

OPR Quarterly Email October 2018, Volume 51

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(U//FOUO) **OPR's Quarterly All Employee E-Mail – October 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 FBI policies when posted overseas.

To contact OPR, feel free to 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) DUI: Supervisory Employee was arrested for and pled guilty to Driving While Intoxicated. In mitigation, Employee had 10+ years of FBI service, a positive performance record, and had been dealing with personal and professional stressors. In aggravation, Employee's reckless driving while intoxicated led to an accident with another driver, totaling Employee's vehicle; Employee refused to submit to a breathalyzer test; Employee is a supervisor and, as such, held to a higher standard; and this was Employee's second DWI while employed by the FBI. [FBI Penalty Guideline 4.4](#) specifically states that a second DUI results in dismissal.

PENALTY: Dismissal

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

2. (U//FOUO) DUI; Misuse of Gvt Vehicle; Weapon Safety Violation: When a surveillance operation ended early, Employee stopped at a grocery store in a Bureau vehicle to purchase beer. Employee then consumed the beer in the Bureau vehicle in the parking lot and attempted to drive home. Employee was pulled over by the State Highway Patrol for speeding and following another vehicle too closely. Employee was arrested for DUI after a Preliminary Breath Test showed that Employee's BAC was over the legal limit. Employee had several weapons in the vehicle at the time of the arrest. According to the [FBI Alcohol Policy Guide](#) (0358PG) Section 1.1.1., "FBI employees may not carry a firearm when impaired by the consumption of alcohol." The State Highway Patrol asked Employee for the name of someone to retrieve the Bureau vehicle. Rather than contact a supervisor or other FBI personnel, Employee called a family member. Family members are not authorized to drive Bureau vehicles. In mitigation, Employee had 15+ years of FBI service, had received several awards, expressed remorse, and attended an alcohol rehabilitation program. In aggravation, the Highway Patrol noted that Employee was driving in a dangerous manner, and Employee damaged the FBI's reputation with a local law enforcement partner.

PENALTY: 60-day suspension

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

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

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

3. (U//FOUO) DUI; Weapon Safety Violation; Misuse of Position: Employee drove a privately-owned vehicle while under the influence of alcohol. In addition, Employee stored Bureau firearm in the center console of the vehicle. The [Firearms Policy Directive and Policy Guide](#) (0888PG) states, in relevant part:

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) 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. *Glove boxes and consoles are never considered secure containers, whether they are locked or not.*

(Emphasis added.) In addition, pursuant to Section 1.1.1. of the [FBI Alcohol Policy Guide](#) (0358PG), "FBI employees may not...[c]arry a firearm when impaired by the consumption of alcohol." When pulled over by local law enforcement, Employee attempted to avoid arrest by invoking Employee's official position. In mitigation, Employee has a strong performance record and has received numerous awards. In aggravation, Employee refused to take a breathalyzer test.

PENALTY: 42-day suspension

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

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

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

4. (U//FOUO) Fraud; Failure to Report; Improper Relationship w/ Criminal Element: Employee allowed a romantic partner to use drugs and engage in criminal activity in Employee's home. Employee participated in some of the criminal activities, specifically credit card fraud. Employee failed to report the relationship and the criminal activity. Special Agents and local law enforcement arrested Employee's partner and executed a search warrant at Employee's home. Employee's partner was criminally charged and pled guilty. In mitigation, Employee had five years of FBI service and a positive performance record. In aggravation, when initially questioned by investigators, Employee attempted to hide Employee's participation in criminal activity.

PENALTY: Dismissal

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

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

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

5. (U//FOUO) Improper Relationship w/ Subordinate: Supervisory Instructor engaged in a romantic relationship with a New Agent Trainee. Section 11.1.1.5 of the [FBI's Personal Relationships Policy Directive](#) (0802D) prohibits an employee from engaging in a "romantic or intimate relationship with any individual with whom the employee currently has any of the following official relationships: a student-instructor..." Pursuant to Section 11.1.2.2, an employee must report the relationship so that management may determine whether remedial action, such as reassignment, is necessary to prevent interference with the FBI's mission. In mitigation, Employee has 10+ years of FBI service, a strong performance record, and expressed remorse. In aggravation, as a supervisor with over a decade of experience, Employee is held to a higher standard and expected to be aware of and abide by the FBI's Personal Relationships Policy.

