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DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

REPORT OF INVESTIGATION

SUBJECT (b)(6); (b)(7)(C) IT Specialist (b)(6); (b)(7)(C)		CASE NUMBER 2021-004885 b6 Per OIG and FBI b7C Per OIG and FBI
OFFICE CONDUCTING INVESTIGATION Cyber Investigations Office	DOJ COMPONENT Justice Management Division	
DISTRIBUTION	STATUS	
<input checked="" type="checkbox"/> Field Office CYBER	<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 JMD	Date of Previous Report:	
<input type="checkbox"/> USA		
<input type="checkbox"/> Other		

SYNOPSIS

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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) alleging that on (b)(6); (b)(7)(C) a DOJ laptop computer, reportedly used by Justice Management Division Information Technology Specialist (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) The OIG conducted this investigation jointly with the FBI.

During the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) may have also violated other security policies and created a hostile work environment, including making disparaging and racist remarks and a threatening statement. In addition, the OIG found indications that (b)(6); (b)(7)(C) may have lacked candor in some of his responses when interviewed by the OIG.

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The OIG investigation did not substantiate the allegation that (b)(6); (b)(7)(C) committed a security violation related to the laptop computer but did find that he committed other security policy violations. Further, the OIG found that (b)(6); (b)(7)(C) committed misconduct when he made disparaging and racist remarks and a threatening statement.

DATE January 30, 2023 (b)(6); (b)(7)(C)	SIGNATURE (b)(6); (b)(7)(C)	b6 and b7C Per OIG
PREPARED BY SPECIAL AGENT		
DATE January 30, 2023	SIGNATURE Keith A. Bonanno	b6 and b7C Per OIG
Keith A. Bonanno		
APPROVED BY SPECIAL AGENT IN CHARGE	Digitally signed by KEITH BONANNO Date: 2023.01.30 09:59:00 -05'00'	

OIG Form III-210/1 (04/15/2022)

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 found this conduct was unbecoming of a federal employee, prejudicial to the government in violation of 5 C.F.R. § 735.203, and prohibited by the Department's zero tolerance policy on workplace harassment. The OIG also found that (b)(6); (b)(7)(C) lacked candor in some of his responses during his interview with the OIG.

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

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

However, during the course of the investigation, multiple witnesses told the OIG that they personally witnessed (b)(6); (b)(7)(C) ignore other FBI security policies at the (b)(6); (b)(7)(C) facility and that on one particular occasion he disconnected power cables from a live feed contrary to safety protocol and later falsely claimed that he had received permission to do (b)(6); (b)(7)(C). Additionally, multiple witnesses reported hearing (b)(6); (b)(7)(C) make derogatory and racist statements directed towards DOJ personnel and at least one witness reported hearing (b)(6); (b)(7)(C) make a threatening statement directed towards FBI personnel. Multiple witnesses also reported that (b)(6); (b)(7)(C) repeatedly treated contract personnel and vendors at the facility in a disparaging manner.

In a voluntary OIG interview, (b)(6); (b)(7)(C) admitted that he repeatedly circumvented certain FBI security policies to save time and because he viewed the policies as overly restrictive and frequently changing. However, (b)(6); (b)(7)(C) denied disconnecting power cables from a live feed contrary to protocol or telling anyone that he had received permission to do so. (b)(6); (b)(7)(C) admitted making a racially derogatory statement towards a DOJ employee he indicated was a supervisor but denied making a second racially derogatory and sexist statement regarding anyone, and he denied treating contract personnel and vendors in a disparaging manner. (b)(6); (b)(7)(C) admitted making a threatening statement directed towards FBI personnel in a moment of anger, but insisted he never intended to hurt anyone.

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

The U.S. Attorney's Office (b)(6); (b)(7)(C) declined prosecution of (b)(6); (b)(7)(C)

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The OIG has completed its investigation and is providing this report to the Justice Management Division for appropriate action.

