

Report of Investigation of Alleged Misconduct by Then Acting Assistant Chief Immigration Judge





I. Introduction

This report summarizes the Department of Justice (Department or DOJ) Office of the
Inspector General's (OIG) investigation into allegations of misconduct by then DOJ Assistant
Chief Immigration Judge (ACIJ) in connection with romantic
relationship with when when when was the acting ACIJ
for DOJ's Executive Office for Immigration Review's (EOIR) Office of the Chief Immigration
Judge's (OCIJ) Immigration Court (INDICE) According to a complaint the OIG
received, from and while serving as acting ACIJ, had an
inappropriate supervisor-subordinate relationship with
(b)(d); (b)(7)(C)
resigned from the Department in resigned from the Department in
To conduct this investigation, we obtained relevant policies, documents, and emails, including emails from when he departed the when he departed the Immigration Court to assume the ACIJ duties at the Immigration Court in We interviewed of the investigation, we identified evidence that created and sent an email from his DOJ email account to which he pretended to be the then EOIR Director. We interviewed about that
conduct as well.
Part II of this report summarizes applicable laws and policies. Part III of this report provides background factual information. Part IV examines the allegations relating to and relationship. Part V describes an email created on his DOJ email account purporting to be from the then EOIR Director, Part VI provides our conclusions.
As described in this report, we found that and and and and and and aromantic relationship during the time that a served as acting ACIJ and
1 b)(6); (b)(7)(C)
² The OIG also received an anonymous complaint similarly alleging that he engaged in an inappropriate supervisor-subordinate relationship with "a subordinate— who works during his tenure as acting ACIJ (1976) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (



Unless otherwise noted, the DOJ 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). We have provided a copy of our report to EOIR and to the Professional Misconduct Review Unit.

II. Applicable Standards

A. Policies Relating to Supervisor-Subordinate Relationships

At the time of the alleged misconduct in this matter, EOIR did not have a policy requiring the reporting of a romantic or intimate relationship between a supervisory employee and a subordinate employee. Similarly, there was no DOJ-wide policy governing supervisor/subordinate relationships. In May 2022, the Justice Management Division (JMD) issued "Policy Regarding Romantic or Intimate Relationships between Supervisors and Subordinates," which provides guidance for addressing romantic or intimate relationships between supervisors and subordinates in DOJ, JMD, and components that adopt the policy. EOIR has adopted this policy.

As conduct could be construed to implicate 18 U.S.C. § 912, we referred his conduct to DOJ's Public Integrity Section, which declined to open a criminal investigation.

B. Ethics Standards for IJs

The OCIJ issued an ethics guide applicable to all IJs, entitled "Ethics and Professionalism Guide for Immigration Judges" (IJ Guide), in January 2011. Many of the sections of the IJ Guide reference the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, in providing standards specifically applicable to IJs. The Preamble to the IJ Guide provides that "[t]o preserve and promote integrity and professionalism," IJs should, among other things, "avoid impropriety and the appearance of impropriety in all activities." More specifically, Section VI of the IJ Guide, Appearance of Impropriety, references 5 C.F.R. § 2635.101(b)(14) and states:

An Immigration Judge shall endeavor to avoid any actions that, in the judgment of a reasonable person with knowledge of the relevant facts, would create the appearance that he or she is violating the law or applicable ethical standards.

Section XII of the IJ Guide, Use of Public Office for Private Gain, references 5 C.F.R. § 2635.702 and states in relevant part: "Immigration Judges may not use their public office for their own private gain or the gain of persons or organizations with which they are associated personally."

C. Employee Standards of Conduct—5 C.F.R. § 735.203

Government employees must also comply with standards of conduct set forth in 5 C.F.R. Part 735, Subpart B. Section 735.203 sets forth the following restrictions on conduct: "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government." 5 C.F.R. § 735.203.

III. Background



⁴ See

www.justice.gov/sites/default/files/eoir/legacy/2013/05/23/EthicsandProfessionalismGuideforlJs.pdf (accessed February 24, 2023).



