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DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

REPORT OF INVESTIGATION

SUBJECT		CASE NUMBER	
(b)(6); (b)(7)(C) (***-**-****) Retired Assistant Special Agent in Charge (b)(6); (b)(7)(C)		2020-008261	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
San Francisco Office		Federal Bureau of Investigation	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Region WSR		<input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED	
<input checked="" type="checkbox"/> AIGINV		PREVIOUS REPORT SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/> Component FBI		Date of Previous Report:	
<input type="checkbox"/> USA			
<input type="checkbox"/> Other			

SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Federal Bureau of Investigation (FBI) Inspection Division (INSD) alleging that FBI (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) Assistant Special Agent in Charge (ASAC) (b)(6); (b)(7)(C) sexually harassed Special Agent (SA) (b)(6); (b)(7)(C) and made racially insensitive remarks to Investigative Analyst (b)(6); (b)(7)(C). It was further alleged that (b)(6); (b)(7)(C) told FBI (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) had volunteered for a temporary assignment at (b)(6); (b)(7)(C) when in fact, (b)(6); (b)(7)(C) had not volunteered for the assignment.

Subsequent to the onset of the investigation, INSD provided the OIG additional information indicating that (b)(6); (b)(7)(C) bullied his subordinates by using intimidating language and tactics with them.

During the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) threatened subordinates with retaliation if they made complaints about (b)(6); (b)(7)(C) management to INSD during an office inspection, and that (b)(6); (b)(7)(C) lacked candor under oath in his OIG interview.

DATE	(b)(6); (b)(7)(C)	SIGNATURE	(b)(6); (b)(7)(C)	Digitally signed by (b)(6); (b)(7)(C)
PREPARED BY SPECIAL AGENT				Date: 2024.08.30 18:18:56 -05'00'
DATE		SIGNATURE	Zachary Shroyer	Digitally signed by ZACHARY SHROYER
APPROVED BY SPECIAL AGENT IN CHARGE				Date: 2024.08.30 16:44:42 -07'00'

OIG Form III-210/1 (10/31/2023)

Portions of the Report of Investigation may not be exempt under the Freedom of Information Act (5 U.S.C. § 552) and the Privacy Act (5 U.S.C. § 552a).

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The OIG investigation substantiated the allegations that (b)(6) sexually harassed (b)(6), misrepresented to (b)(6) that (b)(6); (b)(7)(C) had volunteered for a temporary assignment at (b)(6); (b)(7)(C) lacked candor to the OIG under oath, made racially insensitive remarks to (b)(6); (b)(7)(C), bullied subordinates, and threatened subordinates with retaliation if they made complaints about management.

(b)(6) and three witnesses told the OIG that (b)(6) sexually harassed (b)(6); (b)(7)(C). Seven witnesses told the OIG that (b)(6) misrepresented that (b)(6); (b)(7)(C) had volunteered for a temporary assignment at (b)(6); (b)(7)(C). (b)(6) told the OIG that (b)(6) made racist remarks to her. Eight witnesses told the OIG that (b)(6) bullied subordinates, including making threats of retaliation if subordinates made complaints about management.

In a voluntary interview, (b)(6) denied that he sexually harassed (b)(6); (b)(7)(C). (b)(6) denied that he misrepresented to (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) had volunteered for a temporary assignment at (b)(6); (b)(7)(C); denied having ever made racist comments; and denied and downplayed that he bullied subordinates.

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

(b)(6); (b)(7)(C) retired from his position at the FBI effective (b)(6); (b)(7)(C).

The OIG has completed its investigation, and all criminal and administrative actions are complete. The OIG is providing this report to the FBI for its information.

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

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### DETAILS OF INVESTIGATION

#### Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Federal Bureau of Investigation (FBI) Inspection Division (INSD) alleging that FBI (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) Assistant Special Agent in Charge (ASAC) (b)(6); (b)(7)(C) sexually harassed Special Agent (SA) (b)(6); (b)(7)(C) and made racially insensitive remarks to Investigative Analyst (b)(6); (b)(7)(C). It was further alleged that (b)(6); (b)(7)(C) told FBI (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) had volunteered for a temporary assignment at (b)(6); (b)(7)(C) when in fact, (b)(6); (b)(7)(C) had not volunteered for the assignment.