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

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DETAILS OF INVESTIGATION

Predication

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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) alleging that on (b)(6); (b)(7)(C) a DOJ laptop computer, reportedly used by Justice Management Division Information Technology Specialist (b)(6); (b)(7)(C)

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

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

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

The OIG conducted this investigation jointly with the FBI.

During the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) may have also violated other security policies and created a hostile work environment, including making disparaging and racist remarks and a threatening statement. In addition, the OIG found indications that (b)(6); (b)(7)(C) may have lacked candor in some of his responses when interviewed by the OIG.

Investigative Process

The OIG's investigative efforts consisted of interviewing (b)(6); (b)(7)(C) and FBI personnel identified as colleagues of (b)(6); (b)(7)(C) or witnesses to his behavior, as well as reviewing (b)(6); (b)(7)(C) DOJ email and the contents of his DOJ-issued cell phone and laptop computer. Specifically, the OIG's investigative efforts consisted of the following:

Interviews of the following FBI personnel:

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

Interviews of the following DOJ personnel:

- (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C) Information Technology Specialist

Review of the following:

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- OIG Report of Forensic Examination for (b)(6); (b)(7)(C) DOJ-issued cell phone
- OIG Report of Forensic Examination for (b)(6); (b)(7)(C) DOJ-issued laptop computer

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Background

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The FBI's facility (b)(6); (b)(7)(C) houses DOJ and FBI network infrastructure equipment. As the FBI has publicly stated, the data center optimizes infrastructure, information, and services consolidating almost 100 data centers throughout DOJ. (b)(6); (b)(7)(C) position with DOJ was primarily to work at the facility and maintain the DOJ equipment. As an employee with full access to FBI space, (b)(6); (b)(7)(C) signed documents acknowledging that he understood and would adhere to the FBI's policies and Rules of Behavior regarding security and safety.

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

The information provided to the OIG alleged that on or about (b)(6); (b)(7)(C) a laptop (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) resulting in a security violation.

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

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

OIG's Conclusion

The OIG concluded that there was insufficient evidence to find that (b)(6); (b)(7)(C) committed a security violation related to the laptop. (b)(6); (b)(7)(C) laptop (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) the OIG (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) therefore could not conclude that (b)(6); (b)(7)(C) had committed a security violation or a violation of IT policies.

(b)(6); (b)(7)(C) Failure to Properly Escort Visitors and to Follow Mail Screening Policy and Lack of Candor

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During the course of the investigation, the OIG found indications that (b)(6); (b)(7)(C) may have repeatedly failed to properly escort visitors within the (b)(6); (b)(7)(C) facility for work related purposes despite being aware of the requirements to do so and repeatedly failed to follow the FBI's policy on mail screening. The OIG also found indications that (b)(6); (b)(7)(C) may have lacked candor during his interview with the OIG when responding to questions about alleged incidents related to (b)(6); (b)(7)(C) manipulation of power sources and electrical feeds.

U.S. Department of Justice Core Enterprise Facility Guidelines [CEF] and Procedures (March 8, 2017) states in part:

5.1 Perimeter Security: Only site-authorized and badged personnel are authorized within the CEF without escort. Visitors must be escorted within each CEF facility by authorized staff or contractor escorts at all times. See the section on CEF Datacenter Area Access for details on restrictions.

....

7.1.2 Escorted Access: Escorted Access can be granted to individuals needing infrequent or temporary access to a CEF Datacenter area. Individuals granted this type of access must be accompanied at all times by a person specifically authorized to escort visitors.

FBI General Mailing Policy Guide [PG], 0944PG (Dec. 23, 2016), states in part:

1.3. Intended Audience: This PG applies to all FBI personnel, including employees, contractors, task force personnel, consultants, and other government agency (OGA) personnel assigned or detailed to FBI workspaces.

....

3.2. Receiving Incoming Mail, Freight, and Related Materials: All incoming mail, freight, and related materials must be received directly from their respective mailing/shipping representatives or by the use of official USPS P.O. boxes.