PENALTY: 14-day suspension

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

6. (U//FOUO) Improper Relationship w/ Criminal Element; Failure to Report; Insubordination; Lack of Candor Not Under Oath: Employee maintained a personal relationship with an individual involved in criminal activities, including illegal drug use and theft, and Employee failed to report the individual as a roommate. According to the [FBI Cohabitant - Roommate Policy Directive](#) (0700D), Section 8.4:

All FBI personnel who are sharing or are planning to share living quarters with a roommate or cohabitant who is a foreign national, is engaged in criminal activity, has been arrested or convicted of one or more felony offenses, has an extensive criminal history, and/or has an outstanding warrant for arrest, are required to promptly report (within three calendar days) these circumstances, if known, via an FD-773.

Employee refused to comply with an order given by supervisor and security personnel and knowingly provided them with false information when confronted. In mitigation, Employee had 25+ years of FBI service and had received numerous awards. In aggravation, Employee was repeatedly insubordinate over an extended period of time, lied on two separate occasions to conceal Employee's association with a criminal, and had prior substantiated OPR matters.

PENALTY: Dismissal

OFFENSE: Improper Relationship w/ Criminal Element, [Offense Code 5.9](#)

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

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

Insubordination, [Offense Code 5.11](#)

7. (U//FOUO) Indecent Acts; Misuse of Gvt Computer; Misuse of Gvt

Vehicle: Employee drove to a clothing store in a Bureau vehicle. Employee entered one of the store's dressing rooms and placed a Bureau cell phone underneath the wall divider to take pictures of a woman who was changing clothes in the adjoining changing room. The woman saw the phone and screamed. Upon being confronted, Employee said, "It's not what it looks like," and referenced his job as an FBI Special Agent. Employee was arrested and charged with Invasion of Privacy. The County Prosecutor's press release mentioned Employee's position with the FBI, thereby tarnishing the Bureau's reputation and diminishing the public's trust in the FBI. Employee engaged in criminal conduct that victimized a member of the public. Employee's conduct was utterly contrary to the FBI's mission and Core Values.

PENALTY: Summary Dismissal

OFFENSE: Indecent/Lascivious Act, [Offense Code 4.6](#)

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

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

8. (U//FOUO) Misuse of FBI Databases: Employee searched Employee's own name in a law enforcement database without authorization. Employee did so because the database had recently been updated and Employee wanted to confirm correct use of the system, not to obtain personal information. In mitigation, Employee has 10+ years of FBI service, a positive performance record, received numerous awards, and the offense was an isolated incident.

PENALTY: Oral Reprimand

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

9. (U//FOUO) Unprofessional Conduct: Employee, while serving as an Instructor at the National Academy, engaged in unprofessional conduct by rubbing the shoulders of a National Academy student and making sexual comments. In mitigation, Employee has a strong performance record and the Division's continued confidence, and received positive character references. In aggravation, Employee was an instructor, and as such, was held to a higher standard due to the inherent power disparity between an instructor and an NA student. Moreover, Employee's unprofessional conduct was repeated on at least three occasions and damaged the FBI's reputation.

PENALTY: 10-day suspension

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

10. (U//FOUO) Weapon Safety Violation: Employee consumed alcohol within eight hours of flying on an aircraft while armed. TSA officers stopped and questioned Employee at a security checkpoint when they smelled alcohol on Employee's breath and noticed Employee's impaired behavior. [FBI Firearms Aboard Aircraft Policy Directive](#) (0804D), Section 11.1.5, states, "[All FBI Law Enforcement Officers, including SAs, must] . . . [r]efrain, at all times, from consuming alcoholic beverages while traveling armed on an aircraft or within eight hours prior to travel." Additionally, the [FBI Alcohol Policy Guide](#) (0358PG), Section 1.1.1. states, "FBI employees may not . . . [c]arry a firearm when impaired by the consumption of alcohol." In mitigation, Employee was dealing with personal stressors, was respectful and cooperative with fellow law enforcement officers, was candid with supervisor regarding the incident, took responsibility for the misconduct, and enrolled in counseling. In aggravation, Employee likely damaged the reputation of the FBI with partner agencies and the airline, and posed a risk to the public's safety by carrying a weapon while impaired.

PENALTY: 10-day suspension

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

11. (U//FOUO) WebTA Fraud: Employee committed extensive time and attendance fraud. Employee was paid for approximately 506 hours of work that Employee did not perform, including at least 18 occasions on which Employee claimed a full day of work in WebTA, but there was no evidence that Employee ever entered the office. In mitigation, Employee was the primary caregiver for an ill family member. In aggravation, Employee was the subject of two prior administrative inquiries, one for falsifying WebTA by claiming overtime that Employee did not work. Moreover, Employee continued to commit time and attendance fraud after being counseled by management and told the matter was being referred to Inspection.

PENALTY: Resigned after being proposed for dismissal

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

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](#).