Subsequent to the onset of the investigation, INSD provided the OIG additional information indicating that (b)(6); (b)(7)(C) bullied his subordinates by using intimidating language and tactics with them.

During the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) threatened subordinates with retaliation if they made complaints about (b)(6); (b)(7)(C) management to INSD during an office inspection, and that (b)(6); (b)(7)(C) lacked candor under oath in his OIG interview.

#### Investigative Process

The OIG's Investigative efforts consisted of the following:

Interviews of the following FBI personnel:

(b)(6); (b)(7)(C), Special Agent (SA)  
(b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C) ASAC  
(b)(6); (b)(7)(C)

#### (b)(6); (b)(7)(C) Sexually Harassed (b)(6); (b)(7)(C) and Lacked Candor in an OIG Interview

The information provided to the OIG alleged that (b)(6); (b)(7)(C) sexually harassed (b)(6); (b)(7)(C). During the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) lacked candor under oath in his OIG interview.

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Attorney General Policy Memorandum #2015-04 – Prevention of Harassment in the Workplace, dated October 9, 2015, states in part:

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

To enforce this zero-tolerance policy, 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, as amended. The Department will not wait for a pattern of offensive conduct to emerge before addressing claims of harassment. Rather, the Department will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. Even where a single utterance of an ethnic, sexual, racial, or other offensive epithet may not be severe enough to constitute unlawful harassment in violation of Title VII, it is the Department's view that such conduct must be prevented whenever possible through awareness, robust policies and effective and appropriate follow-up, investigation, and enforcement of the zero-tolerance policy.

The FBI Harassment Policy Directive 1038D, dated October 31, 2018, Section 5.2.1 defines sexual harassment as "a form of harassment based on sex and 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." The policy directive further states that conduct is sexual harassment when "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." The policy directive provides some examples of sexual harassment as oral or written comments of a sexual nature, statements, jokes, or anecdotes with sexual content or innuendos, and sexual comments or gestures regarding an individual's body.

FBI Offense Code 5.20, entitled "Sexual Harassment" prohibits "[m]aking unwelcome or unwanted sexual advances, requesting sexual favors, or engaging in other verbal or physical conduct of a sexual nature. Unwelcome conduct of a sexual nature by a supervisor or a coworker can constitute sexual harassment."

Section 2, Integrity/Ethical Misconduct, under the Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process, dated January 1, 2017, Offense Code 2.6 addresses Lack of Candor - Under Oath. Specifically, Offense Code 2.6 prohibits FBI employees from "Knowingly providing false information in a verbal or written statement made under oath."

(b)(6); (b)(7)(C) told the OIG that in (b)(6); (b)(7)(C), while she was in (b)(6); office discussing a work matter, (b)(6); inquired about what (b)(6); children were going to be for Halloween. (b)(6); then asked (b)(6); about her own costume. (b)(6); replied that she was not dressing up, and (b)(6); responded, "What? No slutty mom costume this year?" (b)(6); said that (b)(6); simultaneously gestured with his hands to mimic squeezing his breasts. (b)(6); stated there were no witnesses to the comment but that she reported the incident to FBI (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C). (b)(6); further stated that (b)(6); unfairly targeted her as a female by asking her supervisor, (b)(6); to closely monitor her working relationships with her male co-workers. (b)(6); stated she was not aware of (b)(6); asking the supervisors to closely monitor the working relationships of her male colleagues.

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(b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) reported to them that (b)(6); (b)(7)(C) made a sexual comment regarding a Halloween costume and gesturing as though grabbing his breasts.