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Utilization of a third party (e.g., a security guard, an adjacent office [non-FBI], an OGA, or a commercial storefront mailing establishment) to accept incoming mail, freight, and related materials on behalf of the FBI is strictly prohibited.

....

4.12.11. Misdirected Mail: All received mail that is not addressed to the FBI must remain unopened and placed in a plastic bin labeled "Misdirected." The mail must be returned to the vendor who originally delivered it to the FBI after it has been checked by a supervisor or a designated employee. Under no circumstances may misdirected mail be opened and/or forwarded to the JEH FBI Building or any other FBI facility.

....

4.12.5. Mail Received via a Commercial Carrier/Courier: Mail received via a commercial carrier (e.g., FedEx, UPS, or DHL) must be X-rayed and visually inspected before being delivered into an FBI building (see subsection 4.14.1.).

....

4.14.1. X-Raying and Inspecting Incoming Mail, Freight, and Related Materials: All FBI facilities having access to, or having been provided with, X-ray equipment must use these devices to immediately screen, upon receipt, all incoming mail, freight, and related materials.

28 C.F.R. § 45.13, Duty to Cooperate in an Official Investigation:

Department employees have a duty to, and shall, cooperate fully with the Office of the Inspector General and Office of Professional Responsibility, and shall respond to questions posed during the course of an investigation upon being informed that their statement will not be used to incriminate them in a criminal proceeding. Refusal to cooperate could lead to disciplinary action.

Justice Manual 4-200:

All Department employees have an obligation to cooperate with [Office of Professional Responsibility] and OIG misconduct investigations (28 C.F.R. § 45.13) and must respond truthfully to questions posed during the course of an investigation upon being informed that their statements will not be used to incriminate them in a criminal proceeding.

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During an OIG interview, [REDACTED] described an instance that occurred in [REDACTED] where [REDACTED] was found in dereliction of his escort responsibilities when he had allowed an escort-required contract technician into the [REDACTED] unescorted when he knew the technician was required to have been escorted. [REDACTED] discovered the visitor unescorted, without [REDACTED] nearby. [REDACTED] relayed several similar complaints that [REDACTED] scheduled technicians to perform work at the facility and failed to escort them properly or asked other employees to escort the visitors on his behalf. [REDACTED] told the OIG that she discussed [REDACTED] failure to properly escort with him, but he continued his failure to properly escort visitors following their discussion.

[REDACTED] reported that despite [REDACTED] being aware of the security policies associated with receiving packages at the [REDACTED] facility, after [REDACTED] began working at the facility in [REDACTED] frequently circumvented protocols regarding the receipt of mail by meeting couriers outside of the facility security post and carrying delivered items in

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without having them properly screened. (b)(6); (b)(7)(C) stated that despite numerous requests, (b)(6); (b)(7)(C) refused to comply with the mail policy by ensuring that incoming shipments mailed to him contained address information identifying him as the intended recipient.

More than one witness reported that (b)(6); (b)(7)(C) was extraordinarily busy and frequently received shipments at the facility, adding that he operated in a last-minute, hurried style that may have caused him to cut procedural corners in order to save time, rather than as a result of maliciousness.

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(b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) frequently violated the (b)(6); (b)(7)(C) site's clearly established and longstanding on-site procedures on removable media devices being brought on site for maintenance. According to (b)(6); (b)(7)(C) any removable media used by a vendor to perform maintenance or upgrades on DOJ or FBI systems was required to be screened by specifically authorized FBI personnel prior to its use and surrendered to appropriate FBI personnel upon completion of the task for disposition. (b)(6); (b)(7)(C) stated that he observed (b)(6); (b)(7)(C) regularly circumvent this requirement by claiming that he would screen the items himself and that the devices would only touch DOJ equipment. (b)(6); (b)(7)(C) told the OIG that he repeatedly advised (b)(6); (b)(7)(C) that any removable media entering FBI space, regardless of whether or not it was to be used to interface with FBI systems, must be screened by designated FBI personnel and surrendered upon completion of the maintenance task. (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) reported that (b)(6); (b)(7)(C) frequently failed to collect the removable media from the vendors and surrender them, even after (b)(6); (b)(7)(C) repeatedly advised him that he had to take these steps. For example, (b)(6); (b)(7)(C) stated that in (b)(6); (b)(7)(C) escorted vendors on site for the purpose of introducing firmware or software updates from thumb drives. (b)(6); (b)(7)(C) told the OIG that he instructed (b)(6); (b)(7)(C) that once the maintenance was complete, the thumb drives had to be surrendered for appropriate disposition. (b)(6); (b)(7)(C) explained to the OIG that the purpose of this process is to ensure that nothing malicious had been introduced into FBI systems or extracted and removed from the site. According to (b)(6); (b)(7)(C) acknowledged (b)(6); (b)(7)(C) instruction, but still did not surrender the thumb drives for inspection or disposition.

