



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



# **Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries**

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## EXECUTIVE SUMMARY

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After allegations arose regarding the conduct of U.S. government personnel, including three Drug Enforcement Administration (DEA) agents, during the President's visit in 2012 to Cartagena, Colombia, the Department of Justice (DOJ or Department) Office of the Inspector General (OIG) received inquiries from Members of Congress regarding the training provided to DOJ personnel working outside the United States about off-duty behavior. Off-duty misconduct by DOJ employees working abroad can present unique concerns, particularly for those in law enforcement and those with security clearances. Moreover, when off-duty misconduct occurs abroad, the impact on the U.S. government's reputation and its law enforcement efforts can be especially damaging.

In this review, the OIG initially sought to identify DOJ policy and training addressing off-duty conduct abroad. We found that, to the extent such policies existed, they did not specifically address off-duty conduct when outside the United States, but rather applied regardless of location. We therefore looked at DOJ's off-duty conduct policies more broadly, and particularly at four behaviors, one or more of which is often present during off-duty incidents of employee misconduct:

- consuming excessive alcohol,
- using illegal drugs,
- soliciting prostitutes, and
- engaging in notoriously disgraceful conduct.<sup>1</sup>

We requested any policies and training information related to these behaviors that applied Department-wide, as well as policies and training information from DOJ's Criminal Division, which is responsible for several international programs, and from four of DOJ's law enforcement components (the DEA; Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Federal Bureau of Investigation (FBI); and U.S. Marshals Service (USMS)). Together, these five components have

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<sup>1</sup> "Notoriously disgraceful conduct" is defined in the Department of State's *Foreign Affairs Manual* (FAM) as "conduct which, were it to become widely known, would embarrass, discredit, or subject to opprobrium the perpetrator, the Foreign Service, and the United States." 3 FAM 4139.14.

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more than 1,200 permanent positions in foreign countries, and their employees make more than 6,100 trips a year to more than 140 countries.

## **RESULTS IN BRIEF**

**DOJ lacks Department-wide policies and training requirements that address off-duty conduct, whether in the United States or foreign countries, although in the past it recognized its components had a need for them.**

The Department was unable to provide us with any Department-wide policies or training requirements that pertain to employees' off-duty conduct, whether within the United States or in other countries. We found this troubling given the OIG's report in 1996 about the Good O' Boy Roundups and our findings at that time regarding off-duty misconduct.<sup>2</sup> In that report, we found DOJ had only very general provisions in place governing off-duty conduct and that many DOJ employees did not understand their off-duty responsibilities well. Among other things, we recommended the Department provide training regarding the regulation of off-duty conduct. In April 1997, a year after we issued the report, Attorney General Janet Reno issued a memorandum containing "basic guidance on off-duty conduct" to DOJ component heads. The memorandum directed component heads to change their training programs to ensure that DOJ employees were aware of and understood their "obligations to avoid conduct on or off the job which may have a negative impact on their ability to perform this mission."<sup>3</sup> However, we found no indication that DOJ had revisited its off-duty conduct policies or training in any comprehensive manner since then, and no indication that DOJ, despite its significant international presence, had established a Department-wide policy or training directed at off-duty conduct abroad.

**Most of the five components we reviewed convey little or no information about off-duty conduct before sending their employees abroad.** While all five components had policies that touch in some way

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<sup>2</sup> The roundups were a series of private, annual gatherings attended by off-duty officers from a number of federal, state, and local law enforcement agencies. U.S. Department of Justice Office of the Inspector General, *Good O' Boy Roundup Report* (March 1996), <http://www.justice.gov/oig/special/9603/index.htm>.

<sup>3</sup> See Appendix II for the full memorandum.

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on off-duty conduct and apply whether their employees are in the United States or other countries, the OIG found significant gaps in what was covered. Substantial gaps also exist in the training the components' personnel receive before going abroad. Much of the policy and training that was provided did not clearly communicate what employees can and cannot do off duty. For example, many of the materials we examined did not clearly state that employees remain subject to DOJ requirements regardless of whether certain conduct, such as prostitution and drug use, is legal in the foreign jurisdiction where the DOJ employee is serving.

Of the five components, the FBI has done the most to prepare its employees to make day-to-day decisions that reflect well on themselves and the FBI. Although its policies on the four specific behaviors we reviewed were not comprehensive, its training clearly established standards for employees' on- and off-duty conduct. The FBI also provided employees with extensive pre-deployment training regarding conduct abroad.

We found that the DOJ component with the largest international presence, the DEA, provided its employees with the least information about off-duty conduct while abroad and that its policies and training had significant gaps. The DEA was also the only DOJ law enforcement component that did not formally remind its employees after the Cartagena incident of the need to adhere to professional standards of behavior, even though DEA agents were involved.<sup>4</sup> DEA officials told us that DEA delayed formal dissemination of information regarding its standards of behavior pending the final resolution of an appeal by one of the Cartagena agents to the U.S. Merit Systems Protection Board (MSPB) challenging his termination.<sup>5</sup> With regard to the Criminal Division, ATF,

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<sup>4</sup> DEA updated its personnel manual and disseminated the revised information DEA-wide on November 6, 2014. On December 17, the DEA informed the OIG that the update revised two subsections of its personnel manual to clarify that soliciting or engaging in prostitution is forbidden regardless of legality and that employees must maintain the highest standards of conduct when associating with individuals known to be engaged in or suspected of illegal drug or criminal activity.

