Employee's position with the Bureau required Employee to be responsible for maintaining the integrity and security of Bureau personnel and for providing guidance relating to self-reports, security clearances, and other security programs. Finally, this was Employee's second substantiated administrative inquiry.

PENALTY: Proposed for Dismissal / Resigned Under Inquiry

OFFENSE: False Information – Security Documents, [Offense Code 2.1](#)

False Information – Other Official Matter(s), [Offense Code 2.4](#)

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

Failure to Honor Just Debts/Regulatory Obligations, [Offense Code 5.5](#)

10. (U//FOUO) **Source Handling Issues; Lack of Candor; Sexting; Bucar Misuse; Unauthorized Disclosure; and Failure to Report:** Employee engaged in an intimate physical relationship with a CHS. Section 6.1.1.4 of the FBI's [Personal Relationships Policy](#) (0802D), states that an FBI employee may not "[e]ngage in a romantic or intimate relationship with a confidential human source (CHS)...." Employee provided false information on a Report of Foreign Travel and Report of Foreign Contact. Employee failed to file FD-981 Reports of Foreign Contact regarding romantic relationships with several foreign nationals. Employee misused a Bureau cellphone to send sexually explicit text messages. Employee misused a Bureau vehicle to facilitate affairs with several people. Employee disclosed the identity of a CHS to a person with whom

Employee was engaging in an affair. Employee engaged in sexual activity in a Bureau workspace and in a Bureau vehicle. Section 6.1.1.3 of the FBI's *Personal Relationships Policy* (0802D), prohibits FBI employees from "engag[ing] in physical intimacies in government workspace or vehicles or while on duty." Finally, Employee lacked candor under oath when interviewed by the OIG in this administrative inquiry. In mitigation, Employee had positive performance reviews and was suffering significant personal stressors. In aggravation, Employee's misconduct was repeated over an extended period. Employee misused Bureau employment to further sexual relationships. Employee failed to follow numerous policies and procedures and failed to disclose information with a direct bearing on Employee's eligibility to hold a security clearance.

PENALTY: Proposed for Dismissal / Resigned Under Inquiry

OFFENSE: Asset/CW/Informant/CHS (Source) – Improper Personal Relationship, [Offense Code 1.4](#)

Asset/CW/Informant/CHS (Source) – Violation of Operational Guidelines and Policies, Other, [Offense Code 1.5](#)

False Information – Security Documents, [Offense Code 2.1](#)

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

Misuse of Government Vehicle, Title 31, [Offense Code 3.10](#)

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

Unauthorized Disclosure – Sensitive Information, [Offense Code 4.10](#)

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

Sexual Conduct – Consensual, [Offense Code 5.19](#)

11. (U//FOUO) **Sexual Harassment:** Employee made numerous unwelcome physical and verbal sexual advances towards several colleagues. In aggravation, over several years and on multiple occasions, Employee became intoxicated and targeted coworkers on TDYs and at work functions. Employee's repeated harassment of several coworkers caused them to attempt to avoid Employee both at work and at social outings. One of the incidents occurred at a high-profile event attended by foreign and domestic partner agencies. Employee's harassment, including invasive physical contact and extremely explicit sexual suggestions, significantly harmed the FBI's reputation for a safe and equal workplace. In mitigation, Employee had more than 10 years of FBI service and a positive performance record. Employee had personal stressors.

PENALTY: Proposed for Dismissal / Resigned Under Inquiry

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

12. (U//FOUO) **Lost Bucar:** Employee parked a bucar at home and accidentally left the key fob in the front seat overnight. The bucar was stolen. Employee immediately contacted a supervisor and the local police department. Employee was informed by local police that two other vehicles nearby had been stolen the same night. Employee searched for the missing bucar and located one of the other stolen vehicles. The local police recovered that vehicle. Employee continued to search for the bucar, located it, and contacted local police who were able to recover the car. The officers told Employee they arrested two subjects located in the last stolen vehicle and that they would not have made the arrest without Employee's assistance. In mitigation, Employee has more than 10 years of FBI service and an excellent performance record. In aggravation, the radio and siren control box in the bucar were never recovered.

PENALTY: Letter of Censure

OFFENSE: Loss of Government Property, [Offense Code 3.3](#)

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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