(b)(6); (b)(7)(C) described instances in which (b)(6); (b)(7)(C) cleared visitors for entry and claimed that he had properly screened their electronics and disabled prohibited capabilities such as WiFi and Bluetooth himself; however, (b)(6); (b)(7)(C) was not authorized by security or the facility management to carry out such functions. (b)(6); (b)(7)(C) reported that (b)(6); (b)(7)(C) would sometimes allow visitors into the facility with prohibited personal electronic devices such as cell phones, computers, and Bluetooth devices that had their wireless capabilities enabled. (b)(6); (b)(7)(C) emphasized that prior to these instances (b)(6); (b)(7)(C) was fully aware and acknowledged that while escorting visitors on premises, he was responsible for ensuring that his visitors were in compliance with site protocols.

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(b)(6); (b)(7)(C) reported to the OIG that (b)(6); (b)(7)(C) was aware that the FBI facility (b)(6); (b)(7)(C) followed the policy set forth in the CEF Colocation Service Level Agreement and, pursuant to that policy, the facility's policy prohibited anyone other than a qualified electrician or other approved staff member from touching or manipulating power sources or other electrical feeds on campus including circuit breakers, server rack power supplies, power buses, and the like. According to (b)(6); (b)(7)(C) qualified personnel were on staff "24/7" to facilitate requests for service in real time.

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(b)(6); (b)(7)(C) reported that, despite multiple admonishments, (b)(6); (b)(7)(C) regularly violated the directive by conducting his own manipulation of power supply components as he saw fit. According to (b)(6); (b)(7)(C) on one occasion on (b)(6); (b)(7)(C) disconnected power cables from a live feed connected to a server without coordinating the activity with the appropriate facilities personnel. (b)(6); (b)(7)(C) told the OIG that when he confronted (b)(6); (b)(7)(C) about his actions, (b)(6); (b)(7)(C) first stated that the cables were already disconnected and that he merely coiled them up. According to (b)(6); (b)(7)(C) following that claim, (b)(6); (b)(7)(C) told (b)(6); (b)(7)(C)

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that (b)(6); (b)(7)(C) had authorized him to proceed with the disconnection. (b)(6); (b)(7)(C) said that he then conferred with (b)(6); (b)(7)(C) about the issue, and (b)(6); (b)(7)(C) stated that he had provided no such authorization to (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) further stated that (b)(6); (b)(7)(C) had claimed to (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) authorized (b)(6); (b)(7)(C) to proceed with the disconnection. Further, (b)(6); (b)(7)(C) told the OIG that both claims (b)(6); (b)(7)(C) made to (b)(6); (b)(7)(C)—that the cables were already disconnected and that (b)(6); (b)(7)(C) had given (b)(6); (b)(7)(C) permission to disconnect them—were false. (b)(6); (b)(7)(C) also told both (b)(6); (b)(7)(C) and the OIG that (b)(6); (b)(7)(C) claim that the cables were previously disconnected was false. As noted above, (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) told us about other incidents where (b)(6); (b)(7)(C) manipulated power supply components without authorization.

