May 28, 2021

Zoe Tillman
zoe.tillman@buzzfeed.com

Subject: Freedom of Information/Privacy Act Request [21-OIG-034]

Dear Ms. Tillman:

This is in response to your Freedom of Information Act request to the Office of the Inspector General (OIG). Specifically, your request seeks the OIG report related to the Investigative Summary entitled: "Findings of Misconduct by an Assistant United States Attorney for Sexually Inappropriate Comments to Multiple Individuals, Inappropriate Touching of an Intern's Breast, and Lack of Candor to the OIG."

The report responsive to your request has been reviewed. It has been determined that certain portions of such report be excised pursuant to the Freedom of Information Act, 5 U.S.C. §552(b)(6) and (7)(C). Consequently, please find enclosed that information which can be released pursuant to your request. We consider this response as closing your request with the OIG.

If you are not satisfied with OIG's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: https://www.justice.gov/oip/submit-and-track-request-or-appeal. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552 (2012 & Supp. V 2017). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Deborah Waller, at (202) 616-0646 for any further assistance with your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and

Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448.

Sincerely,

Deborah M. Waller

Deborah M. Waller
Supervisory Government Information Specialist
Office of the General Counsel

Enclosure

# REPORT OF INVESTIGATION

| SUBJECT | CASE NUMBER |
|---|---|
| [redacted]<br>Assistant United States Attorney<br>[redacted] | [redacted] |

| OFFICE CONDUCTING INVESTIGATION | DOJ COMPONENT |
|---|---|
| Detroit Area Office | Executive Office for United States Attorneys |

| DISTRIBUTION | STATUS |
|---|---|
| ☒ Field Office CFO | ☐ OPEN ☐ OPEN PENDING PROSECUTION ☒ CLOSED |
| ☒ AIGINV | PREVIOUS REPORT SUBMITTED: ☐ YES ☒ NO |
| ☒ Component EOUSA | Date of Previous Report: |
| ☐ USA | |
| ☐ Other | |

## SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for United States Attorneys (EOUSA) alleging that from [redacted], United States Attorney's Office (USAO) [redacted] Assistant United States Attorney (AUSA) [redacted] may have physically and verbally sexually harassed, to include deliberately running his arm across the breast of, then USAO-[redacted] Intern [redacted]

During the course of the investigation, the OIG found indications that [redacted] may also have made sexually suggestive comments to USAO [redacted] AUSA [redacted] sent sexual comments over social media to Federal Bureau of Investigation (FBI), [redacted], Forensic Analyst [redacted]; and made sexual comments to U.S. Postal Inspection Service, [redacted], Postal Inspector [redacted]. In addition, the OIG found indications that [redacted] may have lacked candor during an OIG interview when questioned about using his government laptop computer to access social media sites.

The OIG investigation substantiated the allegations that [redacted] engaged in sexually harassing conduct by making sexually inappropriate comments to [redacted] and [redacted], all in violation of federal regulations regarding sexual harassment and employee conduct, as well as in violation of DOJ Policy prohibiting sexual harassment in the workplace. The OIG also concluded that [redacted] unwelcome touching of [redacted] breast violated [redacted], Sexual Imposition, a misdemeanor. The OIG further found that [redacted] lacked candor in his OIG interview, in violation of DOJ policy.

| | | | |
|---|---|---|---|
| **DATE** | November 5, 2020 | **SIGNATURE** | [redacted] |
| **PREPARED BY SPECIAL AGENT** | [redacted] | | |
| **DATE** | November 5, 2020 | **SIGNATURE** | William Hannah Digitally signed by WILLIAM HANNAH Date: 2020.11.05 17:02:38 -06'00' |
| **APPROVED BY SPECIAL AGENT IN CHARGE** | **William J. Hannah** | | |

The USAO [redacted] was recused from the investigation. The USAO [redacted] and the [redacted] Prosecutor's Office declined criminal prosecution of [redacted].