<sup>5</sup> On January 9, 2015, DEA's Chief Counsel Office stated that one of the DEA agents involved in the Cartagena incident had appealed to the U.S. Court of Appeals for the Federal Circuit, challenging his indefinite suspension without pay based upon the revocation of his security clearance.

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and USMS, we found they also had weaknesses in their policies and training regarding conduct abroad, and we noted that the Criminal Division was in the process of strengthening its materials at the time of our review.

In reviewing the specifics of the components' policies, we recognized that no set of rules can cover all situations employees may encounter when working in foreign countries. The experiences of two other federal departments with significant international presence, the Departments of Defense and State, have shown that, rather than creating laundry lists of "don'ts," organizations need to communicate policy in ways that establish a pervasive context employees can rely on to make day-to-day decisions about their behavior. We found that has generally not occurred in DOJ.

The report makes six recommendations regarding the policies and training governing off-duty conduct by DOJ employees working in foreign countries.

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## INTRODUCTION

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After allegations arose regarding the conduct of U.S. government personnel, including three Drug Enforcement Administration (DEA) agents, during President Obama's visit in 2012 to Cartagena, Colombia, the Department of Justice (DOJ or Department) Office of the Inspector General (OIG) received inquiries from Members of Congress regarding the training DOJ provides to its personnel working outside the United States about their off-duty behavior. As representatives of the U.S. government, off-duty misconduct by DOJ employees stationed abroad can present unique concerns, particularly for employees involved in law enforcement and those with security clearances. Moreover, when off-duty misconduct occurs abroad, the impact on the U.S. government's reputation and the impact on its law enforcement efforts can be especially damaging.

### **Incidents that Prompted this Review**

In April 2012, agents from the U.S. Secret Service within the Department of Homeland Security and military personnel from the Southern Command of the Department of Defense were sent to Cartagena to prepare for President Obama's attendance at the Summit of the Americas. According to reviews later conducted by the Secret Service and the Department of Defense, and testimony at congressional hearings, some of these government employees drank heavily while off duty, solicited prostitutes, and brought the prostitutes back to their hotel. A dispute between a prostitute and one of the Secret Service agents drew the attention of the hotel's manager, who reported it and the incidents of rowdy behavior to the U.S. Embassy. That, in turn, led to a Secret Service investigation of the actions of 11 of its employees suspected of soliciting prostitutes and a Department of Defense investigation of 12 of its personnel.

The Secret Service investigation uncovered a separate incident involving one of its agents in the presidential detail and three DEA agents on permanent assignment in Cartagena who had solicited and associated with prostitutes. The DOJ OIG investigated the DEA agents' conduct. Two of those agents ultimately admitted to soliciting and paying for "erotic massages" for their sexual gratification while stationed in Cartagena, while the third admitted to compensating a woman for sex. However, all three



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agents resisted the characterization of their engaging in sexual encounters in exchange for a form of payment as prostitution. The DEA subsequently revoked the agents' eligibility for access to National Security Information (NSI).<sup>6</sup>

OIG investigators found no evidence that the DEA agents had been provided any training or instruction about not soliciting prostitutes or sexual service providers while stationed in Colombia. The lack of instruction in this circumstance is of particular concern because prostitution is allowed in Colombia. Reportedly, some individuals who have solicited prostitutes there have been subject to extortion, and drug cartels have used prostitutes to collect intelligence.

### **Previous Concerns Raised about Off-Duty Conduct**

This is not the first time that the OIG has reviewed the off-duty conduct policies of the Department following serious allegations of misconduct by DOJ law enforcement officers. As we discuss in further detail below, in 1996, following allegations surrounding attendance by DOJ law enforcement agents at domestic events called the Good O' Boy Roundups, the OIG investigated the matter and issued a report. As we noted in that report:

This investigation involved a murky and difficult area – the responsibilities of federal employees generally, and federal law enforcement personnel in particular, to conduct themselves in a manner consistent with their law enforcement responsibilities even when they are off-duty. Many DOJ employees believe that what they do off-duty is their business and not a proper concern of their employer. It is important to recognize, however, that even off-duty conduct can bring discredit upon the employee, the employee's colleagues, and the Department of Justice.

The existing standards of conduct regulate off-duty conduct when it could impair the effectiveness of DOJ employees or bring discredit on their employing agency. Such regulation is wholly appropriate. Being a federal law enforcement

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<sup>6</sup> As of January 9, 2015, DEA's Chief Counsel Office stated that one of the DEA agents had appealed to the U.S. Court of Appeals for the Federal Circuit challenging his indefinite suspension without pay based upon the revocation of his security clearance.