(b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) told him (b)(6); (b)(7)(C) made an inappropriate comment about her breasts, but he could not recall the specific comment. (b)(6); (b)(7)(C) stated that (b)(6); (b)(7)(C) once expressed concerns to him about (b)(6); (b)(7)(C) going out on investigations with (b)(6); (b)(7)(C) because (b)(6); (b)(7)(C) did not want them to start engaging in sexual activity together. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) comment was discriminatory, and it insinuated that just because (b)(6); (b)(7)(C) is female, she would sleep with her male co-workers if paired together. (b)(6); (b)(7)(C) said he told (b)(6); (b)(7)(C) about (b)(6); (b)(7)(C) comment and offered to file a complaint because he believed it was harassment. (b)(6); (b)(7)(C) said (b)(6); (b)(7)(C) was upset, but she did not want to file a complaint because (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that he had never heard (b)(6); (b)(7)(C) make similar remarks about male agents going out on investigations together.

In a voluntary interview, (b)(6); (b)(7)(C) denied having ever made any inappropriate comments to (b)(6); (b)(7)(C) concerning a Halloween costume, and denied having ever made any sexually inappropriate comments to (b)(6); (b)(7)(C) or any other female staffers. (b)(6); (b)(7)(C) also denied having said that he did not want (b)(6); (b)(7)(C) to work with (b)(6); (b)(7)(C) because they might start engaging in sexual activity together.

#### *OIG's Conclusion*

The OIG investigation concluded that (b)(6); (b)(7)(C) engaged in the misconduct as alleged, and his conduct violated the Department's zero-tolerance policy on sexual harassment and FBI policy. Although (b)(6); (b)(7)(C) denied the allegations, the OIG credits (b)(6); (b)(7)(C) statement about the unwanted sexually oriented statements. Several witnesses credibly recounted (b)(6); (b)(7)(C) contemporaneous statements to them about (b)(6); (b)(7)(C) harassment. Further, (b)(6); (b)(7)(C) witnessed (b)(6); (b)(7)(C) make statements and insinuate that because (b)(6); (b)(7)(C) is female that she would sleep with her male co-workers. The investigation also concluded that (b)(6); (b)(7)(C) denials of sexual harassment of (b)(6); (b)(7)(C) constituted a lack of candor in violation of FBI policy.

#### **(b)(6); (b)(7)(C) Misrepresented that (b)(6); (b)(7)(C) had Volunteered for a Temporary Assignment and Lacked Candor During an OIG Interview**

The information provided to the OIG alleged that (b)(6); (b)(7)(C) told (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) had volunteered for a temporary assignment at (b)(6); (b)(7)(C) when in fact, (b)(6); (b)(7)(C) had not volunteered for the assignment.

During the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) lacked candor under oath in his OIG interview.

Section 2, Integrity/Ethical Misconduct, under the Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process dated January 1, 2017, Offense Code 2.5 address Lack of Candor – No Oath. Specifically, Offense Code 2.5 prohibits FBI employees from “Knowingly providing false information when making a verbal or written statement, not under oath, to a supervisor, another Bureau employee in an authoritative position, or another governmental agency, when the employee is questioned about their conduct or the conduct of another person.”

Section 2, Integrity/Ethical Misconduct, under the Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process dated January 1, 2017, Offense Code 2.6 addresses Lack of Candor - Under Oath. Specifically,

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Offense Code 2.6 prohibits FBI employees from "Knowingly providing false information in a verbal or written statement made under oath."

(b)(6); (b)(7)(C) told the OIG that in (b)(6); (b)(7)(C) he told (b)(6); (b)(7)(C) that he was not interested in volunteering to serve as a (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) stated that on (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) learned of (b)(6); (b)(7)(C) and stopped by his desk to congratulate him. (b)(6); (b)(7)(C) stated that at that time, he informed (b)(6); (b)(7)(C) of his intention to submit a request for a (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) stated that on (b)(6); (b)(7)(C) he learned from (b)(6); (b)(7)(C) that he was temporarily reassigned to (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) stated he was unaware if a canvas for other potential volunteers had taken place, as is typical in the FBI. According to (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) told him that (b)(6); (b)(7)(C) did not give (b)(6); (b)(7)(C) a choice.