The OIG has completed its investigation and is providing this report to the EOUSA and DOJ's Office of Professional Responsibility for appropriate action.

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).

# DETAILS OF INVESTIGATION

## Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for United States Attorneys (EOUSA) alleging that from [redacted], United States Attorney's Office (USAO) [redacted] Assistant United States Attorney (AUSA) [redacted] may have physically and verbally sexually harassed, to include deliberately running his arm across the breast of, then USAO-[redacted] Intern [redacted].

During the course of the investigation, the OIG found indications that [redacted] may also have made sexually suggestive comments to USAO [redacted] AUSA [redacted]; sent sexual comments over social media to Federal Bureau of Investigation (FBI), [redacted], Forensic Analyst [redacted]; and uttered sexual comments to U.S. Postal Inspection Service, [redacted], Postal Inspector [redacted]. In addition, the OIG found indications that [redacted] may have lacked candor during an OIG interview when questioned about using his government laptop computer to access social media sites and claiming to have informed other colleagues at the USAO-[redacted] about his concerns regarding [redacted] allegedly filing a false sexual harassment allegation against him.

## Investigative Process

The OIG's investigative efforts consisted of the following:

Interviews of the following USAO-NDOH personnel:

- [redacted], AUSA

[redacted]

[redacted] AUSA

[redacted]

[redacted] (former) Intern

[redacted]

Interviews of the following FBI [redacted] personnel:

[redacted] Financial Investigative Analyst

Interviews of the following personnel:

[redacted]

Review of the following:

- Cyber Investigations Office (CIO) forensic analysis o [redacted] government laptop computer.
- Justice Security Operation Center (JSOC), Internet History Logs for [redacted] government laptop computer.
- Verizon Wireless records for [redacted] personal cell phone.
- Training information from the Offices of the United States Attorneys, National Advocacy Center.
- Training records from the USAO-[redacted]
- Facebook Messenger and Instagram Messages the OIG received from [redacted]
- Emails, text messages, Skype messages, Facebook Messenger messages the OIG received from [redacted]

## Background and Authority

[redacted] Sexual Imposition (misdemeanor), prohibits engaging in sexual contact with another, either knowing or recklessly disregarding that the contact is offensive to the other person. The Penal Code defines sexual contact to include touching of another's breast.

29 C.F.R. § 1604.11, "Sexual Harassment," states in pertinent part the following:

> (a) Harassment on the basis of sex is a violation of section 703 of title VII. 1 Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
> ...
> (b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.
> ...
> (d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

> 5 C.F.R. § 735.203, "Employee Responsibilities and Conduct" states in pertinent part the following: "an employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

The DOJ, Office of the Attorney General, Prevention of Harassment in the Workplace, Policy Memorandum 2015-04, states in part:

> The Department of Justice will maintain a zero tolerance work environment that is free from harassment (including sexual harassment) based on sex, race, color, religion, national origin, gender identity, age, disability (physical or mental), genetic information, status as a parent, sexual orientation, marital status, political affiliations, or any other impermissible factor. . . . Harassing conduct is defined as any unwelcome verbal or physical conduct that is based on any of the above-referenced characteristics when this conduct explicitly or implicitly affects an individual's employment; unreasonably interferes with an individual's work performance; or creates an intimidating, hostile, or offensive work environment.

The DOJ Memorandum for Heads of Department Components Regarding Sexual Harassment and Sexual Misconduct, dated April 30, 2018, sets forth policies and procedures to ensure that: (1) substantiated allegations of sexual harassment or misconduct result in serious and consistent disciplinary action, (2) components report allegations of sexual harassment or misconduct to the Office of Inspector General and the components' security divisions when appropriate, (3) components appropriately consider allegations of or disciplinary actions for sexual harassment or misconduct in making decisions about awards, public recognition, or favorable personnel actions, and (4) components can be held accountable for their handling of allegations of sexual harassment and misconduct.

