

OPR Quarterly E-mail: January 2017, Volume 44

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(U//FOUO) **OPR's Quarterly All Employee E-Mail – January 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 Bureau's standards of conduct and to aid employees in steering clear of ethical pitfalls and other violations. Please feel free to contact us with questions or comments at HQ_DIV00_OPR_QUESTIONS@fbinet.fbi or by using the link on our [website](#).

- **New Offense Codes and Penalty Guidelines:** The second amended [Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process](#) became effective on January 1, 2017. Among other things, the 2017 amendments strengthen the penalties for domestic violence, increase DUI penalties for failing to cooperate with the police (including refusing to take a breathalyzer), reinforce the FBI's commitment to eradicating human trafficking (including increased penalties for solicitation of prostitution), and aggravate penalties for using slurs based on race, gender, sexual orientation or other protected status. The *Offense Codes and Penalty Guidelines* are available under the Library tab on OPR's [website](#).
- **Special Agent Hiring:** The FBI is in serious need of experienced professionals across all backgrounds to apply as Special Agents. If you know someone possessing a strong ethical foundation, who comports him/herself maturely and professionally, and meets the qualifications outlined on www.fbijobs.gov/special-agents, please encourage him/her to immediately apply to the Special Agent posting at apply.fbijobs.gov on the low side.

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

1. (U//FOUO) Improper Relationship with Source: Employee exchanged sexually suggestive text messages with a confidential human source (CHS). When confronted by Significant Other/Co-Worker, Employee admitted having a sexual relationship with the CHS. Employee advised Significant Other/Co-Worker that Employee had self-reported to Supervisor. In actuality, Employee had not reported to Supervisor, but rather had used an FBI database not intended for reporting misconduct and, even still, was not truthful in reporting the extent and nature of the relationship with the CHS. In aggravation, Employee's relationship with the CHS lasted several years; Employee failed to take responsibility for his misconduct; Employee minimized his actions; and Employee showed an overall pattern of deceitful conduct incompatible with continued employment.

PENALTY: Dismissal

OFFENSE: Improper Personal Relationship w/ Source, [Offense Code 1.4](#)

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

2. (U//FOUO) Violation of Source Guidelines; Falsified WebTA; Lack of Candor Not Under Oath; Unprofessional Conduct: Employee tasked CHS with performing operational activities without first obtaining required approval from outside agency, in violation of the [Confidential Human Source Policy Guide](#), Section 4.2. CHS was on probation with state Department of Corrections (DOC) and Employee was required to obtain permission from DOC Commissioner prior to operating the CHS. Employee falsely entered on official FBI form, Source Opening Communication, that Employee had obtained the required permission. Employee also falsified WebTA records to reflect that Employee had worked when, in fact, he had not. Employee lacked candor when questioned by Supervisor about completing work assignments. Employee also transported spouse and minor child in a government-leased vehicle. According to Section 1.4.1 of the [Government Vehicle Use Policy Guide](#), the term "government vehicle" includes rental cars and leased vehicles. Finally, Employee engaged in unprofessional conduct by playing video games and watching ESPN on personal cell phone during work hours, including at a search site when local law enforcement official sought Employee's assistance. In aggravation, Employee had been an FBI employee for little more than a year and repeatedly engaged in dishonest communications with Supervisor. Integrity is an FBI Core Value. Employee lost the trust of Supervisor and coworkers.

PENALTY: Dismissal

OFFENSE: Violation of Source Guidelines/Policies, [Offense Code 1.5](#)

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

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

Misuse of Government Vehicle, [Offense Code 3.9](#)

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

3. (U//FOUO) Violation of Ethical Guidelines: Supervisory Employee accepted gifts from Vendor #1, a company that bids on contracts with and has received contracts from the FBI. Employee attended two professional sporting events as the guest of Vendor #1. The cost of the tickets was in excess of the \$20 limit imposed by the ethics policy. Vendor #2

saw Employee with Vendor #1 at one of the games and complained to the FBI that Employee's association with Vendor #1 was the reason Vendor #2 did not win a contract with the FBI. Employee's actions created an appearance of impropriety and favoritism. Employee also accepted a day of shooting at a shooting range and failed to pay his full share for the range time and ammunition, which exceeded \$20. Employee failed to seek advice from the FBI's Office of Integrity and Compliance. In mitigation, Employee has a positive performance history and no prior disciplinary history. In aggravation, Employee is a supervisor who is held to a higher standard. Employee's actions harmed the FBI's reputation as Employee was perceived by Vendor #2 as showing a preference for Vendor #1 by attending a baseball game with Vendor #1. The [FBI Ethics and Integrity Program Policy Directive and Policy Guide](#), Section 4.2.1.4 (a), provides, in relevant part, "An employee may accept unsolicited gifts having an aggregate market value of \$20 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person under the authority of this paragraph shall not exceed \$50 in a calendar year."

PENALTY: 14-day suspension

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

4. (U//FOUO) Misdemeanor; Misuse of Position; Weapon Safety Violation; Unprofessional Conduct: After an evening of drinking and while walking to a bus stop, Employee urinated in the bushes. Approaching Police Officer informed Employee it was a crime to urinate in public and asked him to move along. Employee responded by yelling profanities at Police Officer. Police Officer responded by arresting Employee for Public Urination. Police Officer noted that Employee was extremely intoxicated and armed with Bureau weapon. Employee continued to be belligerent. In mitigation, Employee has positive service record and no prior disciplinary matters. In aggravation, Employee is a supervisor and, as such, held to a higher standard. Employee's actions reflected poorly on the FBI.

