



Office of the Inspector General U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



An Investigation of Alleged Misconduct by Former FBI Special Agent in Charge



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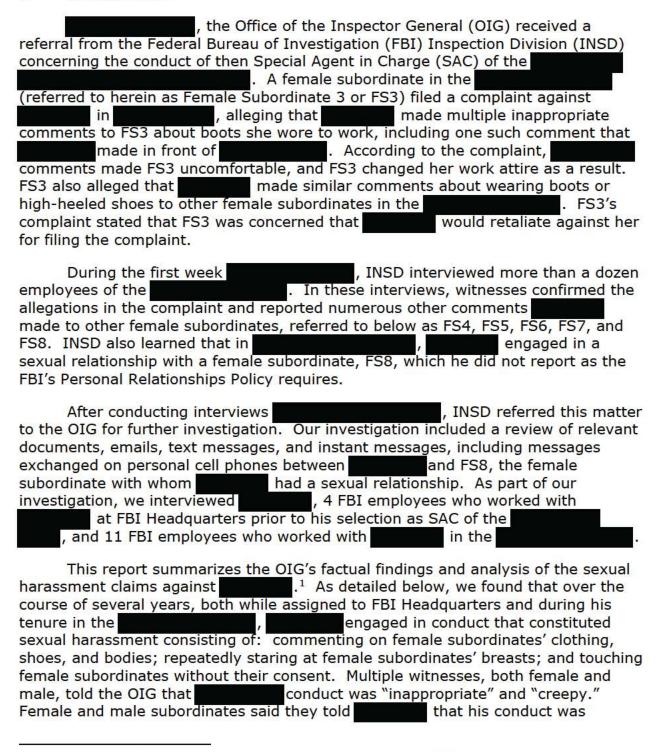
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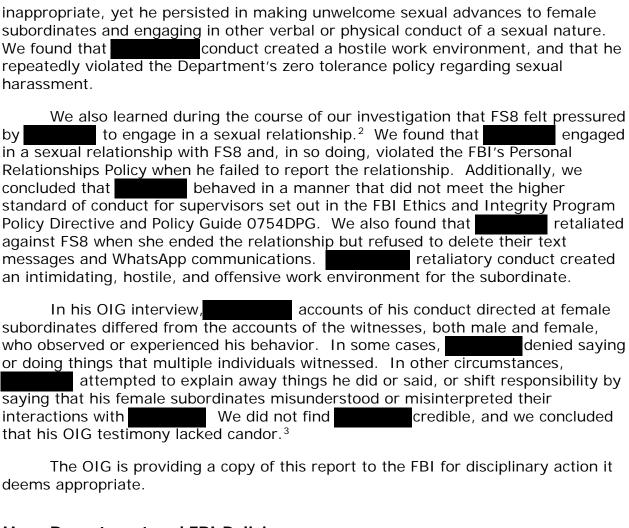


I. Introduction



 $^{^1}$ Unless otherwise noted, the OIG applies a preponderance of the evidence standard in determining whether Department of Justice personnel have committed misconduct. The Merit Systems Protection Board applies this same legal 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).

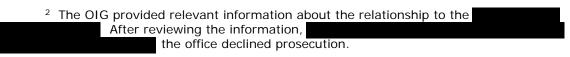




II. Department and FBI Policies

A. Sexual Harassment

Harassment on the basis of sex violates Section 703 of Title VII of the Civil Rights Act, 29 C.F.R. § 1604.11. The Department of Justice has a zero tolerance policy with respect to harassment, including sexual harassment, and has communicated "to its employees in the strongest terms its goal for a workplace free from sexual harassment and sexual misconduct." It is the Department's policy to



³ After reviewing a draft of this report, submitted a response to the OIG stating only that he "reiterates that he provided accurate and candid testimony to the best of his ability."

⁴ Lee J. Loftus, Assistant Attorney General for Administration, *Memorandum for Heads of Department Components, Sexual Harassment and Sexual Misconduct,* (hereinafter *DOJ Sexual Harassment Memorandum*) April 30, 2018 at 1, available at https://www.justice.gov/jmd/page/file/1059401/download (accessed February 28, 2020).



treat sexual harassment as misconduct, even if it does not rise to the level of harassment actionable under Title VII.

Under Department policy, sexual harassment "refers to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature 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, whether such activity is carried out by a supervisor or by a co-worker." ⁵

FBI policy also expressly prohibits sexual harassment. FBI Policy Directive 1038D defines sexual harassment as:

a form of harassment based on sex...[that] is characterized by (1) unwelcome sexual advances; (2) requests for sexual favors; and (3) other verbal, nonverbal, or physical conduct of a sexual nature that is directed at an individual of the same or opposite sex when:

Submission to, or rejection of, this conduct by an individual is made a term or a condition of an individual's employment, either explicitly or implicitly...[or]

This conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

FBI Policy Directive 1038D further states that sexual harassment may include, but is not limited to:

- Oral or written comments of a sexual nature;
- Statements, jokes, or anecdotes with sexual content or innuendos;
- Sexual comments or gestures regarding an individual's body;
- Gestures that contain sexual innuendos or are sexually degrading in nature;
- Physical touching or the threat of physical contact;
- Display of posters, calendars, books, pictures, diagrams, or magazines with sexual content; and
- Persistent pressuring of an individual for a date or a sexual encounter.

FBI Policy Directive 1038D encourages FBI employees to report sexual harassment in the workplace to INSD for investigation. The FBI determines disciplinary action for sexual harassment on a case-by-case basis, based on the FBI Offense Codes and Penalty Guidelines governing the FBI's internal disciplinary process. Discipline may range from an oral reprimand to dismissal from the FBI.

⁵ DOJ Sexual Harassment Memorandum at 2.



B. Personal Relationships Policy, Policy Directive 0802D

The FBI Personal Relationships Policy is set forth in Policy Directive 0802D, dated August 14, 2015. This policy covers two types of relationships—romantic relationships and intimate relationships. A "romantic relationship" is defined as one that "ranges from occasional dating to plans to be married, or other social engagements between two individuals, but which does not include attendance at group social events if the parties do not relate to each other as a couple," while an "intimate relationship" is defined as one that involves sexual contact. Policy Directive 0802D, §§ 15.2.2, 15.2.4.

The Personal Relationships Policy does not prohibit romantic or intimate relationships in the workplace, with the exception of relationships between a student and instructor, mentor and mentee, counselor and client, or supervisor and intern. See Policy Directive 0802D, § 11.1.1.5. However, employees must report the development of romantic or intimate relationships "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." Policy Directive 0802D, § 11.1.2.2. The policy does not specify the time period within which employees who have begun a romantic or intimate relationship must report it.

The policy also prohibits employees who are involved in a romantic or intimate relationship from engaging in physical intimacies in government workspace or vehicles or while on duty. See Policy Directive 0802D, § 11.1.1.3.

Section 11.3.1 of the policy states that once a relationship has been reported, Division and Field Office heads must take proactive measures, such as reassignment of duties or employee transfer, that are necessary to mitigate any adverse consequences of a romantic or intimate relationship and advise the concerned parties about the proactive measures. Division and Field Office heads also should consult with the Office of General Counsel to ensure that any restrictions placed on the parties are reasonable in time and scope. *See* Policy Directive 0802D, § 11.3.2.

Despite the intended scope of this policy, the OIG cautions that romantic or intimate relationships between superiors and subordinates have the potential to create additional problems in the workplace beyond the concerns about favoritism and workplace morale described above. For example, the imbalance of power between superiors and subordinates could call into question the consensual nature of romantic or intimate relationships. In addition, a romantic or intimate relationship between a superior and subordinate that initially is, or appears to be, consensual could later result in a claim of sexual harassment if the relationship deteriorates.

C. FBI Ethics Guide

Similar to the FBI Personal Relationships Policy, the FBI Ethics and Integrity Program Policy Directive and Policy Guide (Ethics Guide) prohibits employees and



their supervisors from engaging in "any relationship, financial or otherwise (romantic, business, or recreational)" that "negatively impacts their ability to maintain a professional and appropriate superior-subordinate relationship[,] or otherwise adversely impacts the completion of the FBI mission." Ethics Guide § 4.7.7.1. The Ethics Guide provides examples of "inappropriate" interpersonal relationships between supervisors and subordinates, stating that FBI personnel in a superior-subordinate relationship "shall not...engage in interpersonal actions that amount to a violation of law or internal regulations." *Id.* at 4.7.7.2. Where these provisions are violated, the Ethics Guide places heightened responsibility for the conduct on supervisors:

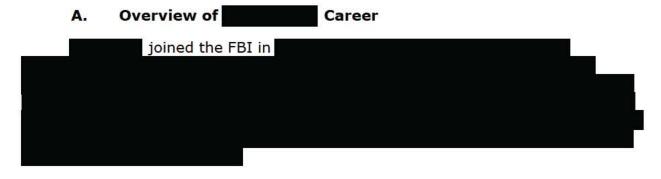
A superior has the greater authority and, hence, the greater responsibility to avoid creating appearances of preferential treatment or other improper conduct. As a result of this greater responsibility and the inequality inherent in the superior-subordinate relationship, a superior is held to a higher standard than a subordinate when improprieties are addressed in the disciplinary or administrative process.

Id. at 4.7.7.1(c).

D. Lack of Candor

FBI Offense Code 2.6, entitled "Lack of Candor—Under Oath," prohibits FBI employees from "[k]nowingly providing false information in a verbal or written statement made under oath." Under this offense code, lack of candor is defined to include "false statements, misrepresentations, the failure to be fully forthright, or the concealment or omission of a material fact/information."

III. Factual Findings



The OIG interviewed employees from tenure at FBI Headquarters in because we were told of one instance of an inappropriate statement about a female subordinate at the conduct toward female subordinates at was similar to the allegations from the was a supervisor in other FBI field offices.

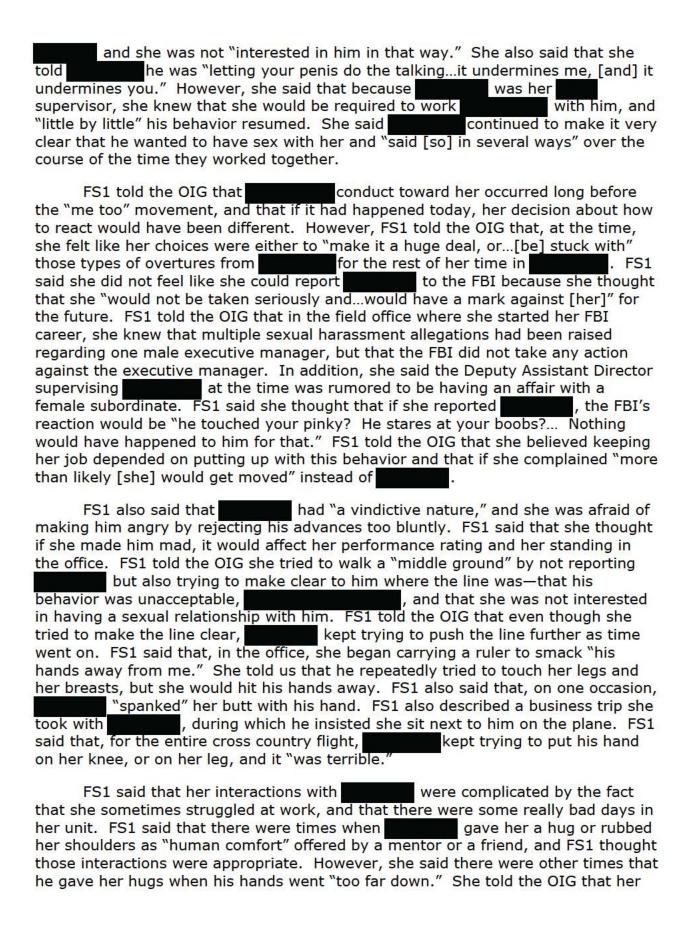


В. **Conduct as Section Chief** Multiple witnesses from tenure at reported that surrounded himself with female subordinates, and that he stared at them or touched them in a manner they considered inappropriate. A witness from the stated that tended to have a number of women visiting his office who were not directly within his chain of command, and that employees referred to these women collectively as "harem." The OIG interviewed two female subordinates from behavior when he was a who personally experienced Section Chief. The OIG also interviewed two other subordinate employees who witnessed behavior and statements toward others in their office. These interviews, detailed below, established that violated the FBI's sexual harassment policy. conduct in Witnesses in told the OIG that was "a ladies man" who was "incapable of stopping himself" from behaving inappropriately with women. These witnesses also provided numerous examples of making statements to and about female subordinates and engaging in conduct toward female subordinates in the office that witnesses considered inappropriate. When the OIG interviewed , he denied making statements to and about female subordinates and engaging in conduct that witnesses alleged. these allegations "ridiculous" and untrue. Below we describe the allegations female response to those allegations, and subordinates in made, the corroborating information we learned during the course of our investigation. Female Subordinate 1 1. a. Female Subordinate 1's Allegations One of female subordinates in (referred to herein as Female Subordinate 1 or FS1) told the OIG that, while she was in "came across as a man who loved the ladies." FS1 said that commented on the clothes and shoes of women in the office, but that he was not the only man who did that. FS1 said that once told her that his management approach was to compliment men on their capacity and accomplishments but compliment women on how they looked. FS1 also told the liked to look at women's legs as they walked down the hallway, OIG that stared at FS1's breasts. FS1 told the OIG that and that who acted in this way, and she not the only male employee in characterized as a "very toxic environment." FS1 told us about an interaction she had with in which was toward the beginning of the time they worked together in . FS1 said that she was standing next to in the hallway of their offices when he intentionally touched her finger with his finger. She said that she was "in shock," there was "no way" that the contact was unintentional, and that she viewed it as