## [redacted] Sexual Harassment and Unwelcome Sexual Touching of [redacted]

The information provided to the OIG alleged that from [redacted] may have physically and verbally sexually harassed [redacted]

[redacted] told the OIG that from [redacted], [redacted] made several inappropriate sexual comments to her, and on one occasion, touched her breast. [redacted] explained that their communication with each other started out as jovial, back-and-forth banter. However, [redacted] told the OIG that, as time went on, [redacted] sexual comments increased, made her feel uncomfortable, and often interfered with [redacted] ability to complete her work. [redacted] said that [redacted] talked about his sexual relationship with his wife, and on another occasion, he asked [redacted] if sex with [redacted] was "that good." [redacted] stated that [redacted] made comments about [redacted] physique, and on one occasion, he sent [redacted] a social media message to ask her why she haunted his dreams. [redacted] stated that [redacted] sent pictures to her, via either text message or through a social media platform, of himself working out in a tank top t-shirt in one photo and in his bathroom without a t-shirt in another photo. [redacted] said that during another occasion [redacted] brushed his arm against [redacted] breast while reaching for a law book and stared at her the entire time. [redacted] said that [redacted] behavior made her uncomfortable and caused her to move from her assigned workstation to other employees' work areas to avoid him.

[redacted] told the OIG that [redacted] told him that [redacted] felt uncomfortable around [redacted] and that [redacted] tried to avoid [redacted] while in the [redacted]. [redacted] said that he noticed [redacted] frequented the [redacted] Office's front desk instead of getting her work done. [redacted] said that [redacted] told him about a conversation [redacted] had with [redacted] concerning an alleged relationship [redacted] had with an [redacted] [redacted] said that he thought this was an inappropriate topic for [redacted] to discuss with [redacted]. [redacted] said that [redacted] told him in a later conversation that he had screwed up by sending [redacted] text messages in which he indicated his willingness to engage in a sexual relationship with her. However, [redacted] stated that [redacted] denied, in an unsolicited comment, that he groped [redacted].

[redacted] told the OIG that [redacted] told her that [redacted] had touched her breast while they

worked in the [redacted]. [redacted] said that she read Facebook Messenger messages [redacted] received from [redacted] and although [redacted] could not remember the specific content of the messages, she believed they were inappropriate and flirtatious. [redacted] said that [redacted] told her [redacted] behavior made her uncomfortable [redacted] described one occasion when [redacted] came into [redacted] office and closed the door soon after [redacted] arrived at the [redacted] Office in order to avoid him. [redacted] thought [redacted] behavior towards [redacted] interfered with [redacted] ability to get her work done as an intern.

[redacted] told the OIG that [redacted] told her that [redacted] sent [redacted] sexual messages on various social media platforms and tried to pursue her. [redacted] said that [redacted] told her that she did not want to report [redacted] behavior because she was concerned it may have a negative effect on her ability to obtain future employment at the USAO. [redacted] believed [redacted] made [redacted] uncomfortable, and that his behavior towards [redacted] created a situation where [redacted] could not work at her own station because she wanted to avoid [redacted] [redacted] said that [redacted] began sitting with [redacted] at her desk location to hide from [redacted]

[redacted] told the OIG that [redacted] told him that, while at the USAO, [redacted] stood over her and tried to look down her shirt. [redacted] said that [redacted] also described an incident in which [redacted] brushed up against her breast while in the [redacted]. [redacted] recalled [redacted] receiving several messages from [redacted] that were sexual in nature, either via text or Facebook Messenger. [redacted] stated that, in one of the messages, [redacted] implied [redacted] should provide him with a sexual favor in exchange for a letter of recommendation, and in another message [redacted] commented on [redacted] physique and told her how good she looked. [redacted] vaguely recalled [redacted] telling him about a social message she received from [redacted] in which [redacted] asked [redacted] why she haunted his dreams. [redacted] told the OIG that he advised [redacted] to report [redacted] inappropriate behavior.