(b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) told them and others in the office that he had not volunteered for the (b)(6); (b)(7)(C) position in (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) told the OIG that he contacted (b)(6); (b)(7)(C) regarding (b)(6); (b)(7)(C) temporary assignment. (b)(6); (b)(7)(C) informed (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) to explain why it was not an opportune time for (b)(6); (b)(7)(C) to go to (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) responded, "that's all on (b)(6); (b)(7)(C)." According to (b)(6); (b)(7)(C), sometime in (b)(6); (b)(7)(C) or (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) informed (b)(6); (b)(7)(C) that another individual had volunteered for the temporary assignment and (b)(6); (b)(7)(C) did not understand why (b)(6); (b)(7)(C) was selected. Additionally, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)) later told (b)(6); (b)(7)(C) that during a meeting with all three of the (b)(6); (b)(7)(C), they had a discussion regarding the request to provide a (b)(6); (b)(7)(C) to (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) explained to him that there must have been some misunderstanding, because (b)(6); (b)(7)(C) said, "don't worry, (b)(6); (b)(7)(C) has volunteered." However, (b)(6); (b)(7)(C) stated that he believed it was not a misunderstanding, but rather that (b)(6); (b)(7)(C) intentionally misled the other (b)(6); (b)(7)(C) about (b)(6); (b)(7)(C) willingness to take the assignment at (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) told the OIG that in (b)(6); (b)(7)(C) when (b)(6); (b)(7)(C) was sent as (b)(6); (b)(7)(C), to his knowledge, there were no other volunteers. (b)(6); (b)(7)(C) stated that based on his conversation with (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) was not extremely enthusiastic but also was not opposed to going.

(b)(6); (b)(7)(C) told the OIG that in early (b)(6); (b)(7)(C) that he, (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) had a meeting to discuss who to send from the (b)(6); (b)(7)(C) to fill a temporary position at the FBI (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C) as a (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that he remembered (b)(6); (b)(7)(C) stating that he had someone willing to go or had someone he could send. (b)(6); (b)(7)(C) said he did not recall if the implication was that (b)(6); (b)(7)(C) was specifically volunteering or not. (b)(6); (b)(7)(C) believed that (b)(6); (b)(7)(C) was under the impression that (b)(6); (b)(7)(C) volunteered for the assignment. (b)(6); (b)(7)(C) said that around (b)(6); (b)(7)(C), he learned that (b)(6); (b)(7)(C) had not volunteered.

(b)(6); (b)(7)(C) told the OIG that he was contacted by (b)(6); (b)(7)(C) to provide (b)(6); (b)(7)(C) as a (b)(6); (b)(7)(C) to the (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C), and to his knowledge, there was only one (b)(6); (b)(7)(C) who volunteered. (b)(6); (b)(7)(C) said that he preferred to send a volunteer but knew that in the absence of a volunteer, he might have to order someone to go. According to (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) volunteered as a (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that in (b)(6); (b)(7)(C) when he went to the (b)(6); (b)(7)(C) he learned that (b)(6); (b)(7)(C) had not volunteered. (b)(6); (b)(7)(C) stated that it would have been appropriate for (b)(6); (b)(7)(C) to be instructed to go to (b)(6); (b)(7)(C) without volunteering and that would have been within the authority of management to make that decision. However, (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) should not have told him that (b)(6); (b)(7)(C) volunteered.

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In a voluntary interview, (b)(6); (b)(7)(C) stated that it was not possible for (b)(6); (b)(7)(C) to have believed that (b)(6); (b)(7)(C) had volunteered for the (b)(6); (b)(7)(C) position. (b)(6); (b)(7)(C) said that the (b)(6); (b)(7)(C) had an annual requirement to supply (b)(6); (b)(7)(C) for the (b)(6); (b)(7)(C) as well as providing a (b)(6); (b)(7)(C) for the (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that an email went out to canvass the office, but no one volunteered for the (b)(6); (b)(7)(C). Because there were no volunteers, (b)(6); (b)(7)(C) told (b)(6); (b)(7)(C) that every branch had to designate a person who would be eligible. (b)(6); (b)(7)(C) said that he submitted (b)(6); (b)(7)(C) name to comply with (b)(6); (b)(7)(C) request for a candidate from each branch of (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) further stated that the (b)(6); (b)(7)(C) and in good physical shape, and he only had a few (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) told OIG that the (b)(6); (b)(7)(C) who met the criteria was (b)(6); (b)(7)(C). Of those names provided, (b)(6); (b)(7)(C) chose (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) denied telling (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) had volunteered for the position.