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officer within the Department of Justice is a privilege not a right; it can appropriately be conditioned on maintaining a proper level of behavior at all times.

Our investigation revealed, however, that such off-duty responsibilities are generally not well-understood by many DOJ employees. This lack of understanding is in part the result of the very general provisions that govern off-duty conduct. It also appears to stem from a lack of adequate direction to supervisors and employees regarding the application of these provisions.<sup>7</sup>

In this review, the OIG looked first for policy and training requirements addressing off-duty conduct abroad. We found that any policy addressing off-duty conduct applied regardless of the employees' location, and therefore we considered off-duty conduct policy more broadly. We particularly looked at four behaviors, one or more of which is often present during off-duty incidents of employee misconduct:

- consuming excessive alcohol,
- using illegal drugs,
- soliciting prostitutes, and
- engaging in notoriously disgraceful conduct.<sup>8</sup>

We requested any policies and training information related to these behaviors at the Department-wide level, as well as from the Criminal Division, which is responsible for several international programs, – and from four of DOJ's law enforcement components – the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement

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<sup>7</sup> U.S. Department of Justice Office of the Inspector General, *Good O' Boy Roundup Report* (March 1996), <http://www.justice.gov/oig/special/9603/gr000154.htm#E43E3>. The report was investigative in nature, looking at whether any DOJ employees should be considered for discipline rather than whether DOJ needed to make institutional changes. Consequently, the OIG did not put the report's recommendations through the standard resolution process it uses for audit, evaluation, and other reports to track and document the implementation of institutional changes.

<sup>8</sup> "Notoriously disgraceful conduct" is defined in the Department of State's *Foreign Affairs Manual* (FAM) as "conduct which, were it to become widely known, would embarrass, discredit, or subject to opprobrium the perpetrator, the Foreign Service, and the United States." 3 FAM 4139.14.

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Administration (DEA); Federal Bureau of Investigation (FBI); and U.S. Marshals Service (USMS).<sup>9</sup>

In this introductory section, we describe DOJ’s international presence, the authority of federal agencies to limit their employees’ off-duty conduct, and the four types of behavior we considered in this review. We then briefly discuss a government-wide requirement for providing limited training to certain federal employees before they go abroad. Later in the report, we outline the DOJ-wide policies and training requirements regarding off-duty conduct while working abroad, as well as the policies of four of the Department’s law enforcement components and the Criminal Division. Lastly, we present our recommendations.

### **DOJ’s International Presence**

Most of the employees representing DOJ in foreign countries are law enforcement agents, but a significant number of attorneys, analysts, and support personnel also work abroad for DOJ. They are usually there to establish and maintain working relationships with their counterparts in other nations, provide training, assist with investigations, or transport fugitives back to the United States.

The five DOJ components included in this review deploy all of the DOJ personnel stationed in foreign countries, according to the Justice Management Division. In July 2013, these five components had 1,240 permanent positions abroad. Their employees also made more than 6,100 trips from the United States to 141 foreign countries on DOJ business in fiscal year

**Table 1: Components’ Presence in Foreign Countries**

<b>Component</b>	<b>Permanent Positions (July 2013)</b>	<b>TDY Trips (FY 2012)</b>
ATF	20	404
Criminal Div.	80*	444
DEA	833	1,751
FBI	284	2,761
USMS	23	799
<b>Total</b>	<b>1,240</b>	<b>6,159</b>

Source: OIG analysis of component data.

\*The Criminal Division positions, which involve what it considers to be long-term overseas placements, include details and term positions.

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<sup>9</sup> See Appendix I for the OIG’s scope and methodology for this review.

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(FY) 2012.<sup>10</sup> Of the components, the DEA has the largest presence abroad, representing two-thirds of the five components' permanent positions in other countries. Although the DEA has about one-fourth of the employees that the FBI has (9,497 versus 35,697), it had nearly three times as many employees stationed abroad as the FBI (833 versus 284). Table 1 shows the five components' foreign presence.

All of the five components' 1,240 permanent positions abroad require Top Secret security clearances, and many of the employees making TDY trips abroad also have clearances at that level, giving them access to national security information. If foreign intelligence services or criminal organizations can exploit the off-duty conduct of these employees, information sensitive enough to gravely compromise national security may be revealed. Moreover, maintaining such a security clearance requires an employee to undergo periodic adjudications that consider foreign influence, sexual behavior, personal conduct, alcohol consumption, drug involvement, psychological conditions, and other factors that relate to off-duty conduct to determine whether the employee should continue to be trusted with classified information. Losing a security clearance can have severe consequences for an employee's career, so a strong awareness of what DOJ expects of an employee during off-duty hours is important at the individual level as well as at the Department level.