[redacted] the OIG conducted consensually monitored cell phone text communications between [redacted] and [redacted] In these communications, [redacted] texted [redacted] that he was surprised [redacted] [redacted] made references to [redacted] buttocks, including comments about their size and that [redacted] could not wait to "have them." [redacted] condemned [redacted] for making him think about it (sex) again, as he had tried to put her out of his mind. [redacted] stated he was going for a run and ended their conversation.

In a voluntary interview, [redacted] told the OIG that he worked with [redacted] from [redacted], and admitted he was sexually attracted to her. [redacted] stated that he and [redacted] discussed her romantic relationships, but he said that was not inappropriate because [redacted] initiated the conversations. [redacted] stated that he had written a letter of recommendation for [redacted] and may have asked her what he would get out of it, but he said he was referring to possibly lunch or drinks with her, not sex. [redacted] said that he probably sent messages to [redacted] that referenced her physique, and reasoned he tried to help her low self-esteem. [redacted] acknowledged that he sent [redacted] a Skype message which referred to sex between [redacted] and her boyfriend and asked if it was really that good and that he talked to [redacted] about his sexual relationship with his wife. [redacted] admitted he should not have engaged in this type of communication with [redacted] and explained he has a character flaw when women flirt with him. [redacted] stated that he did not believe his actions rose to the level of sexual harassment, and he denied touching [redacted] breast. [redacted] declined to submit to a voluntary OIG-administered polygraph and said he believed the tests were unreliable.

The USAO [redacted] was recused from the investigation. The USAO [redacted] and the [redacted] Prosecutor's Office declined criminal prosecution of [redacted].

*OIG's Conclusion*

The OIG investigation concluded that [redacted] sexually harassed [redacted] both physically and verbally by conveying sexually charged communications to her and physically touching [redacted] breast. The OIG found [redacted] account of her interactions with [redacted] including that he touched her breast without her consent, to be more credible than [redacted] account, particularly in light of the corroboration provided by the OIG's interviews of other witnesses and the consensually monitored text messages. The OIG further credited [redacted] account that [redacted] conduct caused her to be uncomfortable and interfered with her ability to conduct her work at the USAO. The OIG finds by a preponderance of the evidence that [redacted] conduct violated [redacted], Sexual Imposition. The OIG further finds that [redacted] conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

## [redacted] Sexual Harassment of [redacted]

During the course of the investigation, the OIG found indications that [redacted] may have made comments to FBI Financial Investigative Analyst [redacted] which were sexual in nature and made her feel uncomfortable.

[redacted] told the OIG that she attended a retirement gathering for [redacted] [redacted] told the OIG that during that gathering [redacted] watched [redacted] talk in close proximity to a waitress and slap her buttocks as she departed when the conversation ended.

[redacted] told the OIG that she was standing next to [redacted] while this occurred and that she also witnessed [redacted] inappropriate behavior with the waitress. [redacted] further stated that [redacted] had made statements to her over several years, which [redacted] described as comments he probably should not have made which had distracted [redacted] from her work at the FBI. [redacted] said that some of [redacted] comments were flirtatious or contained sexual connotations, such as remarks about [redacted] physique and wanting to hold [redacted] during yoga. [redacted] stated that the comments made [redacted] uncomfortable and caused her to re-think her official meetings with [redacted] [redacted] said that she subsequently ensured someone else was available to attend any required in-person meetings she had with [redacted]. [redacted] stated that she did not have this concern with others with whom she had to meet during the course of her official duties at the FBI. [redacted] provided the following Facebook and Instagram messages she received from [redacted] from [redacted]