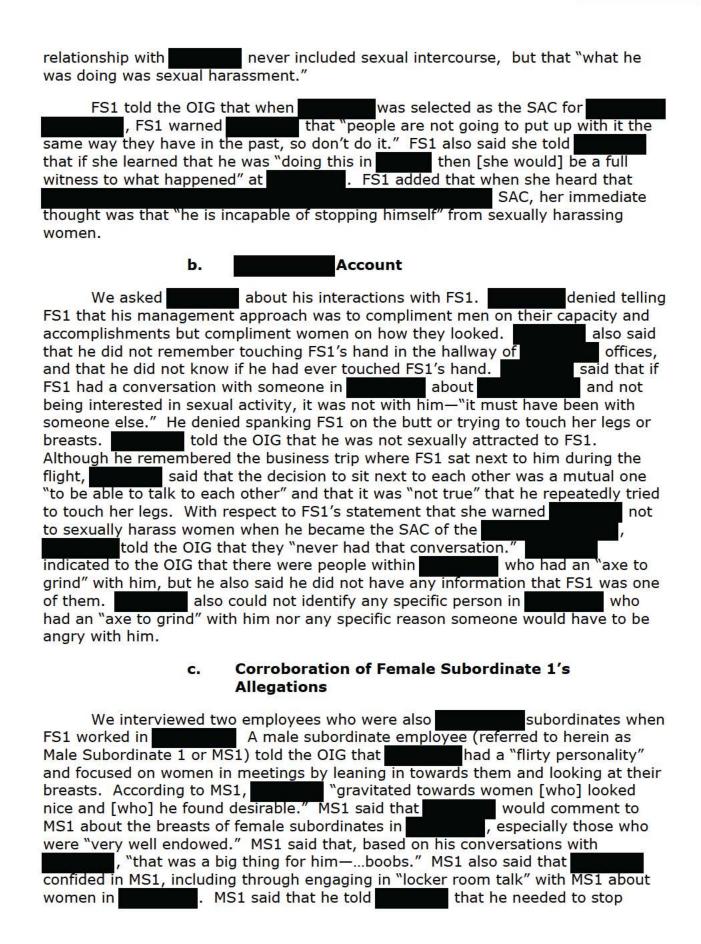
"an invitation by him." FS1 told the OIG that, following that incident, she had "a

very blunt and honest conversation" with to make it clear that







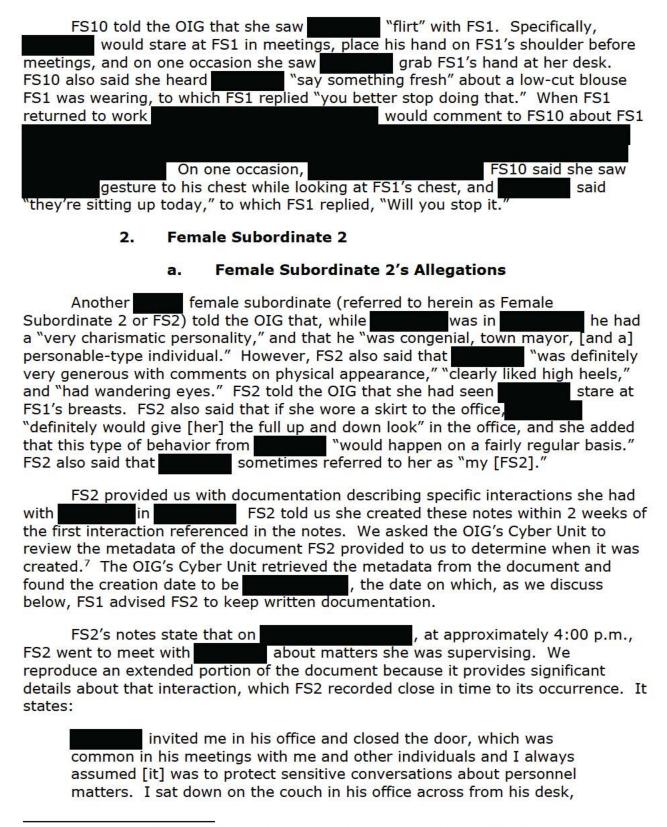




commenting inappropriately on female coworkers or he would "get himself into trouble." However, MS1 told the OIG he did "not take significant steps" to address conduct, such as filing a report, "because he was my boss." MS1 told the OIG that made comments about FS1 that "demonstrated interest in being around her." He recalled times when FS1 and other women were in the office discussing work and would abruptly end work conversation and ask personal questions of the women about their plans and careers. MS1 also said that, in meetings with attractive, young women, had "kind of a shtick" in that would "turn to them, focus on them a little more,...lean forward in his chair...[and] really pay attention" in a way would not do with women he did not find attractive. During such interactions, MS1 said that would turn in his chair to face the attractive woman, "put his elbows on his knees, lean forward, and talk a little bit differently." MS1 also said that "a couple of times" during such meetings, MS1 would glance back...at and would be obviously...glancing down from [their] eyes to somewhere lower than the eyes...and I could see that he was moving his eyes up and down. Now whether he was specifically looking at their chest or not, I don't know, [but] I would surmise that was exactly what he was doing. MS1 said that behaved in this way with women only and only with those women who he found attractive. MS1 also said that when a woman who found attractive would leave the room, would comment to MS1 about her breasts or make inappropriate gestures—such as simulating masturbation with a hand gesture. MS1 told the OIG that he believes commenting on the appearance of women in the office is not appropriate behavior. MS1 believed that interacting with certain women in the office as a "benefit" and "a playful thing that he does." He said that complimented women he found attractive on their had a jovial personality, was clothes, hair, and jewelry. MS1 said that "soft on his style," and "never wanted to be the bad guy in the room"; and MS1 did had "an axe to grind" with not believe anyone in The second corroborating employee we interviewed in (referred to herein as Female Subordinate 10 or FS10) said that was a man who "loved the ladies," was "smooth" with women who he found attractive, and "was flirtatious." FS10 told us that she also heard compliment women on their jewelry and said that would comment to one woman in particular about her lipstick when she came to visit the area where worked, FS10 said like to watch women walking down the hallway outside offices and had "wandering eyes." She also heard the phrase harem" around but was not certain of how that phrase came to be. referred to FS10 as "my [FS10]," which she said was not offensive to her. FS10 "was loved as a manager" and was a "people pleaser" in and said that she was not aware of anyone in who "had an axe to grind"

with him.





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and he sat on the couch next to me. Again, I did not perceive this to be out of the ordinary as he often did this when I met with him, and I often observed him sitting on the couch with other colleagues and subordinates during meetings. However, during this meeting he sat much closer to me than usual, less than 1 foot away. He had his legs crossed toward me. I ignored this and began running through my list of updates on tasks for the day. During that time, I felt a touch on my knee which I observed to be his hand, which was resting on his crossed leg. At first I could not discern if this was intentional or simply due to his close proximity, but it persisted. I continued talking about business but moved my leg slightly to be further out of reach. Our conversation continued and I moved on to brief him on another topic, during which time he reached up and touched my hair near my ear. I asked him something to the effect of "Oh, do I have something in my hair?" His response was "No, you just have the cutest little ears" and tugged on my ear lobe. I said no, I don't, and rolled my eyes at which point he stopped touching my ear/hair and changed the subject. Our conversation continued for another 10-15 minutes, during which we spoke about my [future] job prospects and his potential selection as SAC. He stated that he knew I was under a lot of stress but that everything was going to work out. I thanked him for his support, looked at the time and indicated that I needed to leave . He asked me several times "please don't go," and I said that I needed to, to which he eventually sighed and said okay. At that point we both stood up and he approached me to give me a hug. SC is a known "hugger" so this in itself was not unusual. However, when he hugged me he also gave me a kiss on my cheek. We said our goodbyes and I hurried out of the office, mostly because I was in shock and still processing everything that had just happened, since I had never had an interaction of that nature with SC or any other colleague, like that in my years in the FBI.

FS2's notes state that when she arrived home that evening, she was "shaken and ended up crying"

FS2 told the OIG that, in determining what to do about this incident, she

considered whether to file a formal complaint. On the one hand, she said she felt "an inherent loyalty to after working together "because their working relationship had been "very positive...outside the scope of this isolated incident." FS2 also told the OIG that she felt she was in "a very...tenuous spot"

She said she felt like "the stakes were very, very high... and she was worried that filing a formal report "might rock the boat...and create some sort of retaliation on his part." Ultimately, FS2 decided to address the issue with "one-on-one...rather than filing a formal complaint."

FS2's notes state that on the following approximately 9:15 a.m., FS2 asked to speak with about their interaction



the previous Friday. According to her notes, FS2 told that the level of physical contact that occurred between them made her really uncomfortable, and that "it crossed the line." FS2's notes state that immediately said he was sorry and appeared very remorseful. These notes also describe how visited FS2's office at approximately 3:00 p.m. that same day, to ask how she was doing, and reiterate that he was "really sorry." In addition, these notes describe a subsequent conversation between FS2 and FS1, which is discussed below.

FS2 told the OIG that speaking to about his conduct changed the nature of her subsequent interactions with and that became "generally more distant...not unfriendly, but certainly more curt in our interactions." She added that always left his office door open after that, and that she believed he was actively trying to take measures to make sure that she did not feel uncomfortable. Specifically, FS2 stated that "there was no more sitting next to me on the couch, or anything like that."

FS2 told the OIG that, at the time and to the present, she still has "a lot of different feelings going on in terms of the guilt, and the fear, and the confusion," and she believes "anger to a certain degree...as a result of the interaction" that day. She added that she "wanted to believe" that she was the only woman who he ever treated this way, and that she hoped by speaking to him directly it would deter him from similar behavior in the future.

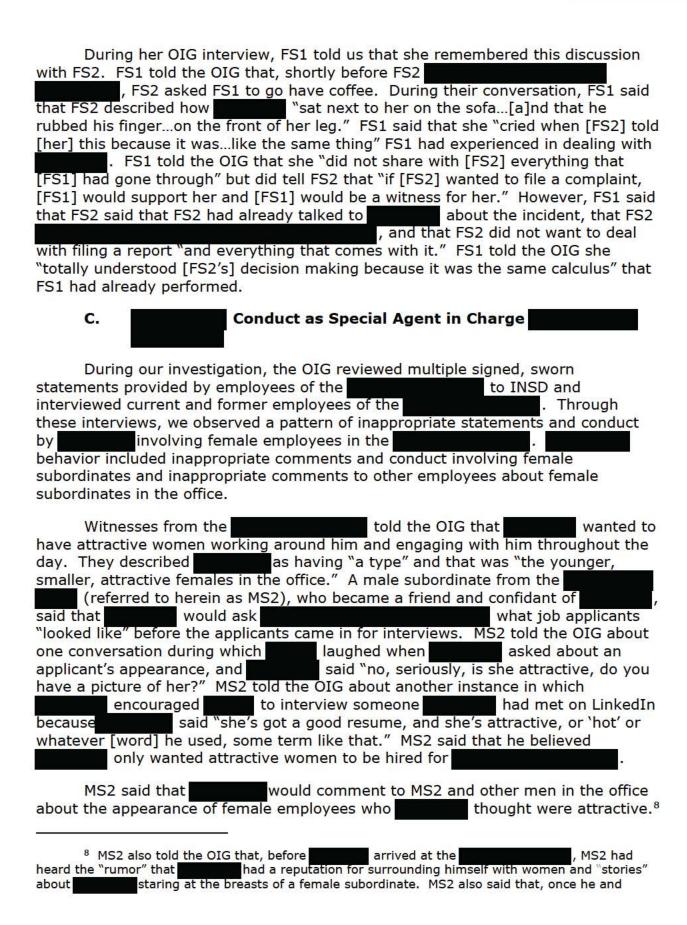
b. Account

whether he remembered this We asked meeting with told the OIG that he could not remember the date, but that he remembered that, around the time FS2 was scheduled to leave , he "did hug her and tell her I was going to miss her." described denied that he pulled on her earlobe. the hug as a "cheek to cheek hug." touched her leg, or kissed her on the cheek. He also said that FS2 confronted him about it later, said it made her "a little uncomfortable," and that he apologized to her and said he did not "mean anything by it." also told the OIG that being confronted by FS2 "took [him] aback a little bit; that she made it something that it wasn't." As indicated above, told the OIG that there were people within who had an "axe to grind" with him, but he said he did not think that FS2 was one of them.