In addition, for DOJ's law enforcement agents, off-duty conduct can seriously affect the DOJ's ability to successfully prosecute defendants brought to court after lengthy, complex investigations. One of an agent's most important responsibilities is to provide objective and unbiased testimony during criminal and other proceedings. Agents whose off-duty conduct undermines their credibility cannot perform their official duties effectively. Moreover, under Federal Rule of Evidence 608(b), defense counsel may be able to impeach an agent during cross examination by asking about specific instances of past conduct that are probative of the agent's character for truthfulness or untruthfulness.<sup>11</sup>

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<sup>10</sup> This type of travel is referred to as temporary duty or TDY. In addition, this total does not include trips to foreign countries taken by employees of other components, such as the U.S. Attorneys' Offices.

<sup>11</sup> See also *Giglio v. United States*, 405 U.S. 150, 154 (1972); *Brady v. Maryland*, 373 U.S. 83 (1971).

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## **Federal Agencies' Authority to Limit Employees' Off-Duty Conduct**

Pursuant to Title 5, United States Code, Section 7513, a federal employee may be disciplined for off-duty conduct if there is a connection (or nexus) between the offending conduct and the employee's job-related responsibilities such that the proposed discipline would "promote the efficiency of the service."<sup>12</sup> Generally, a sufficient nexus can be established if the conduct adversely affects the employee's or a co-worker's job performance or management's trust and confidence in the employee's job performance, or if the off-duty conduct interferes with or adversely affects the agency's mission or violates the culture of a workplace.<sup>13</sup> This concept usually applies when the employee engages in the very type of behavior that the agency or the employee is charged with preventing or addressing.

### **Four Types of Behavior Considered in this Review**

Conduct that can harm employees' ability to carry out their responsibilities and DOJ's ability to carry out its mission can take a number of forms. We focused on policies and training related to four types of off-duty behavior that can reflect questionable judgment; undermine DOJ employees' integrity and credibility; impede the performance of employees' official duties; create a vulnerability to exploitation, manipulation, or duress; and discredit their colleagues and DOJ. These behaviors are also considered when adjudicating security clearances:

- consuming excessive alcohol,
- using illegal drugs,
- soliciting prostitutes, and
- engaging in "notoriously disgraceful conduct."

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<sup>12</sup> See also *Schleffer v. Department of the Army*, 117 MSPR 499 (2012), citing *Merritt v. Department of Justice*, 6 MSPR 585, 596 (1981), modified by *Kruger v. Department of Justice*, 32 MSPR 71 (1987).

<sup>13</sup> Cases discussing the effect on coworkers' ability to do their jobs include *Doe v. Department of Justice*, 113 MSPR 128 (2010); *Dolezal v. Department of the Army*, 58 MSPR 64, 72 (1993); cases discussing management's trust and confidence in employees' job performance include *Singletary v. Department of the Air Force*, 94 MSPR 553 (2003), *Fowler v. USPS*, 77 MSPR 8, 13 (1997); *Quander v. Department of Justice*, 22 MSPR 419 (1984); *Myers v. Department of Agriculture*, 88 MSPR 565, 576 (2001); *Fouquet v. Department of Agriculture*, 82 MSPR 548 (1999).

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The Cartagena incidents included three of the four types of behavior we considered.

Although consuming alcohol is legal in the United States and many other parts of the world, excessive drinking impairs judgment and impulse control. Its aftereffects can impair on-duty performance, which is particularly concerning when the employees are armed law enforcement agents. Drinking alcohol to excess also has often been a precursor to other problematic off-duty conduct.

*“Those who patronize the commercial sex industry form a demand which traffickers seek to satisfy.”*

*U.S. Department of State  
2008 Trafficking in Persons Report*

Drugs, like alcohol, can impair judgment and impulse control, but illegal use of drugs is even more destructive to the integrity and credibility of both the employee and DOJ, which is responsible for enforcing and prosecuting violations of federal drug laws.

Although soliciting prostitutes is legal in some foreign countries, it is criminal conduct in most U.S. jurisdictions. DOJ employees who participate in acts of prostitution can be compromised and made vulnerable to exploitation, manipulation, or duress. Even where prostitution is legal, it is often an abusive activity that involves coercive relationships and it can contribute to human trafficking, a crime that DOJ seeks to eradicate.<sup>14</sup> Consequently, employees who engage in the solicitation of prostitution while on official travel or when stationed in foreign countries undermine their own credibility and DOJ’s effectiveness in addressing this priority.

The OIG considered a fourth type of behavior in this review, “notoriously disgraceful conduct,” that is proscribed in the Code of Federal Regulations governing employee responsibilities and conduct.<sup>15</sup> Federal agencies have applied this provision when disciplining employees for

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<sup>14</sup> White House Press Release, Trafficking in Persons National Security Presidential Directive, February 25, 2003, 1, and Priority Goal 4, U.S. Department of Justice, *Strategic Plan, Fiscal Years 2012–2016* (February 2012), 2.

