

OPR Quarterly Email October 2019, Volume 55

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(U//FOUO) **OPR's Quarterly All Employee E-Mail – October 2019 Edition**

(U//FOUO) *"Whoever wishes to foresee the future must consult the past; for human events ever resemble those of preceding times."* Niccolo Machiavelli (1469-1527)

(U//FOUO) The All-Employee Quarterly E-Mail from the Office of Professional Responsibility (OPR) is designed to encourage FBI personnel to employ Machiavelli's proposition that future misconduct may be avoided by awareness of past offenses. I encourage you to consider the information as a method of inoculating yourself through lessons learned. Review the Bureau's standards of conduct and consider this E-Mail as an aid for steering clear of ethical pitfalls and other violations.

(U//FOUO) Set forth below are some examples of cases from a larger number of matters adjudicated by OPR during the last quarter. 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](#).

Sincerely,

L. Stuart Platt

AD, OPR

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

1. (U//FOUO) Bucar Misuse: On a day off from work, Employee drove a bucar to the gym and allowed a family member to ride in the bucar. While Employee was in the gym, the bucar was struck in the parking lot by another driver. According to the [Government Vehicle Use Policy Guide](#) (0947PG), Section 4.5, "authorized passengers include persons with whom the FBI transacts official business." The Policy Guide lists examples of individuals officially related to the FBI's mission of law enforcement and investigatory functions. The family member was not an authorized passenger, and was not allowed to ride in the bucar. Additionally, the Government Vehicle Use Policy Guide, Section 4.1.1, states, "[GOVs] must only be used for official purposes...[U]ses that are in direct furtherance of the FBI's mission, operations, and programs will be considered official, subject to the specific guidance set forth in this PG." Employee's trip to the gym was not an official use. In mitigation, Employee has an excellent performance record, has received numerous awards, and maintains the strong support of the Division. Employee is the first to volunteer for

assignments and leads new employees by attitude and example. Employee was extremely remorseful and expressed regret for exercising poor judgment.

PENALTY: 30-day suspension and oral reprimand

OFFENSE: Misuse of Government Vehicle, Non-Title 31, [Offense Code 3.9](#)

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

2. (U//FOUO) Failure to Report Foreign Travel: Employee failed to report travel to the Caribbean. The [FBI Self-Reporting Requirements Policy Guide](#) (1037PG), Section 4.1.1 states, "All official or unofficial foreign travel must be reported via FD-771 'Report of Foreign Travel' forms within EPAS at least 45 calendar days in advance of travel." In mitigation, this was Employee's first foreign travel since joining the Bureau. In aggravation, Employee's failure to register the Employee's Bureau-issued phone prior to taking it on foreign travel resulted in excessive roaming charges.

PENALTY: 1-day suspension

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

3. (U//FOUO) Failure to Safeguard Weapon: Employee's weapon was stolen from the gym. Employee kept the weapon in a gym bag and while Employee was exercising, someone walked off with the bag. In mitigation, Employee had over 5 years of FBI service and a positive performance history. In aggravation, in addition to the weapon, Employee's Bureau-issued cell phone, credentials, badge, recorder, and bucar keys were also stolen.

PENALTY: 3-day suspension

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

4. (U//FOUO) Improper Relationship with Subordinate: Supervisory Employee engaged in intimate relationships with two subordinate employees. Section 6.1.1.5. of the FBI's [Personal Relationships Policy](#) (0802D) prohibits an employee from "[e]ngag[ing] in a romantic or intimate relationship with any individual with whom the employee [] has [a] mentor-mentee [relationship]." Pursuant to section 6.1.2.2., an employee must "[r]eport the development of a romantic or intimate relationship . . . with another employee in the same unit or squad or with an employee with whom a supervisory relationship exists, so that management may determine whether remedial action, such as reassignment is necessary to prevent interference with the FBI's mission." Section 6.1.2.3. states that an employee must "[r]efrain . . . from participating in . . . a[n] organizational decision involving an individual with whom he or she has a personal relationship and where a reasonable person would question the employee's impartiality." Section 6.2.1.1., states that a manager or supervisor must not "[e]ngage in a romantic or intimate relationship with a subordinate FBI employee if the relationship negatively affects a professional and appropriate superior-subordinate relationship or otherwise adversely affects the FBI mission." In mitigation, Employee has over 20 years of FBI service, a positive performance record, and has received multiple awards. In aggravation, Employee's relationship with a subordinate became fodder for office gossip. The Division lost faith in Employee's ability to continue to serve as a supervisor.

PENALTY: 20-day suspension and demotion

OFFENSE: Improper Relationship – Superior/Subordinate, [Offense Code 5.10](#)

5. (U//FOUO) Database Misuse, Other Felonies: Employee used an FBI database to perform unauthorized searches. According to the FBI's [Information Systems Use Policy Directive](#) (1071D), Section 5.1, "FBI personnel must use FBI information systems in strict accordance with the level of access granted by the FBI for authorized purposes and in compliance with all applicable laws, regulations, and policies." Section 5.3.1.2.4 states, "Unauthorized use of the information system is prohibited. Users who engage in prohibited activity on an FBI information system may be subject to administrative, disciplinary, or security action and criminal and civil penalties." Employee sold the information obtained from the unauthorized searches. Employee was arrested and charged with a violation of 18 U.S.C. § 201(b)(2)(C) Public Official Accepting a Bribe. In mitigation, Employee has almost 10 years of FBI service and an excellent performance record. In aggravation, Employee was a supervisory employee at the time of the misconduct. Employee's misconduct was criminal in nature and reported in the local news.