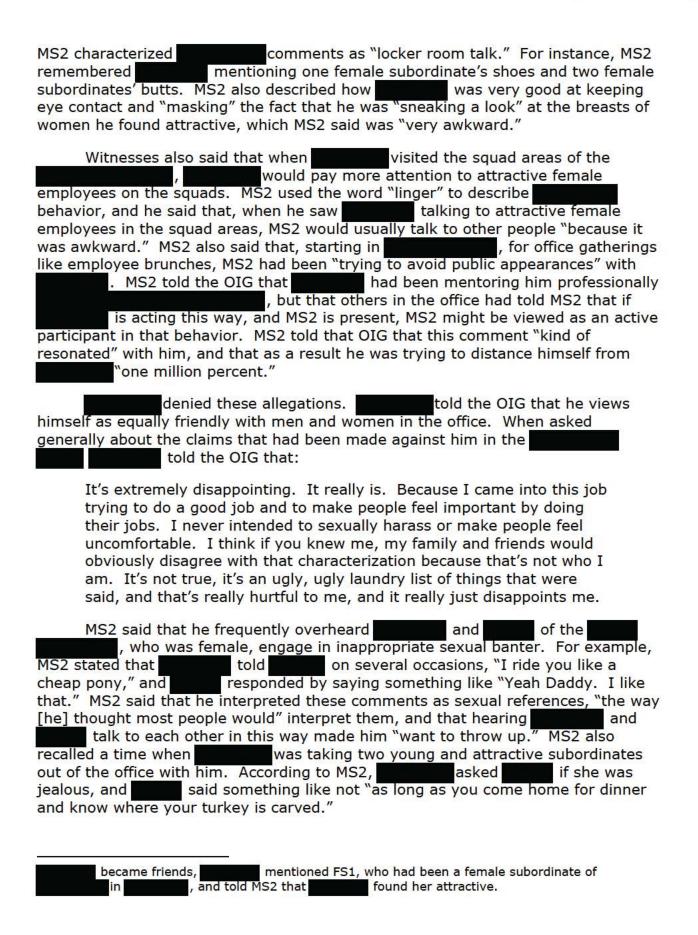
Corroboration of Female Subordinate 2's Allegations

FS2's notes of her interaction with a proximately 3:00 p.m., FS2 told a female coworker, FS1, about FS2's interaction with a physical interaction with that FS1 had experienced. FS2's notes then state that FS1 advised FS2 "to keep written documentation of the incident for future reference in the event that additional incidents were noted from other colleagues."











about the "cheap pony" remark, and he told the OIG that there was nothing sexual about this comment. He said that working hard to get things accomplished and meet deadlines had set. and that the reference to being ridden "like a cheap pony" was "a horse racing term that goes way back." added that, in light of that context, he did not see anything wrong with making that type of a comment in the workplace. In addition to these inappropriate statements made about and to women in the office, several female subordinates in the made additional statements and conduct. For each of the following allegations about allegations, we provide a detailed description of the allegation, response to the allegation, and any corroborating information we learned during the course of our investigation.

1. Female Subordinate 3

a. Female Subordinate 3's Allegations

The female subordinate (referred to herein as Female Subordinate 3 or FS3) who filed the complaint against said that, on three occasions between made comments about boots that FS3 was wearing. FS3 could not remember words, but she said the comments were something like "I like your boots"; "you have your boots on"; and "you must have your boots on because you are at eye level." FS3 said that these comments made her feel uncomfortable because they were focused on her appearance rather than on her work. FS3 said that made one of these comments in the presence of FS3 added that it "had become a joke in the squad area that SAC likes talking about [her] boots." When made a fourth such comment on asked a supervisor, MS2, to discuss the issue with , and FS3 ultimately decided to file a complaint. FS3 told that she was "afraid of reprisal for coming forward" with her allegations.

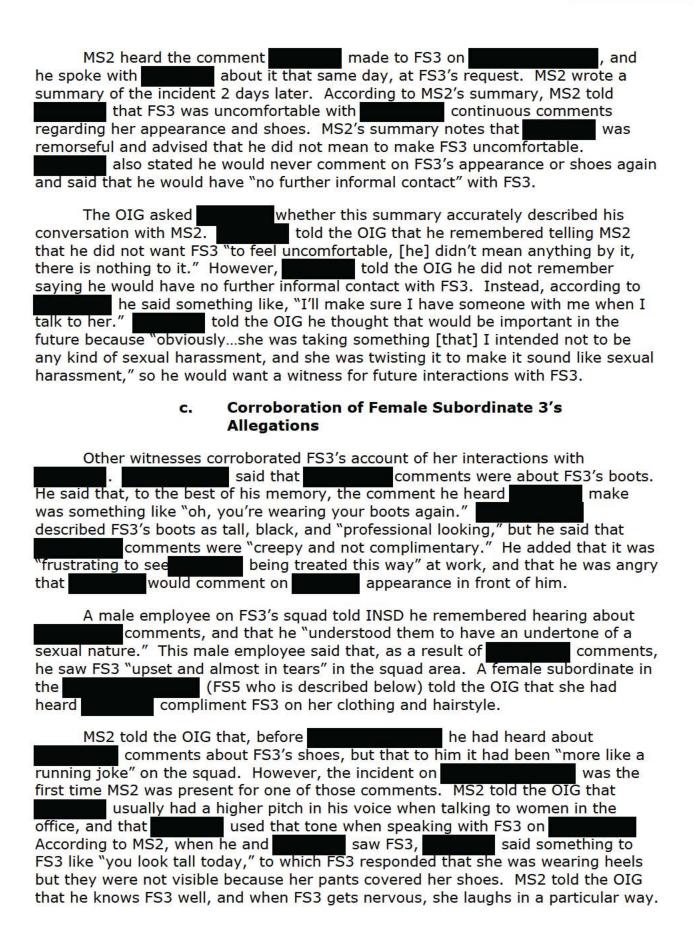
b. Account

told the OIG that he did not remember saying that he liked FS3's boots. Instead, he said there was an "ongoing joke that [he] thought was funny about her height" that was started by one of FS3's female friends on a day when FS3 was not wearing high heels or boots.

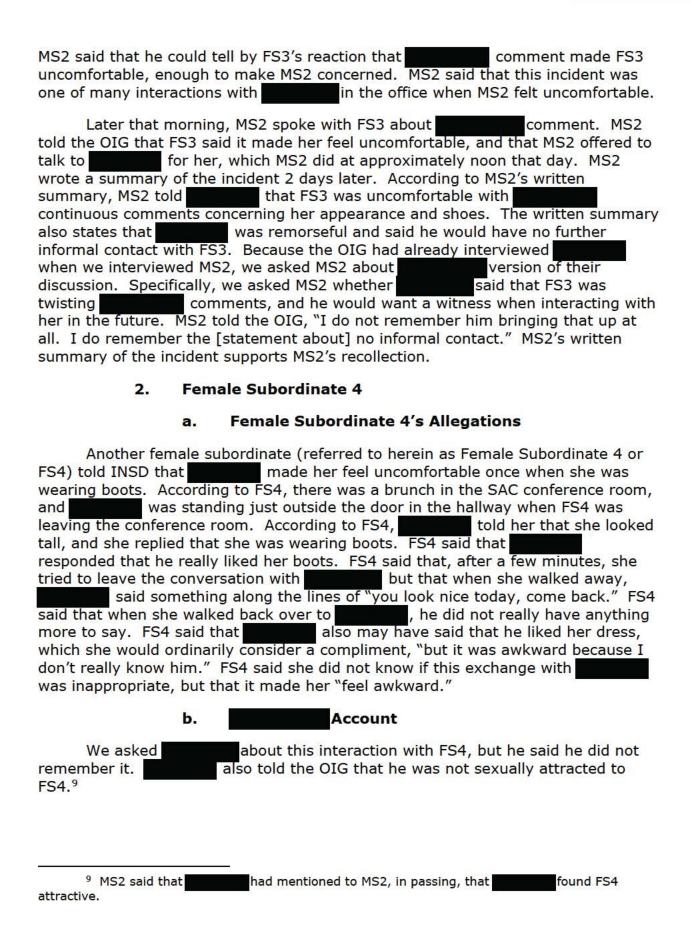
Said that, a couple of weeks later, FS3 had on some boots or some high heels that made her look taller, and he said "you're tall today" and they had a good laugh. He said that "went on four or five times" with FS3.

Said he did make that type of comment in front of said he did make that type of comment in front of added that he "never had any intention of sexual harassment whatsoever," and that his comments were "just some banter" because he thought FS3 was a "little bit socially awkward and it was just to try to get her to open up a bit."











3. Female Subordinate 5

a. Female Subordinate 5's Allegations

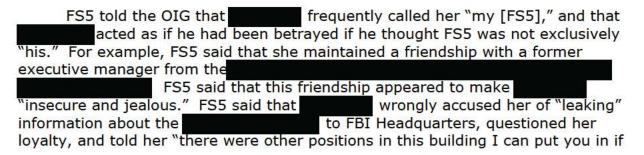
| Another female subordinate in | (referred to herein as |
|---|------------------------|
| Female Subordinate 5 or FS5) told the OIG that | behavior toward her |
| was "overly friendly" in a way that she had "never experie | |
| supervisors before." FS5 said that had a habit | of commenting on her |
| appearance. FS5 said that, at first, she attributed this be | havior to "being |
| | 5 told the OIG that |
| would say things to her such as: | |

- "You look very cute today. I love that color on you."
- "You should wear earrings; I love a woman wearing earrings."
- "Your hair looks nice today."
- "I like that scarf."
- "You look very pretty today."
- "You're my favorite."

FS5 said that, at first, went on it got creepier and more uncomfortable." FS5 told the OIG that her job required frequent meetings with chair in front of his desk, would reach across the desk and try to touch, stroke, or hold her hands. FS5 said that she believed if she had reciprocated would have pursued a sexual relationship with her. FS5 said that she knew behavior was more than just flirting because of "the touching," "the look in his eyes" when he spoke to her, and the fact that he was "very affectionate."

FS5 also said that when traveled, he would text her personal cell phone and make statements like:

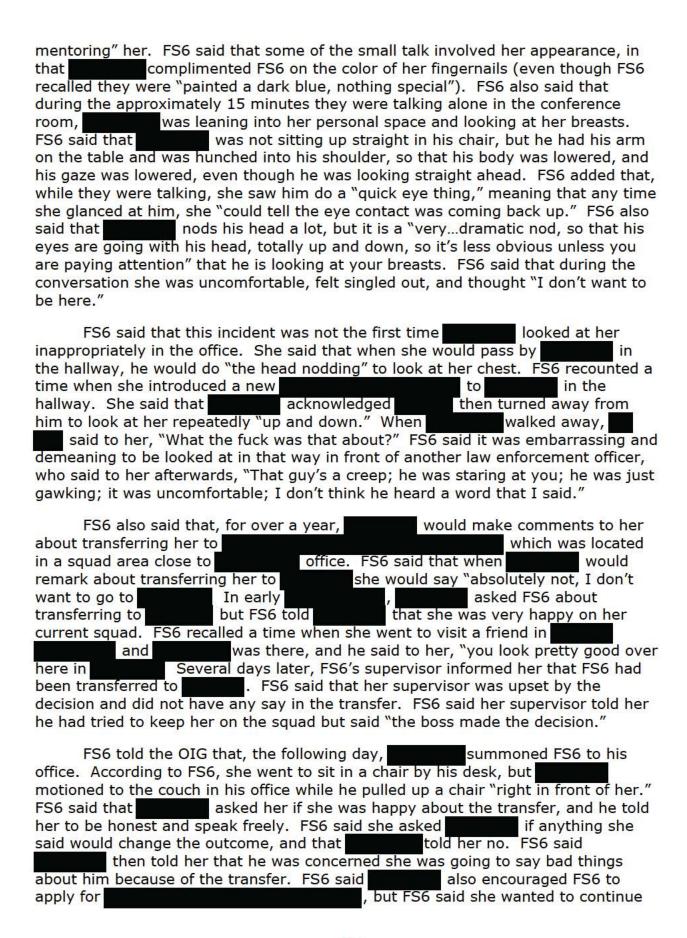
- "You don't really care about me do you?"
- "Will you text me and check in with me to make sure I know you're thinking of me?"
- "Will you miss me when I'm gone? No you won't; you don't care about me."