### OIG's Conclusion

The OIG investigation concluded that (b)(6); (b)(7)(C) misrepresented to (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) had volunteered to fill a temporary position at the FBI (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C) as a (b)(6); (b)(7)(C), when in fact, (b)(6); (b)(7)(C) did not volunteer, in violation of FBI policy. The investigation also concluded that (b)(6); (b)(7)(C) denials to the OIG of misrepresenting (b)(6); (b)(7)(C) willingness to fill the temporary position at (b)(6); (b)(7)(C) constituted a lack of candor, also in violation of FBI policy.

### (b)(6); (b)(7)(C) Made Racially Insensitive Remarks to (b)(6); (b)(7)(C)

The information provided to the OIG alleged that (b)(6); (b)(7)(C) made racially insensitive remarks to Investigative Analyst (b)(6); (b)(7)(C).

Attorney General Policy Memorandum #2015-04 – Prevention of Harassment in the Workplace, dated October 9, 2015, states in part:

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

To enforce this zero-tolerance policy, 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, as amended. The Department will not wait for a pattern of offensive conduct to emerge before addressing claims of harassment. Rather, the Department will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. Even where a single utterance of an ethnic, sexual, racial, or other offensive epithet may not be severe enough to constitute unlawful harassment in violation of Title VII, it is the Department's view that such conduct must be prevented whenever possible through awareness, robust policies and effective and appropriate follow-up, investigation, and enforcement of the zero-tolerance policy.

The FBI Harassment Policy Directive 1038D, dated October 31, 2018, Section 5.1.1 defines harassment as "unwelcome verbal, nonverbal, written, or physical conduct by a supervisor or a coworker that is based on race, color, religion, sex, ...

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national origin, age, disability, parental status, genetic information, or retaliation for prior equal employment opportunity (EEO) activity, and it constitutes unlawful discrimination that unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment."

(b)(6) described an encounter with (b)(6) that occurred on (b)(6); (b)(7)(C) where she was waiting in a conference room for a (b)(6); (b)(7)(C) Meeting to begin, when (b)(6) approached her and said, "I'm almost as dark as you!" (b)(6) said she felt that the comment was insensitive and racist. (b)(6) also said that during a mid-year performance check in (b)(6); (b)(7)(C), (b)(6) asked her if she could be involved in the community outreach (b)(6); (b)(7)(C). (b)(6) felt it was inappropriate to ask her to do this outreach just because she is (b)(6); (b)(7)(C) and (b)(6) was making assumptions about her relationship with the (b)(6); (b)(7)(C). (b)(6) said that (b)(6) asked her to assist with outreach a second time in (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) informed her about (b)(6); (b)(7)(C) comments and (b)(6); (b)(7)(C) advised (b)(6); (b)(7)(C) that she could file an EEO complaint.

In a voluntary interview, (b)(6); (b)(7)(C) stated that it was (b)(6); (b)(7)(C) who brought to his attention that there was a lack of (b)(6); (b)(7)(C) representation in the (b)(6); (b)(7)(C) and that she offered to assist with recruitment. (b)(6); (b)(7)(C) thought it was a great idea and supported her but, said (b)(6); (b)(7)(C) did not follow through with setting up meetings. (b)(6); (b)(7)(C) denied having ever made racist comments, or comments concerning (b)(6); (b)(7)(C) skin color.