During his OIG interview, (b)(6); (b)(7)(C) admitted to some instances in which he failed to properly escort visitors, have digital media screened, and failed to properly screen personnel entering the facility as mandated. (b)(6); (b)(7)(C) caveated his admissions by insisting other people bore responsibility in some of the security failures and also blamed an overly broad and frequently changing set of FBI policies, procedures, and regulations for some of the oversights. He acknowledged that on one occasion he “missed” a phone that a contractor had in his pocket. (b)(6); (b)(7)(C) stated that he tried to be respectful of the rules and guidelines of the facility and insisted that his actions did not put anyone, or the facility, at risk.

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When questioned by the OIG about the practice of circumventing the mail screening procedures at the facility, (b)(6); (b)(7)(C) claimed that he never broke the (b)(6); (b)(7)(C) rules regarding the introduction of shipments and deliveries. Contrary to the information provided by the witnesses, (b)(6); (b)(7)(C) claimed to have made every effort to ensure that incoming deliveries were specifically addressed to him. He stated that he made the appropriate notifications every time something came into the facility on his behalf.

During the OIG interview, the OIG asked (b)(6); (b)(7)(C) about the allegation that he manipulated or interacted with power supply components or interfaces. (b)(6); (b)(7)(C) responded that he always followed the directions of the qualified experts responsible for those systems. Contrary to the statements made by (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) affected live power sources, (b)(6); (b)(7)(C) told the OIG that the circuit was de-energized during the incident on (b)(6); (b)(7)(C). When asked by the OIG about the statements from others that the circuit was still live, (b)(6); (b)(7)(C) responded, “I did not know they were. I thought that they were not.” (b)(6); (b)(7)(C) provided the OIG several explanations for his actions, including that his conduct was not dangerous, that based on his “electronics background” he knows “what I’m doing,” that this was the only incident and he disclosed it to the relevant individuals, and that he was concerned that the cables, which were expensive, would not be put in a safe place. (b)(6); (b)(7)(C) further denied that he ever did anything intentionally behind anyone’s back and denied that he told different facilities managers conflicting information regarding having been given authorization to interact with power supply components. In addition, (b)(6); (b)(7)(C) denied that he told anyone he had received permission to disconnect the power cable. However, (b)(6); (b)(7)(C) acknowledged that he “may have walked up there, and [said], hey, you know, you mind I get this unplugged for you guys,” and he suggested that something he said could have “been taken out of context.”

OIG’s Conclusion

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The OIG investigation concluded that (b)(6); (b)(7)(C) violated DOJ escort policy and procedures for the (b)(6); (b)(7)(C) facility on multiple occasions as alleged. Based on an interview of (b)(6); (b)(7)(C) the OIG found that (b)(6); (b)(7)(C) on multiple occasions allowed vendors to be present on-site without escorting them as required. The OIG investigation further concluded that (b)(6); (b)(7)(C) violated FBI mail screening policy. Although (b)(6); (b)(7)(C) denied violating (b)(6); (b)(7)(C) rules, the OIG credits the statements about mail screening policy violations from other witnesses with personal knowledge, including (b)(6); (b)(7)(C) and an (b)(6); (b)(7)(C) contract employee, given how frequently these other witnesses observed (b)(6); (b)(7)(C) carrying in packages without having them screened in violation of policy. (b)(6); (b)(7)(C) statement and the (b)(6); (b)(7)(C) contract

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employee's statement were independently corroborated by one another and their reports of frequent mail screening policy violations were consistent with reports that (b)(6); (b)(7)(C) may have cut procedural corners in light of the number of shipments he received and how he operated. (b)(6); (b)(7)(C) policy and procedure violations were not isolated, one-time incidents but instead were frequent violations.

The OIG was also troubled by reports from witnesses that (b)(6); (b)(7)(C) failed to follow the (b)(6); (b)(7)(C) site's policies on removable media devices being brought on site for maintenance and manipulation of power sources and electrical feeds and failed to follow the site's protocol regarding screening visitors' electronics and disabling capabilities. In fact, the frequency and recurrence of events described above led FBI personnel in (b)(6); (b)(7)(C) to believe that (b)(6); (b)(7)(C) was either intentionally circumventing the rules for an improper purpose or lacked the competency required to work in a secure facility.