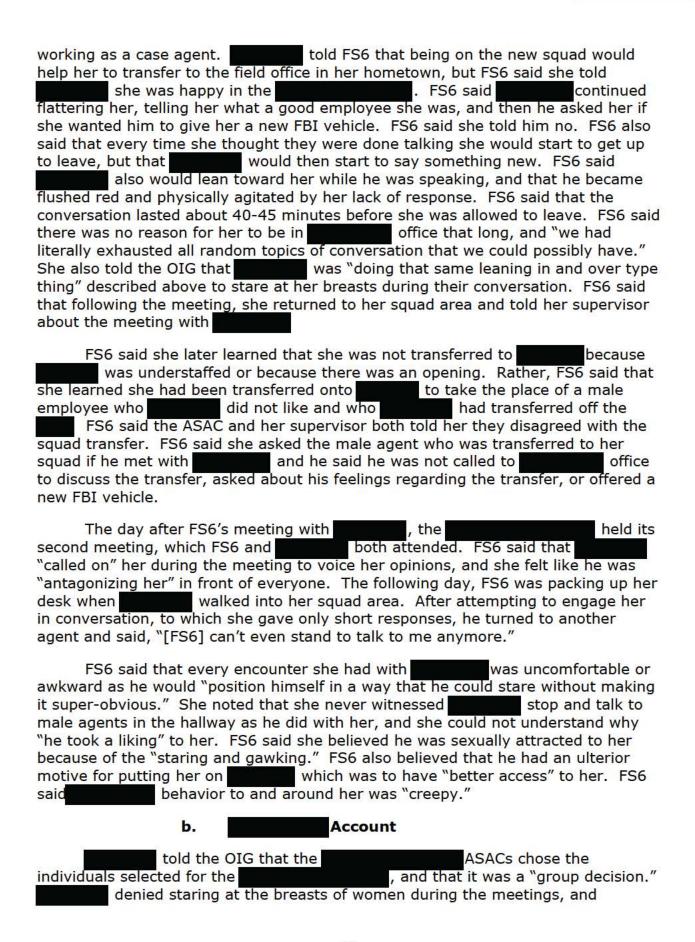


you cannot be trusted." FS5 said that she considered it to be "a hostile work environment having to deal with SAC threats, harassment, and insecurities." b. Account told the OIG that he did work closely with FS5, but he denied saying things like "I love a woman wearing earrings," trying to hold FS5's hands, saying "you don't really care about me, do you?" or asking her to "check in...to make sure I know you're thinking of me." denials were emphatic—"not at all" and "absolutely not." said the text messages he sent to FS5 were in the context of official travel. He told the OIG that when he went on a business trip, she would text him to say "hey, did you make it okay?" and then I would text back "yep. Made it." said that, over time, these check-ins also occurred when he was leaving the office to go out somewhere, and he would text her to let her know his whereabouts. According to their communications involved him texting "hey, I'm going, check on me, make sure I'm still alive," and FS5 responding "okay, I will" and "did you make it?" denied ever asking FS5 if she would miss him when he was gone. He also denied referring to FS5 as if she was "his." also denied accusing FS5 of providing information to the former executive manager from the Instead, said they "had a conversation about her communication" with her friend. told the OIG he did not have any proof that FS5 was the source of the information that reached FBI Headquarters, and that it was "simply a concern" that he raised with FS5. In response, said FS5 went and got her cell phone, over his objection, to demonstrate that she had not been sharing any office information. According to he told FS5 she did said he told FS5 "I know you not need to show him the text messages. are friends; I can't tell you not to be friends but don't talk about internal things in the office." told the OIG that FS5 kept saying "are we still good, I'm not going to be reassigned, am I?" and that assured her "no, we're good." 4. Female Subordinate 6 a. Female Subordinate 6's Allegations Another female subordinate in the (referred to herein as Female Subordinate 6 or FS6) told the OIG that selected her for the said that she and another one of the female employees on the committee had not applied for their positions, but they were told had selected them. After the first meeting, FS6 said asked her to stay behind because he had a question about one of her cases. FS6 said that motioned for her to sit in the chair next to where he was sitting, asked her the question, and then started making small talk and "stroking [her] ego as if he was











although he did recall asking FS6 to stay after the meeting ended to discuss a case, he did not recall commenting on her nail polish color.

| told the OIG that he met with the transferring an agent to and they originally selected a male agent for the transfer. However, when that agent received transfer orders to leave the and the ASACs selected FS6 to transfer to acknowledged that the supervisors of FS6's squad and request FS6 be transferred from her current assignment. He said that he did recall meeting with FS6 to get her to "buy in on the transfer" to her new squad. Said FS6 told him on multiple occasions that she did not want to transfer to told the OIG that he tried to "build her up" because she was disappointed about leaving her squad, and he offered her a new FBI vehicle to "appease some of the sadness that she had about changing squads." said he did sit on a chair in front of the couch, but he denied that he tried to keep FS6 in his office. claimed that FS6 kept talking, and he said he told FS5 when FS6 left his office that "[FS6] wouldn't stop talking." said he did not call the agent who he transferred to FS6's squad to replace her into his office or offer him a new FBI vehicle because that agent wanted to transfer squads. also told the OIG he did not state that "[FS6] can't stand to talk to me anymore" in squad area following FS6's transfer. He also said he was not sexually attracted to FS6. |
|---|
| c. Corroboration of Female Subordinate 6's Allegations |
| According to one of the two "handpicked" the employees he wanted on the which was comprised of a few men and four young, attractive female employees, including FS6 and FS7. MS2 said that he was present for a meeting during which discussed employees for the selected "people [who] he liked," which included attractive females. MS2 stated that was "super giddy" and "overly flirty" around the women on the who the OIG interviewed agreed that "sometimes it seemed like was giddy" when female members of his team were all there, and he was not like that around men in the office. |
| who FS6 referenced in an encounter she had with hallway confirmed FS6's version of events. told the OIG that barely acknowledged him and "was so into talking with [FS6]" that it "was like I was not even there." said that was staring at FS6 during the conversation, and it was a "little odd" and "creepy." He said he found the whole encounter strange and remarked to FS6 about it when they walked away from |
| FS5 said that every time would see FS6 in the hallway, would stop FS6 and "try to make conversation, such as asking about her [pet]." |

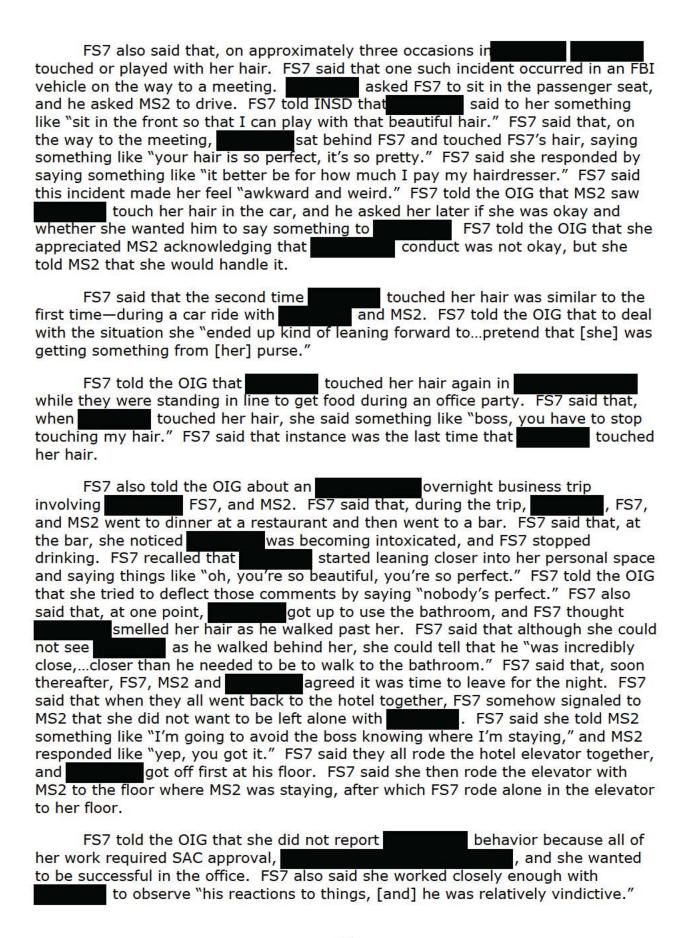
MS2 said that was sexually attracted to FS6 and said to MS2, "maybe I'll go for [FS6].... I think [FS6] should be mine." MS2 also said that he remembered



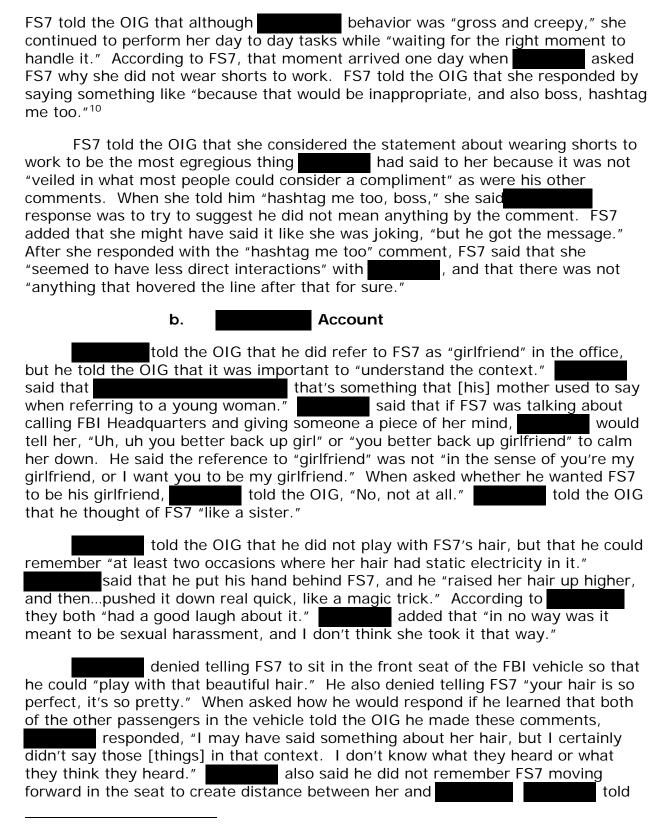
walking out of the squad area where FS6 was and, as he was walking out, said to MS2, "Geez, you should have seen the way her boobs looked in that shirt."

| FS5 also said that, on at least two occasions, should be transferred to which is located on a hallway within view of the front office because said FS6 "looked good walking down that hall." Another Male Subordinate (Male Subordinate 3 or MS3) also recalled hearing "kind of yelling down the hallway, 'you look good walking out of the to FS6. One of the discussions about moving an agent from FS6's squad to and, initially, they selected another agent. He said that with retirements and transfers, most experienced agent would soon only have 3-4 years in the FBI, and they wanted more experience on the squad. Suggested FS6, who had so of experience as an FBI agent, and there were not a lot of agents on FS6's current squad with the necessary experience to transfer to the also said that he was aware met with FS6 alone to discuss the transfer, but he did not suggest meet with FS6 and thought it "was a little odd." Was so that could have more access to her and see her more often; however, that was never discussed at management meetings, and his recollection was that her transfer was on the basis of needing an experienced investigator on MS2 said he did not believe that FS6 was transferred so that could have more access to her, but he knew was attracted to FS6. | | | | |
|--|--|--|--|--|
| FS6's supervisor told the OIG that following the meeting FS6 had with FS6 returned to her squad area and told him what happened during the meeting. Her supervisor said FS6 told him the meeting was "long" and "awkward," and "she felt strange about it." FS6 told him that offered her a new vehicle and offered to transfer a friend of hers who worked in the to work with FS6. According to her supervisor, FS6 also said that, although she knew of several agents who had transferred squads, she did not know of any other agent who was called for a meeting into office to discuss the transfer. | | | | |
| 5. Female Subordinate 7 | | | | |
| a. Female Subordinate 7's Allegations | | | | |
| Another female subordinate (referred to herein as Female Subordinate 7 or FS7) told the OIG about her interactions with would refer to her as "girlfriend" during office conversations, but she did not interpret that comment "to mean girlfriend in the sense of a dating relationship." FS7 also said that would walk around the office saying "[FS7] is my favorite." FS7 said that these types of comments stopped when told to stop calling FS7 his girlfriend and told those comments were not helping FS7. | | | | |









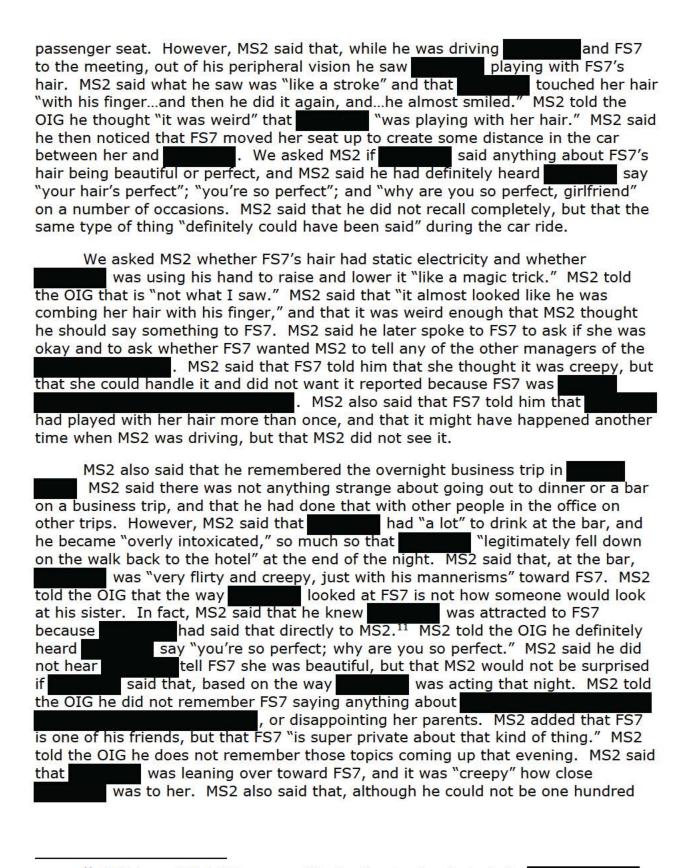
¹⁰ "Hashtag Me Too" or "#MeToo" refers to a movement against sexual harassment and sexual assault. The phrase "Me Too" denotes a female who has been the victim of sexual harassment or sexual assault.