<sup>15</sup> 5 C.F.R. 735.203. “Notoriously disgraceful conduct” is defined in the Department of State’s *Foreign Affairs Manual (FAM)* as “conduct which, were it to become widely known, would embarrass, discredit, or subject to opprobrium the perpetrator, the Foreign Service, and the United States.” 3 FAM 4139.14.

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incidents such as public drunkenness, sexual assault, and attempting to fire an assault rifle at individuals in a bar.<sup>16</sup>

In the Results of the Review, we examine how DOJ and its components address off-duty conduct, including these four specific behaviors, in their policies and training.

### **Government-Wide Pre-Deployment Training Requirements**

The U.S. government does not require that federal employees traveling outside the United States for less than 30 days receive any pre-deployment training, but it does require training for those who will remain outside the United States for 30 days or longer. That mandatory training is administered by the Department of State and takes the form of two online modules called Serving Abroad for Families and Employees (SAFE). Agencies are permitted to provide equivalent training of their own, but regardless of who provides the training, agencies must affirm in their foreign travel requests to the Department of State that their employees have completed it.<sup>17</sup>

The SAFE training provides an introduction to working in other countries and covers a large number of topics, with only limited guidance regarding improper personal conduct. The first SAFE training module touches on the counterintelligence issues that can arise from cohabiting, dating, or marrying a foreign national. The second module warns, “You always represent the Government of the United States while serving officially abroad. Your actions affect what others think of our country.” It also states:

Understand your ability to consume alcoholic beverages. Alcoholism is far more prevalent among Americans assigned to posts abroad than in the general population of Americans in the U.S. This may be due to stress factors and the requirement to attend social events where alcohol is plentiful and free.

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<sup>16</sup> Neal Miller, “Criminal Convictions, ‘Off-Duty Misconduct,’ and Federal Employment: The Need for Better Definition of the Basis for Disciplinary Action,” 39 AM. L. REV. (1990), 886.

<sup>17</sup> Course Requirements, 13 FAM 321.2(b).

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Consider carefully how you will deal with this combination of factors and constantly monitor yourself.

The module does not discuss how off-duty conduct could discredit or interfere with the mission responsibilities of federal employees and their agencies. It does not state what forms of behavior are proscribed to federal employees serving abroad. Nor does it explain that federal employees are bound by these restrictions regardless of the laws of the countries where they are serving.



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## RESULTS OF THE REVIEW

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### **Department-Wide Policies and Training Requirements Regarding Off-Duty Conduct While Working Abroad**

DOJ does not provide guidance or training requirements for its employees regarding their off-duty conduct while working in foreign countries, and it does not augment the limited SAFE training discussed above that is provided to its employees prior to deployments of 30 days or longer. DOJ does have regulations, articulated in 28 C.F.R. Chapter 1, that control many aspects of its work, but these regulations do not address off-duty conduct.<sup>18</sup> In addition to the Code of Federal Regulations, DOJ's components have misconduct policies that generally focus on detecting misconduct after it occurs, such as through drug testing, and on meting out discipline. However, these misconduct policies do not specifically proscribe off-duty conduct that impedes DOJ's mission and do not require that components take any proactive measures to ensure employees going to work abroad are aware of any limitations on their off-duty conduct.

In contrast, we found that two other cabinet departments with significant foreign presence, the Department of State and the Department of Defense, have policies that address the four types of behavior discussed in this report. Moreover, these policies clearly apply to the off-duty conduct of personnel serving in other countries. We further found that, both of these departments strongly and clearly explain why certain conduct is prohibited off duty.<sup>19</sup> We found no evidence that DOJ had taken similar action.

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<sup>18</sup> DOJ's supplemental standards of ethical conduct (5 C.F.R. Part 3801) establish Department-wide rules regarding the use of government property, outside employment, and when employees must recuse themselves from a criminal investigation or prosecution. These standards do not establish any rules or guidance regarding employees' off-duty conduct.

<sup>19</sup> The Department of State declined our request to publish the full cable describing what it considers its internal policy, but permitted us to publish certain portions of it in Appendix III. See Appendix IV for an example of the statement the Department of Defense sent to its personnel about off-duty conduct while overseas.

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While we found that DOJ complies with the SAFE training requirement, that training says very little about prohibited off-duty conduct, and it is not provided to the DOJ employees making thousands of trips to foreign countries each year that last less than 30 days. We looked for any Department-wide training requirements DOJ has regarding off-duty conduct or conduct while working in foreign countries that would augment the SAFE training. The Departmental Ethics Office provided the OIG with information that discusses off-duty conduct for new employee training provided to Offices, Boards, and Divisions (OBD) employees in Washington. However, this training is not given to all Department employees and does not explicitly discuss conduct while working in foreign countries.<sup>20</sup> We could not find, and DOJ could not provide us, any additional training information.