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In addition, the OIG concluded that (b)(6); (b)(7)(C) lacked candor in his responses when questioned by the OIG and therefore failed to cooperate fully with the OIG investigation in violation of 28 C.F.R. § 45.13 and Justice Manual 4-200. When the OIG asked (b)(6); (b)(7)(C) direct questions about whether he manipulated or interacted with power supply components or interfaces and asked (b)(6); (b)(7)(C) direct questions related to the conflicting accounts he provided to different facilities managers regarding authorization he received, (b)(6); (b)(7)(C) did not answer directly or take responsibility for his actions regarding power sources and electrical feeds. Instead, (b)(6); (b)(7)(C) provided various excuses for his conduct, denied that he falsely told FBI personnel that he had received permission for his actions related to the specific incident or (b)(6); (b)(7)(C) or that he provided conflicting accounts about that incident to FBI personnel, and suggested that FBI personnel misunderstood him.

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Three FBI employees told the OIG that (b)(6); (b)(7)(C) regularly manipulated power supply components and provided an example of a specific incident on (b)(6); (b)(7)(C) when he did so. This conduct was contrary to the multiple admonishments that (b)(6); (b)(7)(C) had received. (b)(6); (b)(7)(C) acknowledged that he had been instructed on these guidelines. We credited the three FBI employees' accounts of the events on (b)(6); (b)(7)(C), including that (b)(6); (b)(7)(C) falsely told FBI personnel that he had received authorization to disconnect, because we did not identify an incentive for the FBI employees to fabricate the allegation against (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) Conduct Unbecoming of a Federal Employee, Including Disparaging and Racist Remarks and a Threatening Statement, and Lack of Candor

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The OIG found indications that (b)(6); (b)(7)(C) may have created a hostile work environment, including making racially disparaging remarks and expressing racially biased opinions and making a threatening statement in the workplace. The OIG also found indications that (b)(6); (b)(7)(C) may have lacked candor during his interview when responding to the OIG's questions about his conduct in the workplace.

5 C.F.R. § 735.203: An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

The DOJ, Office of the Attorney General, Prevention of Harassment in the Workplace, Policy Memorandum 2015-04 (Oct. 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 affiliations, or any other impermissible factor. . . . Harassing conduct is defined as any unwelcome verbal or physical conduct that is based on any of the above-referenced characteristics when this conduct explicitly or implicitly affects an individual's

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employment; unreasonably interferes with an individual's work performance; or creates an intimidating, hostile, or offensive work environment.

The policy memorandum further states, "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." According to the memorandum, "[t]he Department will not wait for a pattern of offensive conduct to emerge before addressing claims of harassment" and "will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment." Further, "[e]ven 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."

28 C.F.R. § 45.13, Duty to Cooperate in an Official Investigation:

Department employees have a duty to, and shall, cooperate fully with the Office of the Inspector General and Office of Professional Responsibility, and shall respond to questions posed during the course of an investigation upon being informed that their statement will not be used to incriminate them in a criminal proceeding. Refusal to cooperate could lead to disciplinary action.

Justice Manual 4-200:

All Department employees have an obligation to cooperate with [Office of Professional Responsibility] and OIG misconduct investigations (28 C.F.R. § 45.13) and must respond truthfully to questions posed during the course of an investigation upon being informed that their statements will not be used to incriminate them in a criminal proceeding.