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the OIG that the incident in line at an office party, during which FS7 allegedly told him to stop touching her hair, "did not happen." added that "these things...[are] blatant lies you've been told." We asked about the overnight business trip in with told the OIG that he, FS7 and MS2 went to a bar. FS7 and MS2. said he had 3 or 4 drinks that night and had "a buzz" but was not intoxicated. When we asked whether told FS7 that she was beautiful and perfect, he responded that he made those comments because FS7 was intoxicated or buzzing, and she was sad told the OIG that FS7 said she was unattractive. and that her mom and dad were disappointed. said that, in that context, he told her "you are a very attractive young lady; ; don't be down on said he did not recall leaning in toward FS7, and that he did not lean over to smell her hair on the way to the bathroom. he did not remember being close enough to FS7 to be described as "creepy," and he added that "[w]e had a good time; we were all laughing; and nobody looked like they were creeped out." also said he was not aware that FS7 made sure that MS2 did not leave her alone with when they returned to the hotel. We also asked whether he had asked FS7 about wearing shorts to admitted this conversation occurred, but he told the OIG that his comment was in response to a topic on a radio station concerning the dress code at , he said to FS7, "Wouldn't it be interesting if the Google. According to government switched to a dress code with tank tops and shorts; do you think we would be more productive, more effective, and more efficient?" OIG that FS7 responded, "Probably not because of this me too movement that's going on." told the OIG that the version of the story FS7 told the OIG was "totally mischaracterized" and "not what was said." added that, at the time, he talked to MS2 about FS7's "me too" comment. According to told MS2, "I can't believe she...twisted that like that" and "took this thing to the 'me too' level." said he told MS2 that was "going to be a little more careful around [FS7] because...she's...sensitive like that," and that in the future he would "be careful not to say things that [are] going to offend her." Corroboration of Female Subordinate 7's C. Allegations would call FS7 "girlfriend" in front of others MS2 told the OIG that in the office, but that it was "hey girlfriend' like a hello." MS2 said that the majority of the employees in the front office heard refer to FS7 in that way. MS2 said he thought it was a term of endearment, consistent with being "a flirty guy." MS2 told the OIG that he remembered seeing touch FS7's hair during a trip, and that it occurred in in an FBI vehicle. MS2 said that was "being a gentleman" by giving FS7 the front initially he thought that





MS2 also said that FS7 was one of the two female subordinates in the whose butt had commented about to MS2.



percent certain, he thought did lean in to smell FS7's hair when got up to go to the bathroom.

MS2 told the OIG that when they all returned to the hotel lobby that night, there was a separate elevator that MS2 could have taken, which would have put him closer to his room. But MS2 said that when FS7 and approached the other elevator, FS7 motioned to MS2 and said something like "come in here, come in here." MS2 told the OIG he understood immediately that she did not want to be alone with MS2 said "[i]t made perfect sense to me. And I went right over to the elevator. He was that drunk." MS2 said that FS7 did not go to her floor right away, but instead she came up to MS2's floor to make sure was not following her; then she went back down to her floor. MS2 said that this whole incident was "alarming," and when he spoke with FS7 the next day, she told him that "s'fucking creepy."

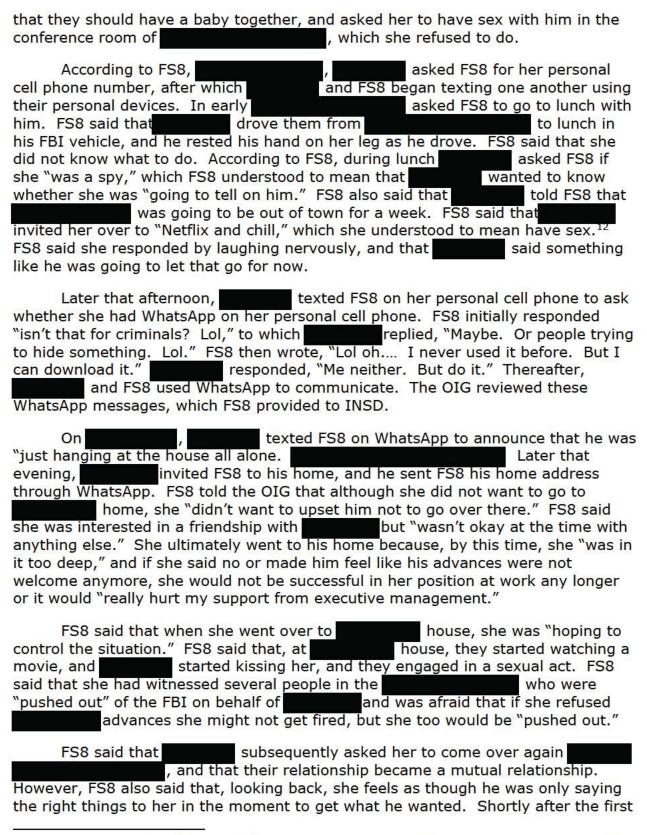
MS2 told the OIG that and FS7 both told MS2 about their conversation concerning wearing shorts to work. MS2 told the OIG that FS7's version of the conversation was that said something to the effect of "hey, why don't you ever wear shorts," and FS7 said "hashtag me too boss." MS2 said that FS7's reaction was "can you believe this...guy?" MS2 said that in version of the story, said something like "would you wear shorts if you were allowed to" and FS7 said "hashtag me too." MS2 said that reaction to FS7's comment was, "I can't believe she was offended by that, and I'm going to start distancing myself" from her. MS2 also said that "offended by her saying that to him." MS2 said that he did not remember talking about Google, and efficiencies at work, as the OIG, and MS2 suggested to the OIG that was probably "covering himself" by saying that.

D. Subordinate and Retaliatory Actions Against that Subordinate

1. Female Subordinate 8's Allegations

While interviewing witnesses, INSD also learned that had a sexual relationship with a female subordinate in the (referred to herein as Female Subordinate 8 or FS8). FS8 stated that, starting in approximately began paying special attention to her. FS8 said that, at first, she thought that was acting like a "fatherly figure," but then he began making advances toward FS8. FS8 recalled one meeting with was staring at her; but FS8 could not be sure whether he was staring at her breasts or at the necklace she was wearing. FS8 told the OIG that, began saying things to her like "I like you" and "I would soon thereafter, like to kiss you." FS8 said that when made these comments, she "didn't know what to do." She said she knew and she was not physically attracted to him; but he was in a powerful position, and she worried about what he would do if she did not respond to his advances. She told the OIG that when he would say those things she would "nervously laugh." As time went on, FS8 said told her that he was falling for her, that he wished he could marry her,





 $^{^{12}\,}$ The phrase "Netflix and chill" is sometimes used as a euphemism for engaging in casual sex.



time she went to his house, they engaged in a sexual act at his house again. According to FS8, afterward, told FS8 that if she said anything or reported it, it would be bad for her. Thereafter, FS8 stated that she and engaged in sexual acts a few other times, including in her home, but that FS8 refused to engage in sexual acts in the conference room of the or in FBI vehicle, even though asked. In addition, asked FS8 in WhatsApp texts to take inappropriate photos of herself when she was alone or "you might just have to take the picture when you're [on] top [of] me." FS8 said that she never took inappropriate photos but would send pictures of her face from her social media accounts when he asked for pictures. FS8 said that she felt "used and pressured" her, and that she never should have been put in such a position. FS8 also said that she felt like she had to say whatever she had happy and not upset him." During this time, FS8 said to say "to keep was supportive of FS8's work in that FS8 said that, after a month or two, she told that she was not having fun anymore, and she thought they should stop the sexual aspect of their relationship. FS8 said that initially reacted by saying that he did not want to stop. FS8 said then said if she wanted to end it, they could. FS8 said she told she wanted it to stop, but that he did not take it well. response was "okay, if that's what you want." FS8 According to FS8, asked her to delete their communications, but she refused, said that "very unhappy." Because she refused to delete the which she said made began treating FS8 very records of their communications, FS8 said that poorly within the work environment. FS8 said that at one point, she went to lunch FS7, and MS2 because she "wanted to try to fix the situation at work." FS8 said that, when they were walking into the restaurant, whispered in her ear, "I want to eat it," which she understood to mean that he wanted to perform oral sex on her. FS8 said she did not think that FS7 or MS2 heard what said. FS8 also said that, after the lunch described above, began to shun FS8 and began to make advances toward FS7 (who, as described above, made sexual advances toward during an overnight business trip). asked her whether his new attention toward FS7 made FS8 FS8 said that jealous. FS8 also said that told her he wanted to have a threesome with FS8 and FS7, which she understood to mean having sexual intercourse with and FS7. FS8 said that FS7 was allowed to attend work events and meetings that FS8 was not allowed to attend, and that FS7 FS8 said that she wanted to file a complaint, but that she was afraid that she would be retaliated against. FS8 also to mention he was friends with an Assistant Director of the FBI, and FS8 said she did not know if that "was a threat." FS8 said that, as a result of everything that happened, she was . She said working within the 'had become untenable." FS8 said that she felt like had "abused his

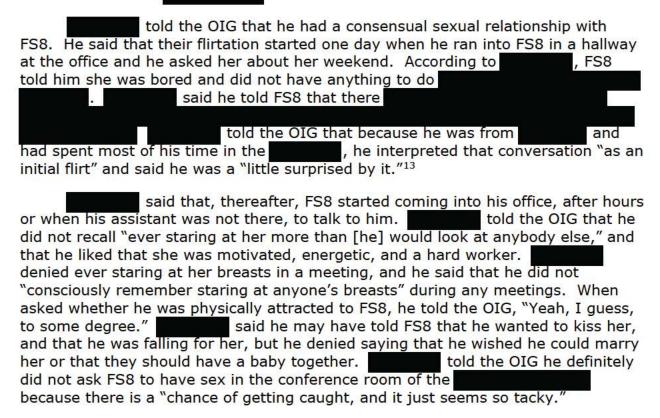


powers" to have a personal relationship with her and then tried to "destroy her career." FS8 showed us a text that she sent to on which read:

What you did to me was unforgiveable, uncalled for, and just straight out wrong. Was using me not good enough for you. You had to go and...push me out and put my job under a microscope too.... Do you know or aware of what you're putting me through. What did I do to deserve any of this! I have been nothing but good to you. I trusted you on a personal and a professional level and you disappointed me on both levels. It's a shame.

did not substantively respond by text to this message.

2. Account



We asked FS8 about this conversation with She said she thought this conversation occurred in the , and that asked her was going in . FS8 told the OIG that she responded that she "wasn't able to find a so I wasn't going to settle. And I was looking for a and that wasn't going to happen in " FS8 said she meant this comment to indicate She also said she was not "sure where that question was coming from, what angle." She added that, at the time of this conversation, she "wasn't sure" why was paying attention to her, but that, at the time, she was not physically attracted to him at all.

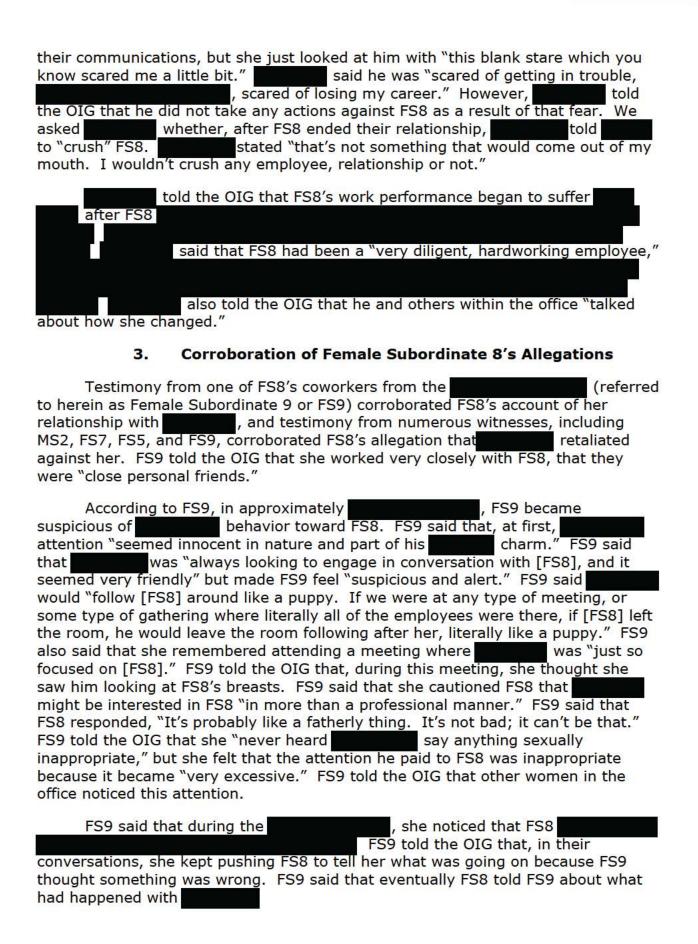


| said he asked FS8 for her personal cell phone number because he felt like they should use their personal cell phones to communicate. He also said he remembered inviting FS8 to lunch in a said he remembered putting his hand on FS8's knee while he was driving to lunch. He said that was the first time he had ever touched her, and that he did it because she was "playing with my fingers." He said he did not remember asking her if she was "a spy." also said that he invited FS8 over to his house, to "Netflix and chill" because he understood that to be a "colloquial term" that was an invitation for sex; but he told the OIG that he "really thought it would just be watch a movie, as corny as that sounds." |
|--|
| said that when FS8 came over that evening, they turned on a movie, started kissing on the couch, and "that led to other physical activity." When asked whether he started kissing her, or whether she started kissing him, he said "it just seemed like it was mutual." According to |
| She was saying "oh, I don't know if we should be doing this, oh, my gosh, I feel so bad," and I said "yeah, you know, you're right, I do too" and then we'd stop; and then we'd start againand then we ended up doing the act. |
| told the OIG that |
| there was never really, to my mind, any hesitation from her. She came overcertainly not under any duress and certainly not about her job. She came over, and we had a mutual attraction, and we did the act. |
| He added that not only was their relationship consensual from the beginning, but that he "felt like she had initiated [it]with the flirting and coming by my office. I felt like she was the more aggressive one in it, and then yes I did participate in it." |
| told the OIG that he did not indicate to FS8, verbally or any other way, that her job was dependent on their relationship. such characterization is "very unfair." told the OIG that he really does not remember how many times they engaged in sexual activity, that he "get[s] confused" when he thinks about it, and that he has "really tried to put all this behind [him]." |
| told the OIG that he never told FS8 that if she reported their relationship it would be "bad for her." was adamant that "those words did not come out of my mouth." Instead, he said he told FS8 "don't tell anybody about this, I could get into a lot of trouble. I knew former executives, a former SAC who had done something similar[who] got into a lot of trouble; so just, keep this between us." He said he told her if she did tell anyone "it could destroy me. It would wreck my career |