We found the paucity of Department-wide training to be troubling given that, nearly 20 years ago, the Department was faced with allegations of extraordinarily serious off-duty misconduct by its law enforcement agents in connection with their attendance at domestic events

#### **Good O' Boy Roundups**

In 1995, members of a militia group seeking to discredit ATF (which at the time was housed in the Department of the Treasury) made allegations in the news media about the off-duty conduct of law enforcement officers who attended private, annual gatherings in Tennessee known as Good O' Boy Roundups. The events were organized primarily by an ATF agent and attracted participants from local, state, and federal agencies, including DOJ.

The OIG found that some of the most serious allegations were not substantiated, but did find the Roundups were characterized by rampant public drunkenness, widespread public lewdness and, in later years, episodes of racist conduct. Many of the 44 DOJ employees who had attended told investigators that they went to only one Roundup because of the excessive drinking and poor conduct they observed.

The OIG report noted that many DOJ employees believed that what they did off duty was not DOJ's concern. We found that this lack of understanding of off-duty responsibilities was, in part, the result of a lack of training and the very general provisions that governed off-duty conduct. Among other things, the OIG recommended that DOJ provide education and training because "it is critical for law enforcement personnel to be held to extremely exacting standards of conduct to earn and maintain the full confidence of all citizens."

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<sup>20</sup> This training for new employees in many of the OBDs in Washington was added as a result of the Good O' Boy Roundups incident, described in the text box. In addition, the Departmental Ethics Office discusses off-duty conduct in its general reference materials, which are available on its website (<http://www.justice.gov/jmd/ethics/generalb.htm>).

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called the Good O' Boy Roundups. In 1996, the OIG reported on these off-duty misconduct allegations, some of which were corroborated (see the text box). In response to the OIG report, Attorney General Janet Reno established a working group to develop guidelines for off-duty conduct by Department employees, wherever they worked.<sup>21</sup>

The working group prepared a four-page paper articulating DOJ's "expectation that federal employees will comport themselves appropriately on and off the job." The paper also explained DOJ's authority to limit off-duty behavior and gave examples of off-duty activities that resulted in employee discipline. The Attorney General sent the working group's paper to all DOJ component heads on April 2, 1997, directing them to "customize as necessary," to "make the training guidelines meaningful and memorable," and to include the information in the components' ethics training, basic law enforcement training, and new employee orientation.<sup>22</sup>

Despite Attorney General Reno's direction over 17 years ago, our review found that most of the components we examined have not provided adequate direction to their employees regarding off-duty conduct. In the next section, we describe existing policies and training we found in place at the five components that deploy hundreds of DOJ employees abroad every year.

### **Individual Components' Policies and Training Regarding Off-Duty Conduct Abroad**

DOJ's lack of Department-wide policy or training requirements regarding the off-duty conduct of employees working in other countries leaves individual components with the responsibility to develop their own policies and training. To see how DOJ components have addressed that responsibility, we examined the adequacy of the policies and training established by the Criminal Division, which is responsible for several international programs, and the four law enforcement components that, together, send thousands of employees to other countries each year to represent DOJ and conduct its important work abroad.

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<sup>21</sup> *Good O' Boy Roundup Report*, <http://www.justice.gov/oig/special/9603/index.htm>.

<sup>22</sup> See Appendix II for the full memorandum and working group paper. Janet Reno, Attorney General, memorandum to Heads of Department Components, Off-Duty Conduct of DOJ Employees, April 2, 1997.

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We first looked at what the five components told their employees about off-duty conduct before they go abroad. However, we found that, with the exception of one component, they generally conveyed little or no information at all on this topic before they sent their employees abroad. We next looked for any policy or training provided to employees at any time during their careers regarding the four behaviors considered in this report. We also specifically asked the components whether they had communicated with their employees regarding off-duty conduct after the Cartagena incidents. As discussed below, we found a number of weaknesses in the components' policies, training, or both. We also found that the policies and training varied because DOJ has not provided overall guidance to the components.

### Policies

In reviewing the specifics of the five components' policies, we recognized that no set of rules can cover all situations employees may encounter. Rather than creating laundry lists of "don'ts," the OIG believes organizations should work toward establishing an overall awareness about the bounds of proper conduct when working abroad and provide context for employees to rely on in making day-to-day decisions regarding their own behavior.

The Criminal Division told the OIG that it relies on DOJ for its policies related to employee behavior rather than developing its own. Because DOJ has not established policies regarding employees' off-duty conduct when in other countries, the Criminal Division has none.

Unlike the Criminal Division, we found that ATF, DEA, FBI, and USMS do not rely on DOJ for policies regarding employee conduct. Each law enforcement component provided us with the relevant policies it had established. All four law enforcement components have standards of conduct (standards) for their employees that share some common themes.<sup>23</sup> They direct employees to maintain standards that reflect

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<sup>23</sup> In this report, we use the term "standards of conduct" to mean the code of behavior each component expects of its employees. ATF and DEA refer to these standards as Standards of Conduct; the FBI refers to them as a Code of Conduct; and USMS refers to them as a Code of Professional Responsibility. The standards are found in ATF Order 2130.1A, Conduct and Accountability, February 7, 2012; DEA Personnel Manual, § 2735.1 and § 2735.15 (A)2, undated; FBI Ethics and Integrity Program Policy

*(Continued)*

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positively on the components and to report violations of the standards. They warn that employees may face consequences if they violate the standards. In addition, they advise employees not to engage in off-duty behavior that affects or impedes their professional responsibilities or adversely affects the reputation or mission of the component. The standards are general and do not provide specific examples or guidance to assist employees in making day-to-day decisions regarding their behavior. Each of the four components also has a table of offenses and penalties that vary in how they are defined. (See Appendix V for excerpts from the tables of offenses and penalties.)

