

OPR Quarterly Email January 2019, Volume 52

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(U//FOUO) **OPR's Quarterly All Employee E-Mail – January 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 (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, please 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) **Felony:** Employee provided a false birth date on a U.S. Passport Application and altered Employee's birth certificate in support of the false application. Employee was prosecuted for and convicted of passport fraud. In mitigation, Employee had several years of FBI service and a positive performance record. In aggravation, Employee admitted knowing the conduct was illegal and also provided false information on official FBI documentation on more than one occasion. Employee's misconduct harmed the FBI's reputation as the conviction was reported by various media outlets. Employee's conduct was fundamentally at odds with the FBI's Core Values.

PENALTY: Dismissal

OFFENSE: False Information – Official Matters, [Offense Code 2.4](#)

2. (U//FOUO) **Unprofessional Conduct; Lack of Candor Not Under Oath:** After a supervisor did something with which Employee disagreed, Employee altered the supervisor's SACS badge access so that the supervisor could not badge into the office. When questioned about the incident, Employee falsely denied having done so. An audit of the SACS badge system showed that Employee was responsible for the SACS badge modification. In mitigation, Employee had nine years of FBI service, a good performance record, and received several awards. In aggravation, Employee held a special position of trust over SACS badge access authority, and Employee's misuse of this authority detracted from the FBI's mission and violated the FBI's Core Values of Respect, Integrity, and Accountability.

PENALTY: 60-day suspension

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

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

3. (U//FOUO) **DUI; Misuse of Position:** When pulled over by the local police for driving while intoxicated, Employee immediately displayed FBI credentials and told the police that Employee was "FBI but unarmed." Employee was off-duty and had no official purpose for using FBI credentials or mentioning FBI affiliation. Employee was arrested and pled guilty to DUI. In mitigation, Employee had 10 years of FBI service. In aggravation, Employee's BAC was twice the legal limit. Additionally, Employee endangered the lives of the two passengers in the vehicle, including a child. Employee displayed a gross lack of judgment and poor decision-making that tarnished the reputation of the Bureau with local law enforcement.

PENALTY: 60-day suspension

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

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

4. (U//FOUO) **Unauthorized Outside Employment:** Employee established a non-profit organization a number of years ago and served as a co-director. At the time, FBI policy did not require pre-approval for such activity. However, the policy has since been amended, see [FBI's Ethics and Integrity Program Policy Guide](#) (0754PG, February 2, 2015), and now requires employees to "receive prior approval for any participation that extends beyond simple membership in an organization" (paragraph 4.8.7.1(f)). The Ethics Guide specifically states that "[p]articipation beyond simple membership includes service as [a] ... director..." and an Employee whose participation exceeds simple membership "must submit" an FD-331 (Outside Employment) for approval. Employee failed to submit an FD-331 for approval after the policy changed several years ago.

PENALTY: Letter of Censure

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

5. (U//FOUO) **Failure to Safeguard Weapon:** Employee parked a Bucar in the driveway of Employee's residence over the weekend and left a Bureau-issued weapon unsecured under the driver's seat. The car was broken into and the weapon stolen. According to the [FBI Firearms Policy Guide](#) (0888PG), "[o]utside of emergency or exigent circumstances, a firearm must never be left unsecured or unattended in the passenger compartment of a car[.]" Furthermore, "[o]vernight or long-term storage of firearms in a vehicle requires prior written approval via a serialized EC from a GS-15 supervisor (or higher) who is in the direct chain of command of the requestor," which Employee did not have.

PENALTY: 3-day suspension

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

6. (U//FOUO) **Fraud/Theft:** Employee was involved in an illegal check kiting scheme at two local banks. In mitigation, Employee had more than 20 years of FBI service and received numerous awards. In aggravation, the check kiting occurred hundreds of times over 2 ½ years. Employee was put on notice that check kiting was illegal, but continued the conduct for several months thereafter. Employee's conduct was dishonest, fraudulent, and contrary to the FBI's Core Values.

PENALTY: Employee resigned after being proposed for dismissal

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

7. (U//FOUO) **Indecent Acts:** Employee received a hardship TDY related to spouse's treatment for a terminal illness. While TDY, Employee engaged the services of a prostitute and moved her into a local hotel and provided her a rental car. The prostitute used the hotel room to meet clients and use drugs. Hotel management contacted the local police, who opened an investigation. Employee admitted paying the prostitute (and another prostitute) for sex. After Employee's TDY was terminated, Employee continued to see the prostitute. [The Attorney General Memorandum, Prohibition on the Solicitation of Prostitution](#) states that all DOJ personnel, including FBI personnel, "are prohibited from soliciting, procuring, or accepting commercial sex" regardless of whether they are off duty or the activity is legal or tolerated in the particular jurisdiction in which it occurred. Such activity is in absolute conflict with the FBI's law enforcement mission.

PENALTY: Dismissal

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

8. (U//FOUO) **Misdemeanor:** Employee was cited for failing to provide proof of current vehicle registration when stopped by the local police. Employee had timely renewed the vehicle registration, but had failed to place the new sticker on Employee's vehicle, a misdemeanor in the state in which it occurred.

PENALTY: Letter of Censure

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

9. (U//FOUO) **Unprofessional Conduct:** After a romantic relationship ended, Employee removed certain jointly-owned property from the apartment of Employee's former significant other and damaged other property. Although no criminal charges were filed, Employee was arrested for vandalism and theft. In mitigation, Employee had an excellent performance record and expressed sincere remorse for the misconduct. In aggravation, Employee's arrest harmed the FBI's reputation with the local police and prosecutors.

PENALTY: 14-day suspension

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

10. (U//FOUO) **Unprofessional Conduct:** Probationary Employee attended a conference for work. Following the conference, there was a networking event and dinner. After the dinner, Employee went to a bar with several other conference participants. Employee became extremely intoxicated, grabbed several people in an inappropriate manner, and was escorted from the premises. One of the people grabbed by Employee later pursued criminal charges and Employee was charged with three counts of misdemeanor battery. In mitigation, Employee was highly respected by the Division and expressed sincere remorse. In aggravation, Employee committed the misconduct while on official travel and Employee's FBI employment was known to many, including other conference participants, the victims of the assaults, and local law enforcement. Employee's behavior demonstrated a serious lack of judgment and sound decision-making expected of all FBI employees. Additionally, Employee was still probationary at the time of the incident, knew any misconduct would be subject to heightened scrutiny, had received recent training on the FBI's Core Values, and was warned about possible consequences should Employee violate the FBI's rules.

PENALTY: Dismissal

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

11. (U//FOUO) **Unprofessional Conduct:** Employee slapped a same sex coworker's butt. The coworker took exception. In mitigation, Employee had no ill intent, did not mean to offend the coworker, had 20 years of FBI service, an excellent performance record, numerous awards, and the support of the Division.

PENALTY: Letter of Censure

OFFENSE: Unprofessional Conduct – On 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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