| told the OIG that he did not report his relationship with FS8 because he was not aware that the FBI had a personal relationships policy, the relationship with FS8 was "over so quickly," and that "within a month or two[he] just wanted it to all go away." |
|---|
| We asked about some of the WhatsApp communications that he exchanged with FS8 in after their relationship began, but before it ended. In the WhatsApp messages, appeared to be angered by the thought that FS8 might be spending time with other men. For example, between and conveyed the following to FS8 via WhatsApp: |
| he was "not happy" about FS8 "being out withboys," |
| he did not want FS8 to "let [boys] flirt" with her, |
| he worried whether she was at the pool "with dudes?" when she said she was alone, |
| he complained that she did not "just stay home and chill," |
| he accused her of being a "cheater" when she told him she "didn't do anything. I promised you," and |
| he asked her to "pause the dating scene until this [meaning their sexual relationship] runs its course." |
| told the OIG that he wrote these WhatsApp messages as "more of an act to her, to show her that I cared. You know I didn't really care. I actually hoped that she would find somebody and go move off and be with them." |
| According to the decision to end his relationship with FS8 "was mutually agreed." He said it ended because |
| I think she had an or something [that] she wanted to pursue andI shared with her that I can't do this because I can get in a lot of trouble and because I don't want to risk . |
| said that he felt remorse about the relationship "from a leadership standpoint and more personally " |
| added that, as their relationship went on, he "started to have a lot of concerns about [FS8] ." He characterized FS8 as "a young lady with a lot of problems," and said he "didn't know that when this thing started." In opinion, as their relationship developed, FS8 began showing some told the OIG , but that his thoughts on this were "just based on [his] experiences." |
| said that, when their relationship ended, he asked FS8 to delete their text messages and WhatsApp communications from her personal cell phone, but that she would not. He said that she did not tell him why she would not delete |



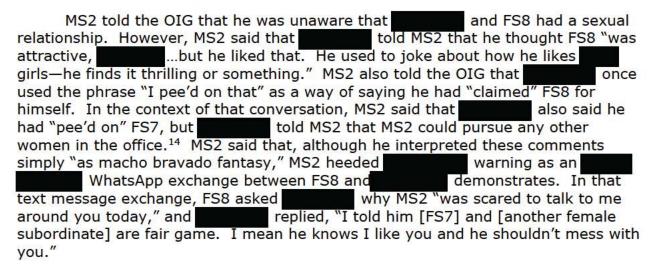




FS9 told the OIG that she thought FS8 was "severely lonely in and that "preyed on that vulnerability." FS9 said that FS8 told her was initially "trying to be supportive—'are you okay,' 'let's go to lunch,' 'let's get a drink'—trying to be that caring nurturing support system for her, and then it quickly turned wrong. And it became very sexual in nature; he was definitely trying to establish a relationship with her." FS9 said that FS8 told her that FS8 and

went out for a meal, and after the meal he wanted to go back to her place, and she said I don't know. But he pressured her and she took him back to her place. And when they got into the apartment, he made advances at her; and she told him no, and he did not listen, and they had sexual intercourse. She said that it was over very quickly, and as soon as it was over he threatened her. He said, I am an SAC; I am best friends with an AD; I will destroy you; do not say anything; and then he left.

FS9 added that she thought FS8 was "still in a denial phase" and has "trouble understanding" what happened. FS9 said her opinion, based on what FS8 told her, was that the encounter "was not consensual." FS9 added that she thought FS8 liked the support and attention she received from prior to the sexual intercourse. But FS9 said she thought was just a skilled predator; that's how I see it. I think he preyed on her vulnerability, 100%."



We asked about his use of the phrase "pee'd on" when referring to FS7 and FS8. told the OIG: "I don't know what that means; I've never said I pee'd on anyone." also denied telling MS2 that MS2 could pursue any other women in the office. We asked MS2 about statement that he never used that phrase and does not know what it means, to which MS2 responded: "That's a lie." MS2 added that when other women in the office, it made MS2 feel "like a sleaze ball...[that] he would think I would try to do that."



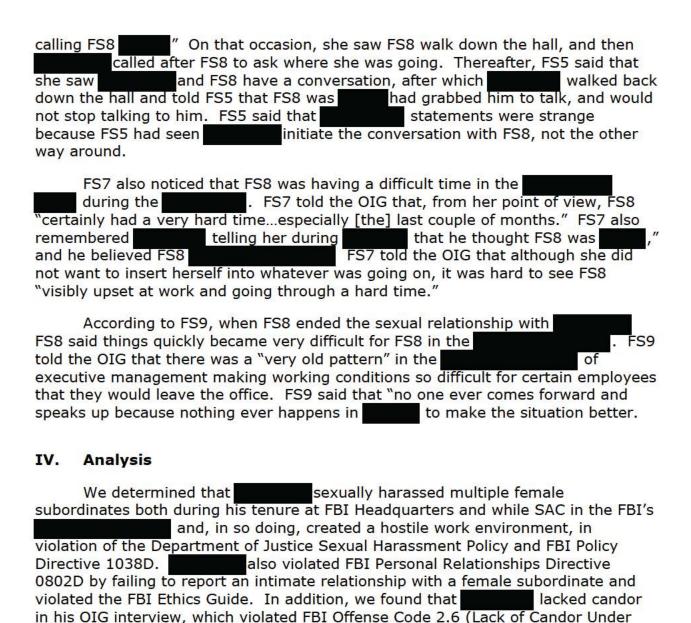
MS2 also told the OIG that in he heard to "crush" FS8.15 MS2 said that he had never heard use that phrase before. However, MS2 told the OIG that those within circle of trust...[are] very aware that when someone is perceived to cross him or gets on his bad side for whatever reason, he would crush them.... If you were on his bad side, you were out. [He was] very vindictive. MS2 gave the OIG the names of three other employees who had been treated that way, but he said the complete list is likely much longer. 16 MS2 told the OIG that, 1 week later, brought FS8 into MS2's office. MS2 said that they were arguing, and that it "felt like a relationship fight." One of the things MS2 recalled FS8 saying was how unhappy she was about how she was being treated at work. MS2 said responded that he was not responsible. "for sure lied to her, without a doubt" because MS2 told the OIG that to "crush" FS8. MS2 said that, MS2 had been present when told after FS8 left, told MS2 that FS8 was MS2 also said that, a couple of days after this argument, he went out to , FS7, and FS8. MS2 described the lunch as "awkward." He added that "everyone at the table was acting as if they understood it was awkward," yet none of them except MS2 knew that to "crush" FS8. MS2 did not hear make any sexual comments to FS8, but MS2 said that, at the lunch, made a "joke" about pitting FS7 against FS8. After this lunch, MS2 said that FS8 was "still being targeted" and that, , the way it was handled was unprofessional and improper. FS5 told the OIG that FS8 "seemed to have a direct line to SAC one point...but all of a sudden SAC started calling [FS8] and wouldn't have anything to do with her." FS5 related one example of 15 The WhatsApp messages between FS8 and indicate that "crush" FS8 comment. The sexual mistreatment of FS8 in the office likely predated and FS8 appears to have ended on or about relationship between when FS8 stated in a WhatsApp conversation that she and were "just friends now" and wondered whether it would be "weird seeing each other" in the office. By used WhatsApp to tell I never thought you would treat me this way. And I never thought you would talk bad about me. I feel soooo used. I am just really angry and confused about why you are acting this way. I feel like you're using your position/power to create an unpleasant environment, which it's making it difficult for me to do my job. I haven't done anything wrong. I kept all of my promise[s] to you, why haven't you! I want things to go back to the old ways before we made a mistake. I have to work with you in

order for my job to be successful. I need your full support. Avoiding me just shows

you only wanted sex.

 $^{^{16}}$ The OIG is conducting a separate investigation into these and other allegations that will be addressed in a subsequent report.





A. Sexual Harassment

Oath). We discuss these conclusions below.

Under Department policy, sexual harassment "refers to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature 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, whether such activity is carried out by a supervisor or by a co-worker." In addition, FBI policy provides specific examples of prohibited sexual harassment, which include oral or written comments of a sexual nature; statements, jokes, or anecdotes with sexual content or innuendos; sexual comments or gestures regarding an individual's body;

¹⁷ DOJ Sexual Harassment Memorandum at 2.



gestures that contain sexual innuendos or are sexually degrading in nature; and physical touching or the threat of physical contact. We found conduct while in and in the violated both the DOJ and FBI policies prohibiting sexual harassment.

Our investigation revealed that repeatedly engaged in conduct constituting sexual harassment, victimizing numerous female subordinates. This conduct included behaviors of escalating severity, including altering the pitch of his voice when speaking to those women he found attractive; directing comments at those female subordinates about their clothing, hair, and jewelry; engaging female subordinates in idle conversations to increase the time he could spend with them alone; shifting his body posture and head angle to stare at their breasts and bodies in a manner that was calculated to evade detection; touching female subordinates on their fingers, hands, legs, ears, or hair; and arranging for female subordinates he found attractive to be on a committee with him or assigned to a work area close to him in order to increase his contact with and access to them.

1. Unwelcome Conduct

We found credible the testimony of the many witnesses in this matter who described specific instances of unwelcome remarks about their appearance, efforts to stare at their breasts, attempts to touch their bodies, and other verbal, nonverbal, and physical conduct of a sexual nature. As described above in sections III.B.1.c., III.B.2.c., III.C.1.c., III.C.4.c., III.C.5.c., and III.D.3., we found corroborating evidence for several of the incidents female subordinates described. Further, we found the statements of the female subordinates and other witnesses more compelling then explanations. We also believe that the record as a whole further substantiates the individual witness accounts because so many of the stories are so similar.

FS1 provided numerous examples from tenure including a plane trip for official business, when persistently touched or attempted to touch her, even after she indicated both verbally and physically that his actions were not welcome. FS2 documented how, during a briefing about matters she was supervising, sat on the couch next to FS2, touched her knee, tugged on her earlobe, and ultimately hugged her and kissed her cheek as she attempted to leave his office. MS1, one of male subordinates from engaging in sexual comments confirmed hearing and seeing on a repeated basis and, disturbingly, gesturing to MS1 as if masturbating when an attractive woman left the room. Although FS1, FS2 and MS1 separately confronted about his behavior, and FS1 warned not to engage in the same conduct when he became the SAC improper conduct persisted.

While the SAC process, and continued to engage in conduct that violated Department and FBI policy, including through unwanted comments about the physical appearance of FS3, FS4, and FS5; inappropriate staring at FS6 in the hallway and during meetings; uninvited touching of FS5's hands and FS7's hair;



and unwelcome sexual advances toward FS8, leading to sexual encounters FS8 said she did not really want but believed she could not refuse.

We believe the excuses offered to his female subordinates for his conduct—that he was a " gentleman," simply being friendly, or did not "mean anything" by his behavior—were designed to minimize his female subordinates' reactions. Whenever a female subordinate responded negatively to unwanted attention, he then sought to reframe their interaction as one in which the female was too easily offended. We were not persuaded. repeated comments on the appearance of his female subordinates was not unknowing, innocent behavior, but rather an intentional aspect of the tone he set in the workplace. In fact, FS1 told the OIG that told her his management approach was to compliment men on their capacity and accomplishments, but compliment women on how they looked. We concluded that behaviors—casual touching, leaning in close, and sneaking looks—were calculated to be plausibly deniable, but that the remainder of the record in this case, viewed as a whole, can be interpreted in only one wayengaged in intentional conduct, over the course of years, to pursue sexual contact with his female subordinates.