Aside from these general directions regarding off-duty behavior, the components have various standards and policies that address employee conduct. In our review of those policies, we looked first for any prohibitions that related directly to conduct while outside of the United States on official business. The policies the components provided us do not specifically address such conduct with one narrow exception discussed below. We then focused on prohibitions regarding the specific behaviors we considered in this report: consuming excessive alcohol, using illegal drugs, soliciting prostitutes, and engaging in notoriously disgraceful conduct. In the sections below, we discuss what we found in each of the law enforcement components' policies regarding those behaviors.

### *Consuming Excessive Alcohol*

All federal agencies prohibit their employees from drinking alcohol while on duty and on government property, but agencies differ in how they address off-duty alcohol consumption and work-related risks associated with excessive alcohol consumption. When we reviewed the law enforcement components' policies, we found that in almost all cases, they lack explicit language regarding consumption of alcohol either while off duty or on official travel (see Table 2). In addition, we found that the policies often do not address particular circumstances when employees should limit their alcohol consumption, such as when carrying firearms.

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Implementation Guide, Chapter 3, October 5, 2011; and USMS Policy Directive 1.2, Code of Professional Responsibility, January 8, 2009.

**Table 2: Law Enforcement Component Policies Regarding Alcohol**

Components	Contains		Restricts Consumption			
	Term “Off-Duty”	Provisions on Consumption while on Official Travel	For Specified Time Period Prior to Duty Hours	While Carrying Firearms	Driving Motor Vehicles	For Those Subject to Recall to Duty*
ATF			✓	✓	✓	✓**
DEA	✓				✓	✓
FBI				✓	✓	
USMS					✓	

Legend: ✓ Policy contains language or provision listed.

\* “Recall to duty” refers to employees who could be ordered back to work from off-duty status on short notice.

\*\* ATF’s policy applies to all employees who handle firearms or explosives.

Sources: OIG analysis of component policies.

None of the components’ policies discuss consumption of alcohol while on official travel outside of the United States. Instead, the policies apply regardless of the employee’s location.

The components vary in the scope of their restrictions on alcohol consumption outside of work hours. The FBI and USMS instruct employees not to report to work under the influence of alcohol. The FBI also prohibits its employees from carrying firearms when impaired by alcohol consumption.<sup>24</sup> In contrast, ATF uses an approach similar to the Federal Aviation Administration’s regulations for airline crews: It prohibits consuming alcohol during off-duty hours within a specific period before employees engage in activities that raise safety concerns.<sup>25</sup> ATF employees

<sup>24</sup> The FBI Alcohol Policy (Policy Directive 0358D and its corresponding Policy Implementation Guide 0358PG) defines “impaired” as when an individual’s faculties are diminished so that their ability to see, hear, walk, talk, and judge distances is below the normal levels as set by local, state, and federal law.

<sup>25</sup> 14 C.F.R. § 91.17(a)(1) states that no one may act or attempt to act as a crewmember of a civil aircraft if they have consumed any alcoholic beverage during the previous 8 hours.

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who handle firearms or explosives cannot consume alcohol within 6 hours of their scheduled duty hours or when they may reasonably expect to be called to perform official duties.

When we asked the DEA for its policies pertaining to alcohol consumption, the DEA provided an employee acknowledgment form it uses to reinforce its standards of conduct each year (see Appendix VI). The form asks if the employee is aware that being under the influence of alcohol during duty hours is prohibited, but the form does not address off-duty alcohol consumption. We subsequently found two other DEA documents relevant to off-duty alcohol consumption: a section of the DEA's current personnel manual and a 1999 memorandum from a former DEA Administrator. The section of the personnel manual states:

Off-duty DEA personnel subject to recall to duty shall not permit themselves to be rendered unavailable for duty through the consumption of intoxicants.<sup>26</sup>

The DEA Administrator's memorandum, dated January 21, 1999, went further. The memorandum noted that the DEA allows its agents to carry their weapons while off duty and that agents may then encounter situations that require them to use their weapons (such as witnessing a crime that has put someone in imminent danger). The memorandum stated that agents are not to become inebriated off duty:

The reason for this stringent standard is to avoid the . . . problem of an agent in a public setting being required to take emergency action if their abilities are impaired by the use of alcohol. Questions could . . . legitimately be raised by . . . the public about the professionalism and the stability of an agent who lacks the self-restraint and judgment to appear in the public in an inebriated condition. [See Appendix VII for full text.]<sup>27</sup>

When we asked the DEA if the January 21, 1999, memorandum was still in effect, the DEA responded that when a DEA Administrator issues a memorandum "it is immediately made into policy and incorporated in the

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<sup>26</sup> DEA Personnel Manual, § 2735.15.P.4.