### OIG's Conclusion

The OIG investigation concluded that (b)(6); (b)(7)(C) made the statement to (b)(6); (b)(7)(C) regarding her skin color ("I'm almost as dark as you!"), (b)(6); (b)(7)(C) felt the statement was insensitive and racist, and the statement was a form of harassment based on race, in violation of DOJ's zero-tolerance harassment policy and FBI policy. While (b)(6); (b)(7)(C) denied making the statement, (b)(6); (b)(7)(C) testified credibly about (b)(6); (b)(7)(C) statement and her reaction to it and (b)(6); (b)(7)(C) testimony was corroborated by (b)(6); (b)(7)(C) who testified credibly about (b)(6); (b)(7)(C) contemporaneous report to her about (b)(6); (b)(7)(C) statement.

### (b)(6); (b)(7)(C) Harassment and Intimidation (Bullying) of Subordinates

Subsequent to the onset of the investigation, INSD provided the OIG additional information indicating that (b)(6); (b)(7)(C) bullied his subordinates by using intimidating language and tactics with them. Additionally, during the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) threatened subordinates with retaliation if they made complaints about (b)(6); (b)(7)(C) management to INSD during an office inspection.

The FBI Harassment Policy Directive 1038D, dated October 31, 2018, Section 5.1.1 defines harassment as "unwelcome verbal, nonverbal, written, or physical conduct by a supervisor or a coworker that is based on race, color, religion, sex, ... national origin, age, disability, parental status, genetic information, or retaliation for prior equal employment opportunity (EEO) activity, and it constitutes unlawful discrimination that unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment."

The FBI Harassment Policy Directive 1038D, dated October 31, 2018, Section 5.5.1 describes bullying as similar to harassment, but bullying is not based on a protected category described under Section 5.1.1. The policy directive gives examples of bullying as undermining an employee's value or potential, humiliating, belittling, or yelling at an employee, and marginalizing, ignoring, sidelining, excluding, or isolating an employee from normal workplace activities.



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Section 5, General Misconduct, under the Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process dated January 15, 2012, Offense Code 5.4, Disruptive Behavior, is described as "engaging in inappropriate verbal or physical conduct, while on official business or in an FBI space or vehicle, which is disruptive or negatively impacts the workplace."

(b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) created a difficult work environment. (b)(6); (b)(7)(C) stated that on one occasion, he heard (b)(6); (b)(7)(C) say to (b)(6); (b)(7)(C) that to get personnel in order, it was best to hurt people so that they understood the consequences. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) would say things like this all the time. (b)(6); (b)(7)(C) stated that in another example, (b)(6); (b)(7)(C) would often say, "Don't give me a stick to beat you with." (b)(6); (b)(7)(C) stated he believed that (b)(6); (b)(7)(C) was amused that (b)(6); (b)(7)(C) were deciding to retire or transfer to other divisions on (b)(6); (b)(7)(C) account. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) treated the (b)(6); (b)(7)(C) poorly by such actions as not extending common courtesies like saying "hello" to them in passing. (b)(6); (b)(7)(C) described the overall situation as bizarre, and unlike anything he had experienced in over fifteen years in law enforcement.

(b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) often told (b)(6); (b)(7)(C) "don't give me the stick to beat you with," meaning do not give him a reason to come after you. (b)(6); (b)(7)(C) said that this phrase was intimidating because (b)(6); (b)(7)(C) meant that he was looking for something to hurt you with. (b)(6); (b)(7)(C) stated he also heard (b)(6); (b)(7)(C) use the phrase, "do I need to take him on a drive out in the desert?" (b)(6); (b)(7)(C) interpreted this phrase as a tactic used to scare someone straight. (b)(6); (b)(7)(C) stated that on one occasion, (b)(6); (b)(7)(C) actually took him on a drive to a desert hill. (b)(6); (b)(7)(C) said that sometime between (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C), at around 9:00 or 10:00 am, they were both in the office, and (b)(6); (b)(7)(C) said, "let's go take a drive." (b)(6); (b)(7)(C) said (b)(6); (b)(7)(C) drove his government vehicle and believed (b)(6); (b)(7)(C) intended to make him feel uncomfortable by making him wonder why they were driving. (b)(6); (b)(7)(C) said they drove for about 15 minutes to a hill near the office in south (b)(6); (b)(7)(C) which overlooked the neighborhood. (b)(6); (b)(7)(C) stated that it was not a famous spot, just a desert area that happened to have a park bench. (b)(6); (b)(7)(C) said they exited the vehicle, sat on the bench, and (b)(6); (b)(7)(C) admonished (b)(6); (b)(7)(C) for being a bad leader and explained how he needed to improve. (b)(6); (b)(7)(C) stated he felt the purpose of the trip was intimidation.