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b7C Per OIG and FBI**

(b)(6); (b)(7)(C) reported that on more than one occasion they heard (b)(6); (b)(7)(C) make what they considered to be racially disparaging remarks about the (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) referred to (b)(6); (b)(7)(C) as being "selectively (b)(6); (b)(7)(C) explained that he understood (b)(6); (b)(7)(C) to be accusing (b)(6); (b)(7)(C) of using her (b)(6); (b)(7)(C) heritage to claim she did not understand (b)(6); (b)(7)(C) when it served her objectives. (b)(6); (b)(7)(C) went on to explain that given the context of the conversation, he interpreted (b)(6); (b)(7)(C) to mean that when (b)(6); (b)(7)(C) was seeking (b)(6); (b)(7)(C) approval for something, or was informing her of something she was a proponent of, she understood perfectly, but that when (b)(6); (b)(7)(C) did not agree with what (b)(6); (b)(7)(C) was saying, she feigned difficulty in understanding him due to a language barrier.

According to (b)(6); (b)(7)(C) also referred to (b)(6); (b)(7)(C) as a "dumb (b)(6); (b)(7)(C) bitch" on at least one occasion while complaining about FBI headquarters and being displeased with decisions made by (b)(6); (b)(7)(C).

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(b)(6); (b)(7)(C) also reported that (b)(6); (b)(7)(C) regularly referred to facility staff members as "dumb motherfucker" and "dumb shit" and has heard (b)(6); (b)(7)(C) refer to (b)(6); (b)(7)(C) as "idiots" and "dumb motherfuckers."

(b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) once told him he would "call people above [his] level [that] will make your life hell!" over a disagreement they had. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) occasionally related boisterous stories about when he, (b)(6); (b)(7)(C) would (b)(6); (b)(7)(C) further said that

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(b)(6); (b)(7)(C) would assert his paygrade as a (b)(6); (b)(7)(C) as a means to attempt to pull rank in contentious situations.

(b)(6); (b)(7)(C) characterized (b)(6); (b)(7)(C) actions as a "my way or else" attempt at intimidation and recalled a situation in which (b)(6); (b)(7)(C) demanded connecting certain equipment despite the objection of local facilities management and (b)(6); (b)(7)(C) surmised that if the action (b)(6); (b)(7)(C) was insisting upon were to take place, an overload could occur and cause a widespread service outage. (b)(6); (b)(7)(C) described that rather than seeking common ground or compromise (b)(6); (b)(7)(C) demanded, "you will hook it up or I will make a call and it will get hooked up." (b)(6); (b)(7)(C) indicated that (b)(6); (b)(7)(C) would often leverage this intimidation technique with the understanding that if his demands were not met, he would cause trouble for those who opposed him.

(b)(6); (b)(7)(C) told us about an incident that occurred approximately three months after (b)(6); (b)(7)(C) laptop (b)(6); (b)(7)(C) when (b)(6); (b)(7)(C) entered her office and brought up his objection to the FBI's handling of the situation. During this interaction, (b)(6); (b)(7)(C) stated to (b)(6); (b)(7)(C) that if agents ever (b)(6); (b)(7)(C) they had better have their guns. (b)(6); (b)(7)(C) said she reported (b)(6); (b)(7)(C) statement to FBI management, informing the OIG that she interpreted it as a threat and was obliged to report it out of concern for facility and personnel security.

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During his OIG interview, (b)(6); (b)(7)(C) denied ever making a racial remark about anyone. When asked specifically about making disparaging remarks about anyone of (b)(6); (b)(7)(C) ethnicity, (b)(6); (b)(7)(C) maintained his denial. When confronted with the allegation that he used the phrase "dumb (b)(6); (b)(7)(C) bitch," (b)(6); (b)(7)(C) continued to deny having used that phrase but admitted to referring to "an individual who I support" as "selectively (b)(6); (b)(7)(C) elaborated by saying, "So, but we have a person who, when she's getting everything she wants, she understands you perfectly, and when she's not getting what she wants, her (b)(6); (b)(7)(C) gets in the way." (b)(6); (b)(7)(C) denied making disparaging comments or remarks directed towards other facility or DOJ personnel and told the OIG, "I don't call people names." After reviewing a draft of this report, which was redacted and did not identify (b)(6); (b)(7)(C) by name or title, (b)(6); (b)(7)(C) identified by name a DOJ employee he referred to as "selectively (b)(6); (b)(7)(C)" and the person he identified was not (b)(6); (b)(7)(C).