PENALTY: 21-day suspension

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

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

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

5. (U//FOUO) Failure to Safeguard Weapon: Employee's apartment was burglarized. Among the items stolen was Employee's Bureau-approved weapon. Employee stated that the weapon was kept in a holster in the space between the bed mattress and the bed frame. That does not comport with FBI policy. The weapon did not have an armored cable lock, nor was it stored in a secure container or field stripped. [The Firearms Policy Guide](#), Section 4.1.2.3, Security of Firearms in Nongovernment Space or Residences, states:

FBI personnel must ensure the security of their issued and approved FBI firearms at all times while the firearms are maintained in their residences. When unattended, FBI firearms must be secured by one of the following methods to prevent access by unauthorized personnel, regardless of location:

- Install an FBI-issued Master Lock #528 (large, curved-shackle lock available from the DSU), armored cable lock, or other device capable of rendering the firearm inoperable.

- Field strip the weapon, and store major components in different locations (e.g., slide and receiver separated). As a last resort, handcuffs may be used to deter reassembly or to immobilize the firearm.
- Store the weapon in a commercially available lock box, gun safe, or other locked, secure container. If stored in this manner, the firearm may be stored loaded. FBI personnel should note that state and/or local laws may also regulate storage of firearms.

PENALTY: 3-day suspension

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

6. (U//FOUO) Failure to Safeguard Weapon: Employee left fully loaded, Bureau-approved weapon in a backpack in the foot well behind the driver side of his vehicle. When Employee returned to the vehicle, the passenger window had been broken and the backpack stolen. Employee immediately reported the theft to local police, who were able to recover the weapon. [The FBI Firearms Policy Guide](#), Section 4.1.2.4 states:

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.

PENALTY: 3-day suspension

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

7. (U//FOUO) Domestic Violence; Unprofessional Conduct: Employee viciously attacked wife, including placing her in a choke hold, dropping her on the ground, and kicking her in the face. Employee also acted unprofessionally at work by screaming at coworkers, causing several of them to refuse to work with Employee. In mitigation, Employee suffers from PTSD. In aggravation, Employee's assault was exceedingly violent; he left his wife lying on their driveway with a black eye and a concussion. This was the second time Employee assaulted his wife, though the first time was not reported to the FBI. Both incidents occurred in front of Employee's small children.

PENALTY: Dismissal

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

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

8. (U//FOUO) Sexual Assault of Minor: Employee was arrested for and charged with multiple counts of sexually assaulting a minor. Employee admitted fondling eight-year-old family member.

PENALTY: Summary Dismissal

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

9. (U//FOUO) Alcohol on Duty; Insubordination; Unprofessional

Conduct: Employee was under the influence of alcohol on duty on two occasions. In a separate incident, Employee missed two consecutive days of work involving out-of-state partners. Employee provided inadequate notice to out-of-state partners, causing them to travel for no reason, and failed to inform Supervisor of Employee's unauthorized absences upon returning to the Division the following week. Employee also defied an order to report to the Division forthwith to meet with the ASAC the following Monday. In mitigation, Employee has 18 years of FBI service, a positive performance record, and was dealing with a serious family medical issue. In aggravation, Employee's history of consuming alcohol before reporting for duty jeopardizes the Bureau's mission, has had a negative effect on the workplace, and has created concern among coworkers and supervisors.

PENALTY: 60-day suspension and Last Chance Agreement

OFFENSE: Alcohol on Duty, [Offense Code 5.1](#)

Insubordination, [Offense Code 5.11](#)

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

10. (U//FOUO) Sexual Harassment: During lengthy TDY, Employee invited Co-Worker to hotel room to discuss Co-Worker's desire to transfer from current Division to another Division. Employee then made an unwanted sexual advance, including unwelcome physical contact. It appeared that Employee's offer to assist with transfer was conditioned on or related to their having sex. Co-Worker left Employee's hotel room. Fearing further harassment or reprisal, Co-Worker departed the TDY early, prior to completion of the assignment. In mitigation, Employee has more than 20 years of FBI service and no prior disciplinary history. In aggravation, Employee has extensive supervisory experience for which he is held to a higher standard of conduct. His behavior harmed the FBI's reputation and negatively impacted the TDY assignment.

PENALTY: 60-day suspension and Last Chance Agreement

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

11. (U//FOUO) Unprofessional Conduct: Employee posted a "HELP" sign on the exterior window of a Bureau office building as a prank to protest the newly-configured and smaller-sized offices. The sign was visible from the street and resulted in an FBI Police response related to a possible hostage situation. In mitigation, Employee expressed remorse and has over 10 years of FBI service, a positive performance record, and no prior disciplinary matters. Moreover, according to the Division, Employee was working long hours on a high priority case, which may have contributed to the lapse in judgment.

PENALTY: Letter of Censure

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

12. (U//FOUO) Unprofessional Conduct: Employee was assigned to a human trafficking task force investigating a particular massage parlor. Without consulting supervisors, fellow TFOs, or anyone else, Employee decided to obtain an "undercover" massage at the massage parlor in question. After being shown to a room, Employee fully undressed and laid face down and uncovered on the massage table. A young female masseuse entered the room and began massaging Employee. Halfway through the massage, the masseuse offered to provide sexual favors in exchange for money, which Employee purportedly

declined. Employee's actions were in violation of the DIOG and the [Undercover and Sensitive Operations Policy Guide](#). Employee was not a certified undercover employee, did not have approval to do a cameo undercover appearance, did not have back up, and used personal money to pay for services from a massage parlor employee who Employee knew was under investigation. In aggravation, Employee's actions harmed the FBI's reputation with our law enforcement partners; Employee failed to acknowledge wrongdoing; Employee has shown repeated lapses in judgment in prior cases; and the Division lacks confidence in Employee's potential for rehabilitation.

PENALTY: Employee resigned after being proposed for dismissal

OFFENSE: Unprofessional Conduct – Off 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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