(b)(6); (b)(7)(C) told the OIG that as a (b)(6); (b)(7)(C), he felt (b)(6); (b)(7)(C) was trying to set him up for failure, and that on multiple occasions, he chided (b)(6); (b)(7)(C) by saying, (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) stated he believed (b)(6); (b)(7)(C) targeted him due to (b)(6); (b)(7)(C) poor impression of (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said he felt that (b)(6); (b)(7)(C) developed a negative impression of him because while (b)(6); (b)(7)(C) was still attending (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) asked about changing his future duty station to a location other than (b)(6); (b)(7)(C) due to (b)(6); (b)(7)(C). (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) told the OIG that he heard (b)(6); (b)(7)(C) ask (b)(6); (b)(7)(C), a (b)(6); (b)(7)(C), "Do you want to be an (b)(6); (b)(7)(C)?" (b)(6); (b)(7)(C) stated he heard (b)(6); (b)(7)(C) use this as a kind of catchphrase in the context of targeting (b)(6); (b)(7)(C) for intimidation.

(b)(6); (b)(7)(C) told the OIG that prior to (b)(6); (b)(7)(C) arrival, he witnessed (b)(6); (b)(7)(C) express a dislike for (b)(6); (b)(7)(C) and the thought that (b)(6); (b)(7)(C) needed to be put in his place. (b)(6); (b)(7)(C) stated that on (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) identified an investigative lead assigned to (b)(6); (b)(7)(C) which had not yet been converted to a case, but for which (b)(6); (b)(7)(C) had already testified before a Grand Jury. (b)(6); (b)(7)(C) explained that the lead should have been converted to a case prior to any Grand Jury testimony, and (b)(6); (b)(7)(C) acknowledged his error. According to (b)(6); (b)(7)(C) on (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) held a meeting with (b)(6); (b)(7)(C) and others concerning the error. (b)(6); (b)(7)(C) said he expected to receive some counseling for his error but was surprised when (b)(6); (b)(7)(C) became very angry. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) raised his voice, and his face became red as he lectured (b)(6); (b)(7)(C) in front of others.

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(b)(6); (b)(7)(C) said that in response to his mistake, (b)(6); reassigned all but one of (b)(6); (b)(7)(C) to other (b)(6); as well as his (b)(6); (b)(7)(C) responsibilities. (b)(6); (b)(7)(C) said that (b)(6); instructed him to report to his desk at 8:00 a.m. and remain there until 5:00 p.m., and to leave only with permission from his supervisor. According to (b)(6); (b)(7)(C), he was also instructed to (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that (b)(6); also told him to get his life in order, to take sick leave, and to seek help from the Employee Assistance Program. (b)(6); said that (b)(6); was supposed to meet with him after 30 days and (b)(6); (b)(7)(C) if (b)(6); (b)(7)(C) complied. (b)(6); (b)(7)(C) said a follow-up meeting never took place (b)(6); (b)(7)(C) were not returned, despite (b)(6); (b)(7)(C) doing everything (b)(6); instructed. (b)(6); (b)(7)(C) also stated that (b)(6); often threatened him and others with a Performance Improvement Plan (PIP) or Office of Professional Responsibility (OPR) notifications, and (b)(6); (b)(7)(C) was worried that (b)(6); would put him on a PIP.