2. Hostile Work Environment

conduct toward his female subordinates We also concluded that created a hostile work environment. Although the Department has a zero tolerance policy for sexual harassment, meaning that the Department will "treat harassing conduct as misconduct, even if it does not rise to the level of harassment actionable under Title VII of the Civil Rights Act of 1964,"18 the policy does not define what constitutes a hostile work environment. However, the U.S. Supreme Court's explanation as to what types of conduct create a hostile work environment under Title VII and what standards courts must use in analyzing such claims is instructive. The U.S. Supreme Court has held that a "hostile work environment" is not created by casual comments or "ordinary socializing," "flirtation," or "horseplay" simply because sensitive persons may be offended. Oncale v. Sundowner Offshore Servs., Inc., 523 U.S. 75, 81 (1998). On the other hand, the offending conduct need not reach the level of being unendurable, intolerable, or so severe that the conduct drives the victim from the workplace or affects the victim's mental or physical health. Harris v. Forklift Sys., Inc., 510 U.S. 17, 22-23 (1993). To be actionable under Title VII, the harassment "must be sufficiently severe or pervasive to alter the conditions of [the victim's] employment and create an abusive working environment." Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57, 67 (1986)(internal quotation marks omitted). Moreover, the Supreme Court has cautioned that:

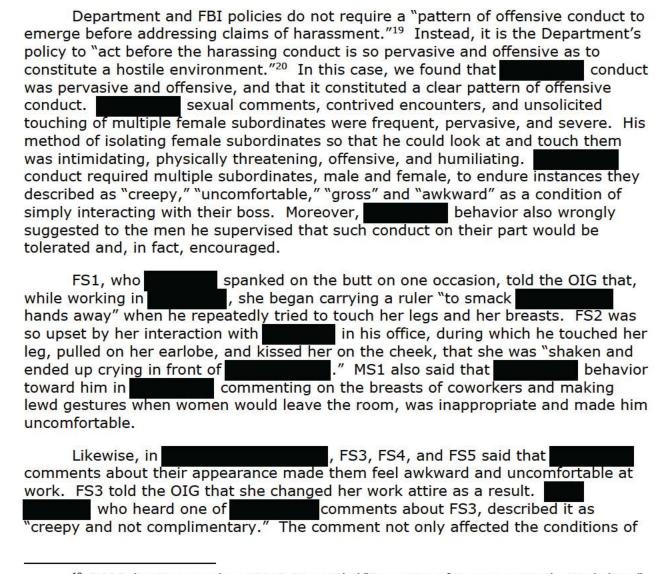
The real social impact of workplace behavior often depends on a constellation of surrounding circumstances, expectations, and relationships which are not fully captured by a simple recitation of the words used or the physical acts performed. Common sense, and an

¹⁸ DOJ Policy Memorandum #2015-04, entitled "Prevention of Harassment in the Workplace."



appropriate sensitivity to social context, will enable courts and juries to distinguish between simple teasing or roughhousing...and conduct which a reasonable person in the plaintiff's position would find severely hostile or abusive.

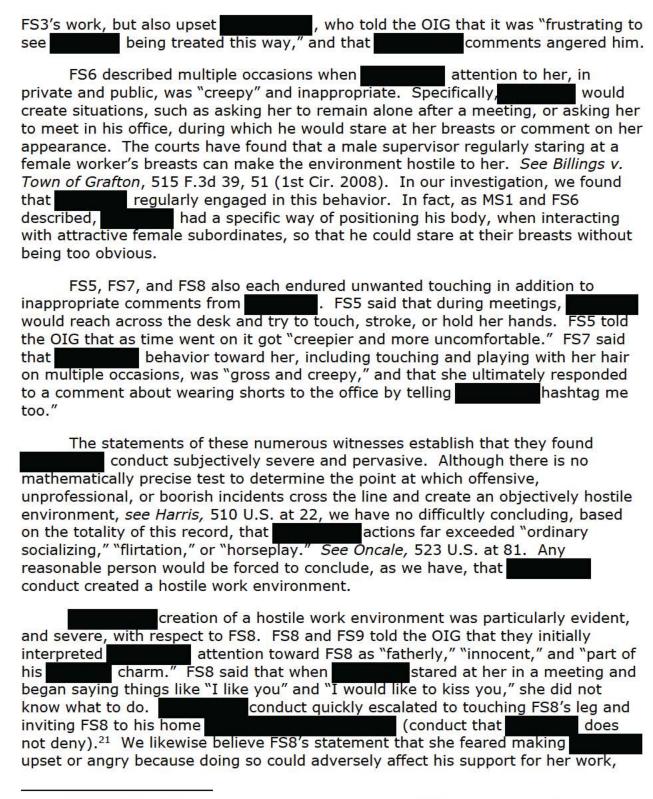
Oncale, 523 U.S. at 81-82. To determine whether an environment is "hostile" or "abusive" requires consideration of all the facts and circumstances. The U.S. Supreme Court has stated that these may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. Harris, 510 U.S. at 23. In addition, the conduct must be objectively offensive, and the complainant must subjectively believe it to be offensive. In other words, the environment must be "reasonably be perceived, and is perceived, as hostile or abusive." Harris, 510 U.S. at 22.



¹⁹ DOJ Policy Memorandum #2015-04, entitled "Prevention of Harassment in the Workplace."

²⁰ Id.





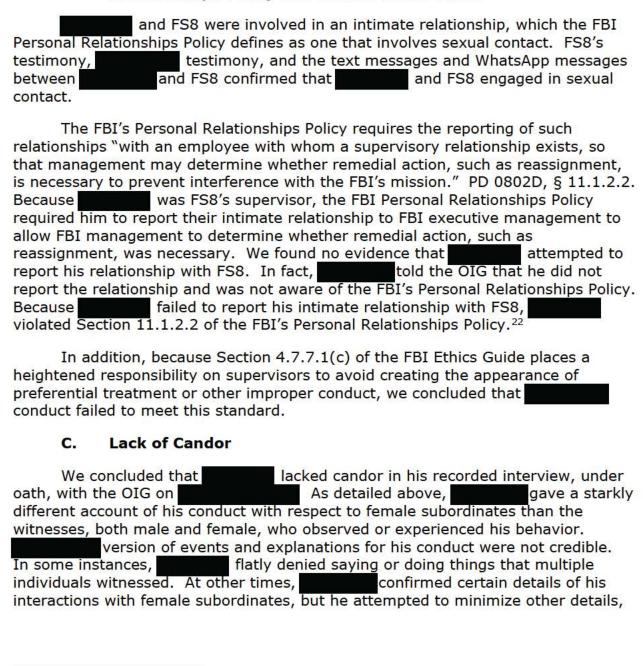
Indeed, it is this precise concern that has previously led the OIG to observe that the imbalance of power between supervisors and subordinates raises questions about the consensual nature of such romantic or intimate relationships. DOJ OIG, Management Advisory Memorandum of Concerns Identified in the Handling of Supervisor-Subordinate Relationships Across DOJ Components (March 11, 2020) at p. 4.



and it could ultimately lead to her being "pushed out" of which she said she had witnessed with other employees. FS8 told the OIG that, after her sexual contact with began, there was a brief period of time during which she considered the sexual aspect of their relationship to be a "mutual" one. However, we conclude that, after their sexual contact ceased, created a hostile work environment for FS8 by retaliating against her for ending their relationship and refusing to delete their WhatsApp text messages. A supervisor's treatment of a subordinate in the months following the cessation of a romantic relationship can create a hostile work environment. See Perks v. Town of Huntington, 251 F.Supp.2d 1143, 1155 (E.D.N.Y. 2003). FS8 told the OIG that when asked her to delete their WhatsApp communications and she refused, "that's when things went badly." FS8 told the OIG that the significant changes in her workplace environment included alterations in FS8's chain of command and FS8 told the OIG that, as a result of her negative treatment at work, Because FS8 experienced significantly changed working conditions after she ended the relationship, and MS2, a friend and confidant of to "crush" FS8 after FS8 ended their sexual relationship, we tell concluded that FS8 experienced retaliatory treatment, for which obvious and unique motivatation, thereby creating a hostile work environment. We directed credited MS2's statement that to "crush" FS8 because trusted confidants, and because that behavior matched MS2 was one of the descriptions we received, from multiple witnesses, that "vindictive nature," and that he would "crush" anyone who "got on his bad side." Indeed, up until the point when FS8 ended her sexual relationship with and FS8 refused to delete their text messages and WhatsApp communications, FS8 was doing well in the . FS8's supervisor described her as "awesome" and "professional and well versed in her role." Moreover, the emails and awards FS8 received from and others indicated she was performing at a high level in her role. We also found that created a hostile work environment when he attempted to undermine FS8 at work in other ways, for example by telling several coworkers that FS8 was " treatment of FS8—subjecting her to unwanted sexual attention and then drastically altering her working conditions and undermining her when their sexual contact had ceased—is the most extreme example of pattern of sexual harassment of female subordinates. We concluded that engaged in a pervasive and systematic pattern of sexual harassment during his tenure as the Section Chief at FBI Headquarters and as the SAC for and, in so doing, repeatedly violated the Department and FBI policies on sexual harassment.

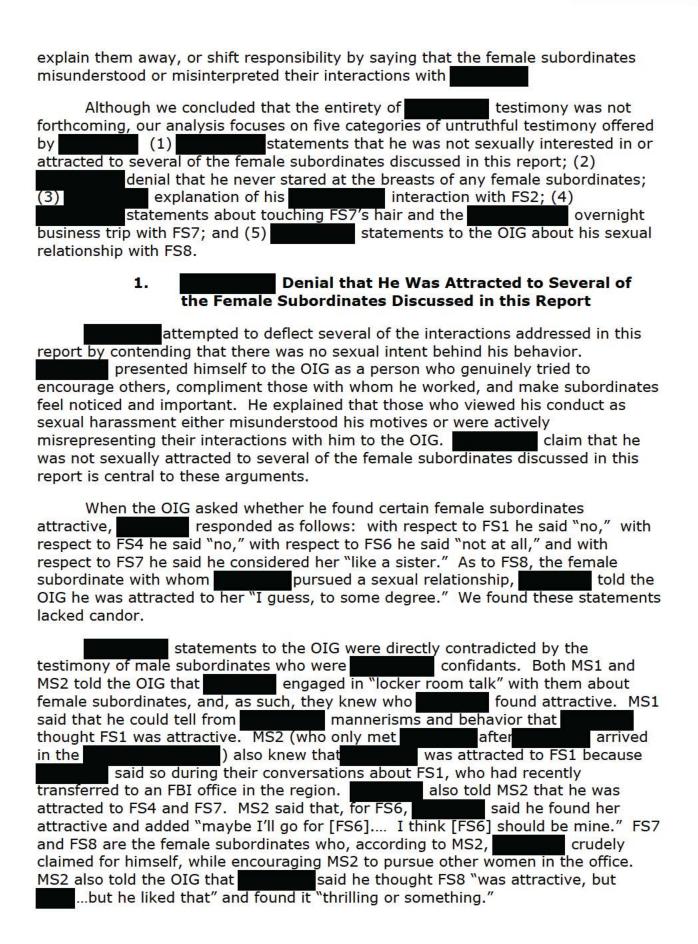


B. Failure to Comply with the FBI Personal Relationships Policy and the FBI Ethics Guide



The FBI's Personal Relationships Policy places an equal obligation to report a romantic or intimate relationship on both supervisors and subordinates. However, as stated in the OIG's March 11, 2020 Management Advisory Memorandum of Concerns Identified in the Handling of Supervisor-Subordinate Relationships Across DOJ Components, because the imbalance of power between supervisors and subordinates raises questions about the consensual nature of such romantic or intimate relationships, the OIG does not name subordinates as subjects in investigations of this type and does not make findings of misconduct against the subordinates solely for failure to report a romantic or intimate relationship. DOJ OIG, Management Advisory Memorandum of Concerns Identified in the Handling of Supervisor-Subordinate Relationships Across DOJ Components (March 2020), https://oig.justice.gov/reports/2020/i20035.pdf (accessed May 6, 2020).







We found MS1's and MS2's testimony credible. "locker room" statements about FS1, FS4, FS6, FS7, and FS8 were said in confidence, to other men. We view such contemporaneous (and voluntary) statements as a more accurate gauge of state of mind than the denials he presented to the OIG when compelled to answer questions about his conduct. In addition, the observations of numerous witnesses, both male and female, behavior are consistent with MS1's and MS2's testimony. about Multiple witnesses described as a "man who loved the ladies" or had a "flirty personality." reputation for surrounding himself with young, attractive female subordinates was well known to employees of the referred to them collectively as harem," and in the it was known that "handpicked" young, attractive, female subordinates Based on observing behavior, male and female witnesses from the could even describe "type" of woman, which was "the younger, smaller, attractive females in the office"—a description that fits most of the female subordinates in this matter, including FS1, FS6, FS7, and FS8. Given this record, statements to the OIG that he was not attracted to FS1, FS4, FS6, and FS7, and that he was only attracted to FS8 "to some degree," are wholly unbelievable. 2. Denial that He Ever Stared at the Breasts of any Female Subordinates lacked candor when he denied staring at We also determined that the breasts of female subordinates. During his told the OIG that he did not "consciously remember staring at anyone's breasts." We concluded that this statement lacked candor. Numerous witnesses told the OIG about fascination with breasts. According to MS1 and MS2, repeatedly and openly commented to his trusted male subordinates about female subordinates' breasts. MS1 told the OIG, "that was a big thing for him-...boobs." MS2 likewise told the OIG about remarks made to him. For example, said to MS2, "You should have seen the way [FS6's] boobs looked in that shirt.' Two witnesses, MS1 and FS6, also specifically described the way that would position his body when he was listening to female subordinates. Their descriptions were eerily similar. MS1 told the OIG that had "kind of

a shtick" when listening to attractive, female subordinates. According to MS1,

chair...[and] really, really pay attention." MS1 also said that "a couple of times" during such meetings, he saw "obviously...glancing down from [their] eyes to somewhere lower than the eyes...and I could see that he was moving his

staring at their breasts, MS1 "surmise[d] that was exactly what he was doing."