- So wait…I can do a class (Yoga) when I hold you up and you hold me up, and we are all touching on each other?? Where do I sign up? ☺ ☺
- So u r single…hmmmmm. *[sic]*
- Did I mention that [redacted] and I have been talking about taking a break and I do Yod. Yog. Yoga. *[sic]*
- You are gorgeous…U know that. *[sic]*
- U r brilliant. And you have a body that does not quit…*[sic]*
- Yeah…Get that. But think of all the strange you are going to get…
- Not a guy on this planet u can't get.? *[sic]*
- Nothing better than pleasing a woman.
- Just know I think u r amazing. And hope u find a guy who realizes that and u think the same about. *[sic]*
- So who is this new guy? An agent? An AUSA?
- Why t u ignoring me?? *[sic]*

In a voluntary interview, [redacted] told the OIG that he thought [redacted] was an attractive woman, but he was not sexually interested in her. [redacted] said that [redacted], and he knew [redacted] was not interested in him. [redacted] admitted he sent [redacted] the aforementioned messages and knew some of the comments made her feel uncomfortable. [redacted] stated that he believed he apologized to [redacted] for the comments. [redacted] stated that he was not sure why he continued to send [redacted] these types of messages after she sent him several subtle messages asking him to stop sending them. [redacted] said it may have been late at night or after he had a

couple of drinks (alcohol) when he sent them. [redacted] declined to submit to a voluntary OIG-administered polygraph and said he believed the tests were unreliable.

*OIG's Conclusion*

The OIG investigation concluded [redacted] sent [redacted] messages of a sexual nature which interfered with [redacted] work environment. The OIG found that [redacted] account of [redacted] conduct was corroborated in large part by the messages [redacted] provided to the OIG, and the OIG credited her statement that [redacted] conduct made her feel uncomfortable being alone with him. The OIG therefore found that [redacted] actions constituted administrative misconduct in violation of federal regulations regarding sexual harassment and employee conduct as well as DOJ policy prohibiting sexual harassment in the workplace.

## [redacted] Sexual Harassment of [redacted]

During the course of the OIG's investigation, the OIG found indications that [redacted] may have also made inappropriate comments to AUSA [redacted], by suggesting that she was having a sexual affair with another AUSA [redacted].

[redacted] told the OIG that [redacted] voiced concerns that [redacted] made her feel uncomfortable. However, [redacted] could not recall the specific details of the incident(s [redacted] recounted. [redacted] recalled the conversations she had with [redacted] and others started when individuals expressed their general concerns about [redacted] elevated intoxication level during a social gathering at a bar and his desire to drive home.

[redacted] stated that when she first started at the USAO-[redacted] entered her office, looked at a picture of her and her husband, and said [redacted] was better looking than her husband, which caused [redacted] to feel uncomfortable. [redacted] stated that she and [redacted] worked together in [redacted] to prepare for trial when [redacted] had seen the two enter the building during a weekend; [redacted] later made comments to both [redacted] insinuating that [redacted] was having an affair with [redacted]. [redacted] described [redacted] comments as unprofessional and inappropriate, and she again felt uncomfortable. [redacted] stated that on another occasion, [redacted] told [redacted] about a previous sexual harassment complaint filed against him by [redacted] in the office. [redacted] said that during their conversation, [redacted] told [redacted] he did not sexually harass the woman as alleged and said he did not think she was attractive. [redacted] However, [redacted] said that [redacted] purchased a pair of earrings and two necklaces for her, which struck her as odd and made her feel uncomfortable.

[redacted] told the OIG that he and [redacted] previously worked together at the [redacted] and more currently at the USAO-[redacted] said that he learned from others about alleged sexual harassment claims against [redacted] during his previous employment at a private law firm and while he was employed at [redacted]. [redacted] said that in [redacted], he and [redacted] spent a lot of time with each other as they prepared for a trial. [redacted] opined that this made [redacted] jealous, because [redacted] was attracted to [redacted] [redacted] said that during that time period, [redacted] saw [redacted] and [redacted] together in a vehicle as they drove into the USAO building, because [redacted] forgot her Personal Identity Verification card to gain access through the building's garage. [redacted] said that shortly afterward, [redacted] texted [redacted] suggesting [redacted] was having an affair with [redacted]. [redacted] said that he responded to [redacted] by saying he did not need to deal with [redacted] texts, because trial preparation was stressful enough. [redacted] said that [redacted] responded he was just joking. [redacted] said that he had a discussion with [redacted] about [redacted] texts, but [redacted] was not sure if [redacted] and [redacted] talked about the comments.