(b)(6); (b)(7)(C) told the OIG that he was at the meeting with (b)(6); and (b)(6); (b)(7)(C) on (b)(6); (b)(7)(C), and (b)(6); witnessed (b)(6); get angry, give (b)(6); (b)(7)(C) a clear dressing down, tell (b)(6); (b)(7)(C) his cases were a "dog's breakfast," and ask (b)(6); (b)(7)(C) whether or not he really wanted to be an (b)(6);. (b)(6); stated he believed the punishment of (b)(6); (b)(7)(C) was too harsh for the specific error. (b)(6); reported that after the 30 days (b)(6); told him that he did not want to see (b)(6); (b)(7)(C) and said that (b)(6); (b)(7)(C) should (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) (b)(6); stated thereafter he was concerned (b)(6); was setting (b)(6); (b)(7)(C) up for a PIP.

(b)(6); stated he was present and heard (b)(6); say to several other (b)(6); they should remember that the inspectors are not their friends, and when inspectors leave, management will still be here. (b)(6); said that (b)(6); then explained to (b)(6); that he had just threatened them, and (b)(6); responded that he was just giving friendly advice. (b)(6); added that approximately two weeks prior to the INSD inspection, (b)(6); said to him, "if you're going to shoot the king, you'd better kill the king."

(b)(6); (b)(7)(C) said he remembered being downstairs in the (b)(6); (b)(7)(C) with other employees when (b)(6); said to remember that inspectors are only at the office for two weeks, but executive management is there for longer.

In a voluntary interview, (b)(6); (b)(7)(C) admitted that in addressing (b)(6); (b)(7)(C) he used the phrase, "don't give people the sticks to beat you with," by which he meant, complete your WebTA on time, do your (b)(6); (b)(7)(C) and other administrative tasks. (b)(6); stated this was something he was told (b)(6); (b)(7)(C). When asked if he had ever used phrases such as, "you're not a (b)(6); (b)(7)(C) anymore" or "you're not an (b)(6); anymore...you're an (b)(6); now," (b)(6); admitted he had used the language to counsel staff on probation, such as (b)(6);. When asked if he had ever threatened anyone with a PIP (b)(6); responded, "absolutely." (b)(6); stated that he had a meeting with (b)(6); and others to get (b)(6); (b)(7)(C) in order and get (b)(6); sorted out. (b)(6); said he told (b)(6); (b)(7)(C) if he could not get this cleaned up, then they were going to have to go to a PIP because it was a continuing problem that had been documented in his (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) said that he wanted to give (b)(6); (b)(7)(C) a period to avoid a PIP.

(b)(6); stated that when he would counsel (b)(6); he would frequently leave the office because he did not think it was appropriate to have that kind of conversation in front of his other employees. (b)(6); stated that he had said to (b)(6); let's go take a ride out into the desert. (b)(6); said he could not sit with (b)(6); in a coffee shop or a bar, so he would just go to a park. (b)(6); said that anywhere you drive out of (b)(6); is in the middle of the desert. (b)(6); further said that he took (b)(6); to a park approximately 2 - 4 times. When asked if he had ever used that statement regarding anybody else, (b)(6); said he did not think so. According to (b)(6);, (b)(6); never said that their park setting conversations made him feel uncomfortable. (b)(6); admitted that he made the comments related to management remaining after Inspection Division staff leaves. (b)(6); stated he was repeating something he had heard at a Christmas party.



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### *OIG's Conclusion*

The OIG investigation concluded that (b)(6) did harass multiple subordinates and threatened subordinates with retaliation if they made complaints about (b)(6) management to INSD during an office inspection, all in violation of FBI Harassment Policy Directive 1038D, dated October 31, 2018, Section 5.1.1, concerning harassment, and FBI Harassment Policy Directive 1038D, dated October 31, 2018, Section 5.5.1, concerning bullying. Specifically, and by his own admission, (b)(6) used phrases that his subordinates found intimidating such as "don't give people (me) the stick(s) to beat you with." Additionally, (b)(6) admitted that he had threatened employees with a PIP, which is a formal process for providing employees with an opportunity to improve unacceptable performance. (b)(6) also admitted he would leave the office with (b)(6) for private counseling sessions and corroborated (b)(6) account of those events. Finally, the OIG found credible witness testimony regarding (b)(6) threat of retaliation if subordinates made complaints about management to INSD during an inspection.

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