eyes up and down." Although MS1 said he could not be sure that

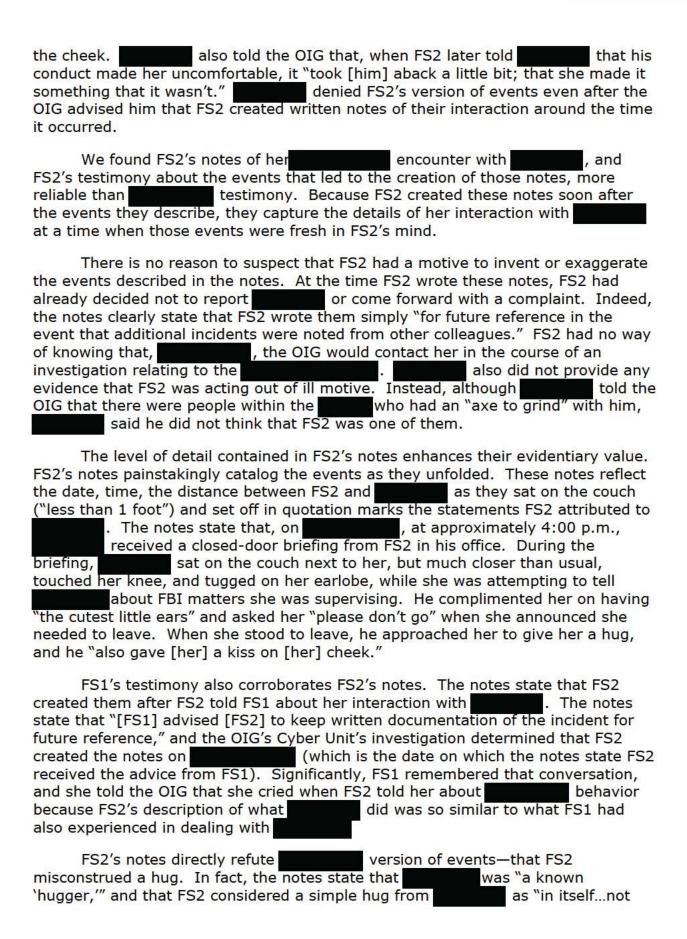
would "turn to them, focus on them a little more,...lean forward in his

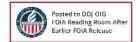


According to MS1, only behaved this way around women attractive. FS6 likewise said that, the first time she met with alone, he was not sitting up straight in his chair and had his arm on a table and was hunched into his shoulder. As a result, he was leaning forward with his body and his gaze lowered, even though he was looking straight ahead. She added that any time she glanced at him, she "could tell the eye contact was coming back up" from staring at her breasts. FS6 said that did this "same leaning in and over type thing" to stare at her breasts the second time she met with him alone. FS6 also described a related method—a "dramatic nod, so that his eyes are going with his head, totally up and down, so it's less obvious"—that used when he was walking down a hallway to stare at the bodies of female subordinates. We concluded that these witnesses accurately and truthfully recounted what they saw do. Their testimony indicates that : (1) had a practiced way of staring at female subordinates' breasts, (2) used the same method repeatedly over the course of years, and (3) intended to avoid detection. The testimony of MS2 further bolstered our conclusion as he described at "masking" the fact that he was "sneaking a look" at the breasts of women he found attractive. We also credit the testimony of the many additional witnesses who independently reported that stared at their breasts or the breasts of other female subordinates. FS1 told us "stared at her boobs." FS10 said looked at FS1's breasts and remarked "they're sitting up today" on one occasion. FS2 said "had wandering eyes" and gave her the "full up and down look" on a fairly regular basis. FS8 also said she thought staring at her breasts in a meeting, but she could not be sure. FS9 remembered that meeting, and she told the OIG that she thought she saw looking at FS8's breasts. whom FS6 introduced to likewise "gawking" at FS6, and he told the OIG it was "creepy." The saw "gawking" at who FS6 introduced to likewise saw FS6, and he told the OIG it was "creepy." These numerous accounts indicate that staring at female subordinates' breasts was not an isolated incident—it was conscious and routine. Given these detailed accounts of behavior, which the evidence establishes was intentional and recurrent, we rejected statement that he did not "consciously remember staring at anyone's breasts" and found that his testimony on this subject lacked candor. 3. Explanation of His Interaction with FS2 likewise lacked candor in describing his interactions with FS2 to , around the time FS2 was scheduled to leave the the OIG. According to for a new assignment in an FBI field office, hugged her and told her he "was going to miss her." described the hug as a "cheek to cheek

hug" and denied that he touched FS2's leg, pulled on her earlobe, or kissed her on







unusual." That observation completely undercuts statement that FS2 made this interaction into "something that it wasn't." FS2's notes clearly document the other things that did-touching her knee, tugging on her earlobe, kissing her on the cheek—and stated that this interaction was unlike any other she had ever had "with SC colleague" in her in the FBI." Given the strength of this contemporaneous account, we concluded that statement to the OIG—"I did not pull on her earlobe, or touch her leg, or whatever else was said"—was false. Significantly, when the OIG asked about these events, did not claim a lack of memory. Instead, he provided a clear description of what occurred that was calculated to downplay or explain away the actual events. version was undergirded by bits of truth. that this interaction happened around the time that FS2 was scheduled to leave hugged her; and that ; that told FS2 he was "going to miss her." We believe, based on this record, that all of that occurred. However, denied all of the offensive behavior, and he argued to the OIG that FS2 "made it something that it wasn't" when she later confronted him. We concluded that by accurately stating some of the details but denying his other egregious was not fully forthright in his description of these events, and that he lacked candor in his OIG interview. Explanation of His Interactions with FS7 We also determined that lacked candor in his account of his testimony concerning FS2, interactions with FS7. As with testimony involving FS7 was calculated to downplay or minimize his conduct, so that it would not appear unwelcome or harassing. There are elements of truth in told the OIG—he did touch FS7's hair more than once, and he did tell her she was attractive while having drinks in a bar on an overnight business telling, however, his behavior was benign and inoffensive. In contrast, the other witnesses present, FS7 and MS2, gave the OIG descriptions of actions that corroborated one another and contradicted account. told the OIG about "at least two occasions where [FS7's] hair had static electricity in it." said that he put his hand behind FS7, and he "raised her hair up higher and then...pushed it down real quick, like a magic trick." According , they both "had a good laugh about it." That is not what the other two witnesses to this event saw or described. FS7 played with her hair while they rode in an FBI vehicle, after telling her something like "sit in the front so that I can play with that beautiful hair." MS2 saw this interaction out of his peripheral vision as he drove, and he remembered thinking "it was weird" that "was playing with her hair." MS2 added that say "your hair's perfect"; "you're so perfect" to FS7 on a he had heard number of occasions, and that the same type of thing "definitely could have been said" during the car ride. We specifically asked MS2 whether FS7's hair had static



electricity, and whether was using his hand to raise and lower it "like a magic trick." MS2 told the OIG that is "not what I saw." Instead, MS2 said that "it almost looked like he was combing her hair with his finger," and that it was weird enough that MS2 thought he should say something to FS7. Both FS7 and MS2 told the OIG that MS2 was concerned, and he asked FS7 if she was okay. Both MS2 and FS7 remembered that FS7 said she would handle it.

similarly attempted to minimize his description of his own conduct toward FS7 during the overnight business trip. Like the descriptions FS7 and MS2 offered, account stated accurately that they all spent time at a bar that evening. However, according to , FS7 was intoxicated and was consoling her by telling her , and she was "very attractive" and told the OIG that he was drinking but not intoxicated, that he did not recall leaning in toward FS7, and that he did not smell her hair on his way to the bathroom. told the OIG he did not remember being close enough to FS7 to be described as "creepy," and he added that "[w]e had a good time; we were all laughing; and nobody looked like they were creeped out." version cannot be reconciled with the testimony offered by FS7

and MS2. Their testimony to the OIG presented a consistent set of facts, which contradicted statements. FS7 told the OIG that, at the bar, was becoming intoxicated, and she stopped drinking. FS7 said leaning into her personal space and saying things like "oh, you're so beautiful, you're so perfect," which comments she tried to deflect. MS2 similarly described as "overly intoxicated" and "very flirty" toward FS7. MS2 added that it was to her. MS2 told the OIG he definitely heard was "creepy" how close say, "you're so perfect; why are you so perfect." MS2 could not , and he added that remember FS7 saying anything about FS7 is one of his friends but "is super private about that kind of thing." Both FS7 and MS2 said they thought smelled FS7's hair on his way to the bathroom, and FS7 added that, although she could not see as he passed behind her, she could tell that he "was incredibly close...closer than he needed to be to walk to the bathroom."

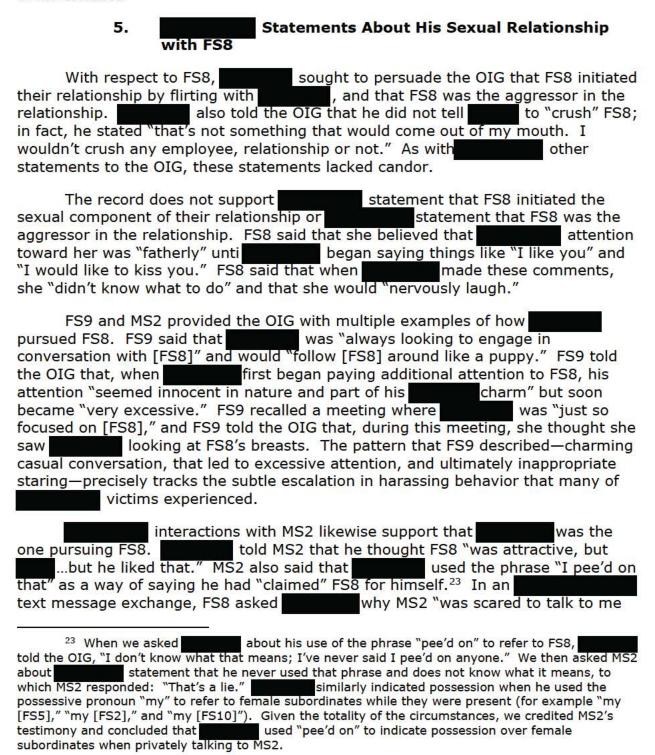
FS7 and MS2's account that was intoxicated, flirting with FS7, and acting "creepy" was further confirmed by what occurred when they returned to the hotel that evening. The key details of FS7's and MS2's accounts are precisely the same. FS7 indicated to MS2 that she did not want to be left alone with which MS2 said he immediately understood. MS2 got in the elevator with FS7 and even though there was a separate elevator closer to his room.

got off the elevator first, after which FS7 rode with MS2 to MS2's floor to make sure was not following FS7. Only after FS7 was sure she had not been followed did FS7 go down to the floor of the hotel where her room was located.

Given the severity of this conduct, it is not surprising that would seek to confirm the neutral details of his behavior (who, when, and where) but minimize or reframe the more salacious details. However, obfuscation of this type



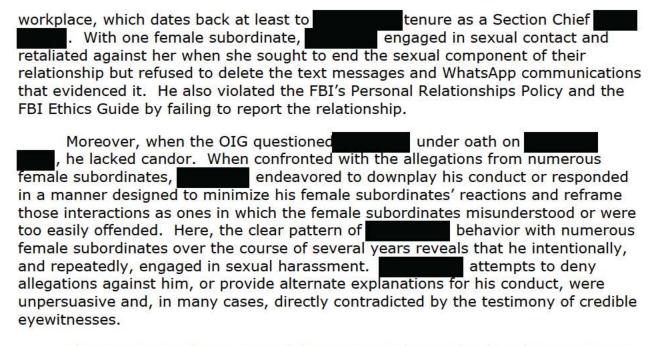
is expressly prohibited under FBI policy. FBI Offense Code 2.6 (Lack of Candor—Under Oath) applies to explicit false statements as well as "misrepresentations, the failure to be fully forthright, or the concealment or omission of a material fact/information." We concluded that statements to the OIG about FS7 were not fully forthright, and in fact they were intended to conceal the true nature of his conduct.





around you today," and replied, "I told him [FS7] and [another female subordinate] are fair game. I mean he knows I like you and he shouldn't mess with you." also initiated all of the events that led up to a sexual act. asked FS8 for her private cell phone number. not FS8, suggested that they communicate via WhatsApp. invited FS8 to lunch, FS8, asked whether she was interested in coming over to "Netflix and chill." did not dispute these facts. They contradict assertion that FS8 "was the more aggressive one in it; and then, yes, I did participate in it." to "crush" FS8 Similarly, statement that he did not tell when FS8 ended their relationship and denied request to delete their WhatsApp texts is wholly unbelievable. MS2 told the OIG that he was present and tell to "crush" FS8. We found that FS8's conditions at work changed significantly after she ended her relationship with . FS8 was subjected to alterations in FS8's chain of command, , and exclusion from weekly staff meetings. These changes considerably affected her ability to do her job. attempt to justify the changes by telling the OIG that FS8 falls flat. The OIG reviewed emails and awards FS8 received from and others that indicated she was performing at a high level in her role. Further, FBI Headquarters documents This documentation demonstrated that FS8 out performed those in If, in fact, allegations that FS8 was were accurate, the FBI, according to MS3, has provisions in place to address an underperforming employee. For instance, the office can place an employee on a explanation for the treatment of FS8, which deteriorated after she ended their relationship, is not believable and is not borne out by the facts the OIG uncovered. V. Conclusion used his authority in and as the highest ranking FBI to create an intimidating, hostile, and offensive official in the work environment, in clear violation of the Department's zero tolerance policy for sexual harassment. made his female subordinates feel uncomfortable and awkward by repeatedly commenting on their appearances at work. In addition, he stared at the breasts of female subordinates during meetings, touched one female subordinate's hair on several occasions, and transferred a female subordinate to a squad near his office because he said she "looked good walking down that hall." conduct fostered and encouraged toxic working conditions, and it was part of a pattern of sexual harassment by





The OIG is providing a copy of this report to the FBI for disciplinary action it deems appropriate.





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