(b)(6); (b)(7)(C)	
В.	Professional Backgrounds
	1. (b)(5); (b)(7)(C)
(b)(6); (b)(7)(C)	
(b)(6); (b)(7)(C)	told us
that, as par	t of the onboarding process, he attended new IJ training, which included topics and professionalism, and received the IJ Guide.
(b)(6); (b)(7)(C)	la professionalism, and received the ij Guide.
*1	
(b)(6); (b)(7)(C)	
below, (b)(6):	Due to events we describe became acting ACIJ at the Immigration Court on
(b)(5); (b)(7)(C)	and served as acting ACIJ
until (b)(6); (b)(7)(C)	resigned from the Department in resigned from the Department in
(b)(6); (b)(7)(C)	



- IV. (b)(6): (b)(7)(C) and (c)(6): (b)(7)(C) Relationship
 - A. Factual Findings
 - 1. Became Acting ACIJ

According to the two began a romantic relationship that continued through at least the end of when the OIG interviewed told us that he would be "shocked" if court staff did not know about his relationship with typically arrived at and departed the office and outside social functions together. Said he thought "kind of like everybody" knew about their relationship because they "weren't hiding it," but they did not go around announcing they were in a relationship either. Virtually every court employee we interviewed told us that they thought and were engaged in a romantic relationship before of the court of the court employee we interviewed told us that they thought and were engaged in a romantic relationship before of the court of the cou

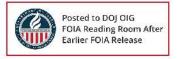
)(6); (b)(7)(C)



(b)(6); (b)(7)(C)
3. [0)(6): (0)(7)(C) is Named Acting ACIJ (0)(6): (0)(7)(C) Immigration Court
(a)(6): (b)(7)(C)
notified all of the Immigration Court that he
would serve as acting ACIJ (6)(6)(6)(7)(C)
bios (bio)(s)(s) told us that during the first week of bios (bio)(s)(s)
told us that during the first week of called him and asked him to be
the acting ACIJ at for a short period of approximately (1966) (1977) said he
agreed to do so
(b)(6); (b)(7)(C)
Prior to being asked to serve as acting ACIJ, had contacted several
times about the acting ACIJ post (b)(6): (b)(7)(C) . For instance, on (b)(6): (b)(7)(C)
reached out to (D)(E)(F)(F)(C) by
email and instant message to propose that (I)(I)(I)(I)(I)(I)(I)(I)(I)(I)(I)(I)(I)(
(b)(6); (b)(7)(C) (b)(7)(C)
acknowledged to us that it was fair to say that he expressed a willingness to serve as acting
ACIJ before asked him to do so.
On sent a notice to all
on sent a notice to all in which he announced, among other things, that effective
would "assume supervision (I) [I] mmigration [C] ourt,"
not disclose to his supervisors his relationship with at this time because the initial
request was for only (b)(6) (b)(7)(C)
oner torring,



(b)(6); (b)(7)(C)
told us that before the initial period as acting ACIJ ended, asked him to serve for a longer, undefined period, asked him to serve for a longer, undefined period, asked to serve as acting ACIJ possibly until to serve as acting ACIJ possibly until to serve as acting his relationship to at that time because he thought for the served as acting and he was concerned that someone might file a complaint against him if he served as acting ACIJ for that length of time. According to form the served as acting acting acting a long time. It length of time are also common sense. I know better. If I was her real supervisor and I had to write a performance appraisal, I would have acted differently." But, said his "calculus" about disclosing the relationship changed following a
if he could just stay until then. told us that this conversation mattered because he only had to "navigat[e]" the courthouse for a bit longer, solve to the courthouse for a bit longer, solve told us that he did not review any ethics regulations or polices at the time to assess whether he should disclose his relationship.
b)(6): (b)(7)(C)
and relationship. Said that she would have removed as acting ACIJ relationship because "there is no way he could supervise a subordinate that he's in an intimate relationship with. It's not appropriate."
5 (D)(6): (D)(7)(C) (D)(6): (D)(7)(C) 6 (D)(6): (D)(7)(C) 6 (D)(6): (D)(7)(C) Told us that when (D)(6): (D)(7)(C) Something between (D)(6): (D)(7)(C) Something between (D)(6): (D)(7)(C) Something between (D)(6): (D)(7)(C) Solid She felt uncomfortable having such a conversation with her supervisor and responded that she had no idea.