On [redacted] in a voluntary interview, [redacted] told the OIG he asked [redacted] through either email or text messaging if [redacted] was having a sexual affair with [redacted] and said he made the comment in jest. [redacted]

said that [redacted] became very upset with [redacted] and told [redacted] to stop talking to him during the pendency of a trial. [redacted] said that he discussed the comments he sent to [redacted] with [redacted] but he stated that he could not recall how she responded to the conversation. [redacted] said that after he made the comments to [redacted] and [redacted] he was excluded from the group. [redacted] stated that he used to go out for coffee, and sometimes lunch with [redacted], and others. [redacted] admitted he bought [redacted] jewelry [redacted] and said he did not think of it as an intimate gift because they were very good friends.

*OIG's Conclusion*

The OIG investigation concluded [redacted] made comments to [redacted] and [redacted] insinuating they were having a sexual relationship, which made [redacted] feel uncomfortable and caused an offensive work environment. The OIG credited [redacted] account over [redacted] claim that the comment about [redacted] and [redacted] was made in jest, in large part because of prior inappropriate comments [redacted] made to [redacted] and the unsolicited gifts he gave to her. The OIG further credited [redacted] statement that [redacted] conduct made her feel uncomfortable. The OIG found that [redacted] conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

## [redacted] Sexual Harassment of [redacted]

During the course of the OIG's investigation, the OIG found indications that [redacted] may have also made inappropriate comments to U.S. Postal Inspector [redacted] when he inquired if her husband allowed her to have extra-marital affairs.

[redacted] told the OIG that she heard that [redacted] had made [redacted] uncomfortable, but [redacted] did not provide details about the incident.

[redacted] told the OIG that she worked an investigative case with [redacted] and [redacted] in [redacted], which was adjudicated in the [redacted] Federal Courthouse. [redacted] said that she, [redacted], and [redacted] went to lunch after a court proceeding [redacted] said that during the lunch, [redacted] asked [redacted] if she was married. [redacted] said that she replied she was, [redacted] said that [redacted] asked her if she had a pass, and [redacted] asked for clarification as she did not understand his question. [redacted] said that [redacted] elaborated that [redacted] husband should permit her to have an affair [redacted] opined that even if those comments were made by someone she knew, it would be inappropriate, and since she really did not know [redacted] at that time, the comments really caught her off guard. [redacted] said that she was uncomfortable with [redacted] from that point forward and made sure she was not alone in meetings with him.

[redacted] told the OIG that he could not recall the specific comments [redacted] made to [redacted] nor could he recall how he learned about them. [redacted] believed that he learned about the offensive comments directly from [redacted] but he could have heard them while at lunch with [redacted] and [redacted] [redacted] recalled that [redacted] comments were sexual in nature and pertained to [redacted] husband. [redacted] said that he knew the comments made [redacted] feel uncomfortable, and he believed they had affected her work. [redacted] said that [redacted] had to schedule another agent to attend any meetings she had with [redacted]. [redacted] said that he knew someone reported [redacted] comments to [redacted] to which [redacted] and others were assigned. [redacted] said that he believed [redacted] was removed from the task force after the complaint to [redacted] was filed.