PENALTY: Dismissal

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

Other Felonies, [Offense Code 4.7](#)

6. (U//FOUO) DUI; Weapons Safety: Employee had several drinks at a restaurant. While driving home, Employee rear-ended another vehicle, causing minor damage. The police responded and arrested Employee for DUI after a PBT showed Employee's BAC was above the legal limit. Employee had a handgun and other weapons in the vehicle. The [FBI Alcohol Policy Implementation Guide](#) (0358PG), Section 1.1.1, expressly prohibits FBI agents from "[carrying] a firearm when impaired by the consumption of alcohol." In mitigation, Employee had three years of FBI service and a positive performance record. In aggravation, Employee caused an accident and damaged the FBI's reputation.

PENALTY: 37-day suspension

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

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

7. (U//FOUO) Unwelcome Sexual Conduct; Unprofessional Conduct; Sexting; Inappropriate Relationship with Subordinate; and Lack of Candor: Supervisory Employee engaged in unwelcome sexual conduct by telling a coworker that Employee was distracted during a meeting and could not stop staring at coworker's legs and chest. Employee repeatedly complimented a coworker and invited the coworker to lunch. The coworker felt pressured to accept due to Employee's status as a supervisor. Employee verbally harassed and intimidated several coworkers. Employee's behavior created fear, anxiety, and turmoil among many coworkers, who were afraid to work near Employee. Employee used Lync and a Bureau-issued phone to send sexually-explicit messages. While serving as an instructor, Employee engaged in inappropriate behavior, complimenting students on their appearance, expressing a desire to kiss them, and asking for nude photographs. Employee also had romantic relationships with students. Section 6.1.1.5. of the FBI's [Personal Relationships Policy](#) (0802D) prohibits an employee from "[e]ngag[ing] in a romantic or intimate relationship with any individual with whom the employee [] has [a] student-instructor [or] mentor-mentee

[relationship]." Finally, Employee lacked candor when questioned during the investigation about the misconduct. In mitigation, Employee had 15 years of FBI service, a mainly positive performance record, and had received a number of awards. In aggravation, Employee is a supervisor, and therefore held to a higher standard. Employee's actions raised questions as to whether Employee could be counted on to counsel and manage subordinates without abusing the supervisory position by using it to pursue romantic interests. Employee's misconduct does significant harm to the FBI's reputation for safe and equal workplaces. Employee's conduct is fundamentally at odds with the FBI's Core Values of compassion, fairness, uncompromising personal integrity, and personal and professional leadership.

PENALTY: Proposed for Dismissal / Resigned Under Inquiry

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

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

Improper Relationship – Superior/Subordinate, [Offense Code 5.10](#)

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

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

8. (U//FOUO) WebTA Fraud; Lack of Candor: Employee committed time and attendance fraud over an extended period of time by recording hours on days on which Employee did not work. Employee lacked candor when questioned by a supervisor regarding Employee's absence from the office. In mitigation, Employee has 10 years of FBI service and a positive performance record. Employee was under personal stress at the time and attempted to make up hours. In aggravation, the WebTA fraud was repeated. When Employee's supervisor gave Employee a chance to confess, Employee repeated the lie regarding Employee's absence from the office.

PENALTY: 60-day suspension and Last Chance Agreement

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

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

9. (U//FOUO) Unprofessional Conduct: Employee became intoxicated at a party with law enforcement partners and used slurs when referring to other people present at the party. The FBI's Penalty Guidelines specifically call for aggravation under Offense Code 5.21 for cases involving the use of a slur based on race, gender, religion, sexual orientation or other protected status and note that a suspension of 60 days, or dismissal, is warranted depending on the totality of the circumstances. In mitigation, Employee had over 10 years of FBI service, a strong performance and positive character references. Employee expressed sincere remorse for the misconduct and demonstrated support for the maligned communities. In aggravation, Employee's actions offended and insulted a number of people, including members of important law enforcement partner agencies, damaging the FBI's reputation. The appearance of bias against protected classes raised serious character and judgment questions. Finally, this was Employee's second incident of alcohol-related misconduct that has led to an administrative inquiry.

PENALTY: 60-day suspension and Last Chance Agreement

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

10. (U//FOUO) Unprofessional Conduct; Other Misdemeanors: Employee made false suicide claims in order to get spouse's attention, sent alarming text messages to spouse in order to scare spouse, set up a hidden video camera in Employee's home bathroom, and used a GPS tracking device to track and locate spouse and enable Employee to show up at spouse's locations. Employee committed several misdemeanors by assaulting a step-child, violating protective orders at least six times, and illegally putting a GPS tracking device in spouse's vehicle without spouse's knowledge. In mitigation, Employee had more than 10 years of FBI service and a strong performance record. In aggravation, Employee knowingly and repeatedly violated state laws, was arrested, and received multiple convictions. Employee was repeatedly admonished as to the terms of the court orders and continued to engage in misconduct while under inquiry, resulting in a second inquiry being opened.

PENALTY: Dismissal

OFFENSE: Other Misdemeanors, [Offense Code 4.8](#)

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](#).

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