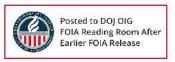
	4.	The Impact of Immigration Court	and (0)(6): (b)(7)(C)	Relationship (I)
• 6	(b)(6):	300015	4-5	- New
us similar (lunannound there toget stated that interrupted the topic of the office "v	ere still controlled but sepanded into the controlled by the contr	constantly together in trate) incidents, while of the control of t	the courthouse was actinoffice, unaware coserved physical ons suggested to hree told us to get affections toxic environmental toxic environmental toxic environmental toxic establishments."	contact between the two, they the witnesses that they had hat one of these incidents became According to one employee, ent because everyone knows
(b)(6); (b)(7)(C)				
7 (b)(6); (b)(6); (b)(7)(C)	(b)(7)(C)			

(b)(6); (b)(7)(C)	
194644/(05)/W//	



5); (b)(T)(C)
B. Analysis
As described in this report, and acknowledged that they were
involved in a romantic relationship, including during the time that selections as acting
ACIJ (b)(6); (b)(7)(C) was his subordinate. (b)(6); (b)(7)(C) was his subordinate.
(3) (4)(4)(4)(4)(4)(4)
9 We also determined that wio violated
Section VI of the IJ Guide relating to the appearance of ethics impropriety.
b)(6); (b)(7)(C)
DIGNOVED hald us that at the time he assumed the vale of acting ACII he halioused that
told us that at the time he assumed the role of acting ACIJ, he believed that
everyone everyone Immigration Court knew about his romantic relationship with
because they "weren't hiding" the relationship. Our investigation confirmed the
relationship in fact was widely known. Despite being in a romantic relationship with
proactively offered to serve as acting ACIJ—a position that would make
his subordinate—and ultimately accepted the role without disclosing the
relationship to his supervisor. provided the OIG with several explanations for not
disclosing the relationship, including the initial short duration of the time he would serve as
acting ACIJ; (DIG), (DIG), (DIG), (DIG)
b)(6): (b)(7)(C)
(b)(6): (b)(7)(C) We do
not believe any of these explanations excuse failure to inform his supervisor of his
relationship with prior to accepting the role of acting ACIJ.
processor and the second secon
(b)(6); (b)(7)(C)
8 (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)

⁹ As noted earlier, at the time of the alleged misconduct in this matter, neither DOJ nor EOIR had a policy governing supervisor-subordinate relationships. That changed in May 2022 when JMD issued "Policy Regarding Romantic or Intimate Relationships between Supervisors and Subordinates," which provides guidance for addressing romantic or intimate relationships between supervisors and subordinates in DOJ, JMD, and components that adopt the policy. EOIR has adopted this policy.



However, in deciding whether to tell however, about the relationship, failed to consider that supervisor-subordinate relationships can create strong perceptions of favoritism regarding any workplace decisions and actions involving the subordinate. happeared not to recognize the perceptions of favoritism that likely would flow from any future management decision he would make involving however, in deciding whether to tell how create strong perceptions of favoritism that likely would flow from any future management decision he would make involving how even if done for legitimate work-based reasons. In fact, how the perception that he was favoring how caused workplace disruption as many court personnel, especially how believed has providing benefits to how ould make involving how have been decisions and actions involving the subordinate relationship.
(b)(6); (b)(7)(C)

For similar reasons, we also found that from romantic relationship with while serving as acting ACIJ, created the appearance that he was using his public office for the private gain of in violation of Section VI of the IJ Guide. Section VI of the IJ Guide, Appearance of Impropriety states:

An Immigration Judge shall endeavor to avoid any actions that, in the judgment of a reasonable person with knowledge of the relevant facts, would create the appearance that he or she is violating the law or applicable ethical standards.

One of the ethical standards that guides Immigration Judges, which is expressed in both Section XII of the IJ Guide and in Section 2635.702 (Section 702) of the Standards of Ethical Conduct for Employees of the Executive Branch, which Section XII of the IJ Guide references, is that they may not use their public office for their own private gain or the gain of persons or organizations with which they are associated personally. being supervisor while in a relationship with her created the appearance that he was violating the ethical standard that prevented him from using his position as acting ACIJ for



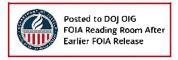
benefit or gain. Accordingly, we also found that he violated Section VI of the IJ Guide when he served as acting ACIJ while in a romantic relationship with his subordinate.
V. Drafting of Fictitious Email from EOIR Director
A. Factual Findings
During the course of our investigation, we identified a series of emails that indicated that that the created an email on his DOJ email account on prior in time to when he served as acting ACIJ mmigration Court—purportedly from the then EOIR Director, which email then emails that revealed that steps to create an email that would appear to a reader as being sent by First, at 9:45 a.m. on steps to create an email address in the body, as depicted below:
From: (a)(6): (b)(7)(C) (EOIR) To: (EOIR) Date: (b)(6): (b)(7)(C) (EOIR) (B)(6): (b)(7)(C) (EOIR)
Four minutes later, at 9:49 a.m., or drafted another email, which purported to forward an email from to from 9:45 a.m. on with no subject line and no text in the body, as depicted below:



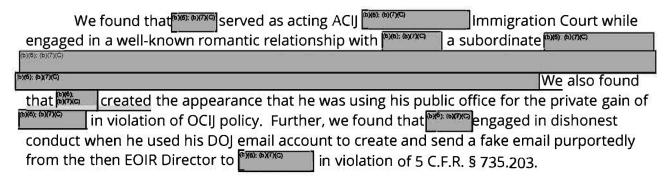
Sent: (b)(6).(b)(7)(C) 9:49:03 AM Subject: FW:
From: (b)(6); (b)(7)(C) (EOIR)
To: b)(6); (b)(7)(C)
Subject:
As there were no emails from to on
account (or any other emails from addressed only to on any day in
emails that we obtained), we surmised that pressed forward on the first email to himself and, while it was in draft format, deleted his email address in the "from" field, cut
email address that was in the body of the first email, as depicted above, and
pasted it into the "from" field, resulting in the email not having any text in the body of the
email. The third email in [6000: (60/7)(5)] email account, shown below, was forwarded 16 minutes
later at 10:05 a.m. to (10:05:05). That email purported to forward an email from (10:05:05). The email purported to forward an email from (10:05:05). The email purported to forward an email from (10:05:05). The email purported to forward an email from (10:05:05).
to on now with four lines of text in the body, as depicted below:
From: (EOIR) To:
Subject: FW: Date: [b)(6): (b)(7)(C) [10:05:00 AM
From: (b)(6): (b)(7)(C) (EOIR) (EOIR)
Sent: 9:45 AM To: (0)(6): (0)(7)(C)
Subject:
(b)(6); (b)(7)(C)
I know you are taking on a great deal at the court.
(DXG): (DX/TXG)
Thank you for your efforts there. These are going to be some tough
times. We need to keep individual hearings going and the judges need to do their part.
(b)(6); (b)(7)(C)
This email that forwarded to still retained a blank subject line and had a
sent time stamp of 9:45 a.m. on the same as the first email that sent the same as the same as the sent the same as the sent the same as the sent that sent the same as the sent the same as the same as the sent that sent the sent the sent that sent the sent the sent the sent that sent the sent that sent the
to himself. However, in addition to four lines of text in the body, this email began with
and closed with office of the length of the
only to on any day in emails that we obtained), we surmised that



drafted the text that appears in the body of the email before forwarding the email to
When we showed (1) the email purportedly sent by (1) (1) (1) (1) (1) (1) (1) (1) (1) (1)
stated that the day he forwarded the email to and, upon reflecting on it, he thought that he agreed that it was fair to interpret his actions in creating and forwarding
the email as him pretending to be to
DOJ email records clearly reveal the steps took to create the fake email in name. In addition, admitted that it was fair to interpret his actions as him falsely pretending to be stablish that he did not receive an email from on stable in dishonest conduct by creating such an email and sending it to into believing that he had received the email from the head of EOIR. This dishonest conduct also was prejudicial to the government. IJs serve as arbiters of the truth; therefore, the government must ensure that IJs are themselves scrupulously honest in order to maintain the public trust in their decisions and the integrity of OCIJ operations. We found that creating and sending the fake email was dishonest and prejudicial to the government, and therefore violated 5 C.F.R. § 735.203. ¹¹
10 On Stating, among other things, that the Stating among other things, that the OIG including the Stating among other things, that the OIG including the Stating among other things of the Stating among other than the OIG including the Stating among other things of the Stating among other than the OIG including the Stating among other things of the Stating among other than the OIG including the Stating among other things, sent a letter via email to the OIG including the OIG in
submitted in response to reviewing a draft of this report, [606] contended that his conduct with respect to the [606] email was not prejudicial to the government. According to [607] the email was merely a "private exchange" between him and [606] (607)(C) ("a private citizen") [607] (Cont'd.



VI. Conclusion



We have provided a copy of this report to EOIR and to the Professional Misconduct Review Unit for any action they deem appropriate.

We disagree and believe that actions—using government resources and equipment to create a fake email purporting to be written by the head of a federal office—is conduct covered by § 203.