[redacted] told the OIG that sometime in [redacted], he had contacted [redacted] regarding his concerns about the inappropriate comments [redacted] made to [redacted] [redacted] recalled that the comments were sexual in nature, but he could not recall the specifics. [redacted] said that he had also been made

aware of other complaints by female agents about [redacted] inappropriate behavior. [redacted] said that [redacted] arranged to have [redacted] come to [redacted] office to discuss [redacted] concerns. [redacted] said that he met with [redacted] and told him he was aware of [redacted] inappropriate comments to [redacted], and [redacted] said [redacted] must have misunderstood what he said. [redacted] said that he asked [redacted] if he would have made inappropriate comments to [redacted] and others if his wife had been present. [redacted] said that [redacted] did not respond. [redacted] stated that he told [redacted] that if the answer to his question in his head was no, then [redacted] should avoid those types of comments in the work environment.

[redacted], in a compelled interview, [redacted] told the OIG that he learned [redacted] filed a complaint with [redacted], regarding alleged comments [redacted] made to [redacted] during lunch. [redacted] said that he believed [redacted] told [redacted] that [redacted] comments to [redacted] during lunch were inappropriate, and [redacted] was too flirtatious with [redacted]. [redacted] admitted he asked [redacted] about her husband during lunch and reasoned they were general, inoffensive questions. [redacted] stated that [redacted] did not file the complaint against him, rather [redacted] took the initiative, and [redacted] opined [redacted] may have had misplaced motivation to file the complaint based on a past negative encounter between [redacted] and [redacted]

*OIG's Conclusion*

The OIG investigation concluded [redacted] made comments to [redacted] to inquire if her husband would allow her to have a sexual affair while he was away from home, which caused [redacted] to feel uncomfortable and interfered with her work environment. The OIG credited [redacted] account of [redacted] comments, which was corroborated in large part by [redacted] the OIG further credited [redacted] statement that [redacted] comment made her feel uncomfortable and that she did not want to attend meetings alone with him after he made the inappropriate comment to her. The OIG found that [redacted] conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

## [redacted] Lack of Candor

During the course of the investigation, the OIG found indications that [redacted] lacked candor in his voluntary interview with the OIG regarding his access to social media sites on his government laptop.

Justice Manual Section 1-4.200 states in pertinent part:

> All Department employees have an obligation to cooperate with OPR and OIG misconduct investigations (28 C.F.R. § 45.13) and must respond truthfully to questions posed during the course of an investigation upon being informed that their statements will not be used to incriminate them in a criminal proceeding. Employees who refuse to cooperate with OPR or OIG misconduct investigations after having been informed that their statements will not be used to incriminate them in a criminal proceeding may be subject to formal discipline, including removal. Employees are obligated to cooperate and respond truthfully even if their statements can be used against them in connection with employment matters.

As noted above, the OIG learned during this investigation about inappropriate messages that [redacted] sent to certain individuals via social media sites. In light of this information, the OIG asked [redacted] whether he had used his government laptop computer to access those social mediate sites. [redacted] told the OIG that he had not signed into Facebook and Twitter on his government laptop computer and advised he completely avoided those sites on his government laptop computer. [redacted] reasoned that they (USAO) have always told personnel that accessing those sites increased the likelihood of viruses on your computer.

The OIG reviewed the JSOC Internet history logs pertaining to [redacted] government laptop computer, identified

as Internet protocol (IP) [redacted]. The logs showed between [redacted], [redacted] accessed several social media sites, more than 25 times, to include Facebook and Twitter with his government laptop computer. [redacted] advised the OIG that between [redacted] had been assigned exclusively to [redacted] government laptop.

The USAO-[redacted] was recused from the investigation. The USAO [redacted] declined criminal prosecution of [redacted]

*OIG's Conclusion*

The OIG investigation concluded that [redacted] lacked candor in his interview with the OIG when questioned by the OIG about accessing social media sites on his government laptop computer, in violation of DOJ policy. The information was relevant to the OIG investigation in an effort to determine if [redacted] used his government laptop during work hours for any inappropriate communications with others he worked with.