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While discussing the (b)(6); (b)(7)(C) laptop (b)(6); (b)(7)(C) volunteered that he became upset and stated, "Yeah, I probably said I'd like to rip their heads off and shit down the cavity that was left. That was probably one thing I said, and I said, next time they're going to have to bring their guns." (b)(6); (b)(7)(C) acknowledged making the comment to (b)(6); (b)(7)(C) but claimed that it was uttered out of frustration, that he was not serious about what he said, and that the statement was made in the company of a friend at a time when he was upset. (b)(6); (b)(7)(C) explained that his frustration over the laptop (b)(6); (b)(7)(C) stemmed from a lack of understanding about the implications of the laptop (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) believed that a discussion about the laptop that included himself along with (b)(6); (b)(7)(C) could have helped remedy the situation (b)(6); (b)(7)(C).

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(b)(6); (b)(7)(C) denied during his OIG interview invoking or threatening to invoke the names or positions of high-ranking DOJ officials to manipulate or otherwise intimidate his FBI colleagues for any reason. (b)(6); (b)(7)(C) said, "Never, I have never, ever; I never throw people's names around." (b)(6); (b)(7)(C) offered that on one occasion, during a disagreement with (b)(6); (b)(7)(C) he diplomatically offered to get the (b)(6); (b)(7)(C) involved if it would help smooth things out with FBI management, but vehemently denied using the tactic in a coercive or intimidating way. (b)(6); (b)(7)(C) stated that the only situation in which he would call the (b)(6); (b)(7)(C) to intervene was if there were an instance where the FBI were proposing a plan of action that would put the entire (b)(6); (b)(7)(C) in jeopardy.

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

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The U.S. Attorney's Office [REDACTED] declined prosecution of [REDACTED]

OIG's Conclusion

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The OIG investigation concluded that [REDACTED] used racially insensitive and derogatory terms about a fellow colleague in a disparaging manner as alleged, including referring to [REDACTED] as "selectively [REDACTED]" and a "dumb [REDACTED] bitch," and lacked candor in his responses to the OIG's questions about his remarks during his interview. More than one witness provided statements attributing disparaging and racist remarks to [REDACTED]. In addition, [REDACTED] at first completely denied making racial remarks, but ultimately acknowledged referring to a DOJ employee he indicated was a supervisor as "selectively [REDACTED]" after repeated questioning. He continued, however, to deny making other disparaging comments. As noted above, after reviewing a redacted draft of this report, [REDACTED] identified by name a DOJ employee he referred to as "selectively [REDACTED]" and the DOJ employee was not [REDACTED].

We concluded that [REDACTED] made disparaging and racist remarks that constituted misconduct because [REDACTED] conduct in the workplace was unbecoming of a federal employee, prejudicial to the government in violation of 5 C.F.R. § 735.203, and prohibited by the Department's zero tolerance policy on harassment in the workplace, which does not tolerate any harassing conduct, including single utterances, based on impermissible factors such as race, sex, and national origin. In addition, we concluded that [REDACTED] lacked candor during his OIG interview and therefore failed to cooperate fully with the OIG investigation in violation of 28 C.F.R. § 45.13 and Justice Manual 4-200.

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The OIG investigation further concluded that [REDACTED] made a threatening statement directed at FBI personnel that constituted misconduct in violation of 5 C.F.R. § 735.203 because it was prejudicial to the government and unbecoming of a federal employee. The statement—that if agents [REDACTED] they had better have their guns—was wholly inappropriate and, even if expressed out of frustration, was disconcerting enough to have been reported.

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Finally, the OIG notes that it found troubling certain other behavior in the workplace. The OIG received consistent statements from multiple witnesses describing a pattern of behavior of [REDACTED] attempting to intimidate FBI personnel and threatening to elevate disagreements to high-ranking department officials in order to get his way.