<sup>27</sup> The topic of alcohol consumption was reiterated in an October 6, 1999 Memorandum from the Acting DEA Administrator regarding conduct of DEA employees.

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Agents Manual.” The DEA gave us excerpts from two sections of that manual, neither of which addressed off-duty alcohol consumption.<sup>28</sup> We concluded that the 1999 memorandum had not been wholly incorporated in the DEA’s manuals and that its message or its equivalent is not being conveyed to employees today.<sup>29</sup>

### *Consuming Drugs*

We reviewed the components’ drug policies for definitive prohibitions on illegally consuming drugs while off duty and found all four components had policies that did so (see Table 3). Although the phrasing varies, all components have policies that specifically prohibit illegal consumption of controlled substances off duty.<sup>30</sup>

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<sup>28</sup> The first excerpt addressed undercover operations and stated that on-duty drinking is not permitted except during certain controlled undercover activity. The second excerpt applied to all DEA employees and prohibited operating government-owned vehicles after drinking alcohol. DEA Agents Manual, § 6621 D and § 6124.32 A.

<sup>29</sup> The DEA told the OIG that the memorandum can be found on DEA’s WebSter for reference. WebSter is DEA’s Intranet website.

<sup>30</sup> All four components’ policies prohibit illegal drug use on duty as well as off duty, but phrase the prohibition differently. ATF’s policy states that illegal drug use on or off duty detracts from the public’s confidence in ATF. The DEA’s policy states that it is a condition of employment to refrain from using illegal drugs on or off duty. The FBI’s policy states that illegal drug use on or off duty may subject employees to disciplinary action. The USMS’s policy states that employees, on or off duty, are prohibited from unlawful use of drugs listed by the federal government as Schedule I and II controlled substances.



**Table 3: Law Enforcement Component Policies Regarding Drugs**

Components	Prohibits Illegal Consumption of Controlled Substances	
	Off Duty	At Locales Where Legal
ATF	✓	
DEA	✓	
FBI	✓	
USMS	✓	✓

Legend: ✓ Policy contains language or provision listed.

Sources: OIG analysis of component policies.

The clearest, most comprehensive language we found was in the questionnaire the DEA requires employees to complete each year:

Are you aware that you, as a DEA employee, may not use a controlled substance which has not been properly prescribed by a licensed physician or properly obtained for the treatment or illness of a condition?<sup>31</sup>

Because some countries permit the use of drugs that are prohibited in the United States, we also looked for language in the components' policies regarding employee conduct while in such countries. We found that only the USMS had a policy stating that its employees must refrain from using prohibited controlled substances even when those substances are commercially available without a prescription, or are ingested legally, in a foreign country.

*Soliciting Prostitutes*

We reviewed component policies to determine whether any prohibit soliciting prostitutes while off duty, on official travel, or in locations where prostitution is legal; prohibit sexually oriented massages or entering establishments known to support prostitution; or explain why these

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<sup>31</sup> See Appendix VI for a copy of the DEA standards of conduct questionnaire and acknowledgement form.

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activities are prohibited. We found no such provisions in any of the components' policies.<sup>32</sup>

However, the former FBI Director did address “personal relationship” issues in a 2001 memorandum to all employees. In explaining to employees what they must disclose to the FBI, the memorandum warned employees of “harmful institutional consequences” that may result from certain personal relationships.<sup>33</sup> The memorandum advised that employees were subject to discipline for offenses involving prostitution. However, the memorandum did not specifically address soliciting prostitutes where it is legal to do so.

In 2012, the FBI established a working group to review the adequacy of its policies pertaining to conduct that may be legal, but violates ethical standards and the FBI's principles, specifically including the solicitation of prostitutes. The working group's report stated that the FBI had adequate policies and procedures in place to address the issues it examined. However, the working group recommended that the FBI strengthen its personal relationships policy to make it clear that employees are prohibited from soliciting prostitutes under any circumstances. The group recommended that the policy be amended to read:

Certain conduct that is prohibited in most states is subject to discipline even when it occurs in a jurisdiction that does not prohibit that conduct. For example, although prostitution is legal in foreign countries, it is criminal conduct in the vast majority of U.S. jurisdictions . . . . Accordingly, [FBI] employees are subject to discipline for . . . the solicitation of

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<sup>32</sup> On December 17, 2014, the DEA informed the OIG that it had revised and disseminated two subsections of its personnel manual to clarify that soliciting or engaging in prostitution is forbidden regardless of legality and that employees must maintain the highest standards of conduct when associating with individuals known or suspected of illegal drug or criminal activity. The DEA provided the OIG with a copy of the revised language in its manual. The policy updates, which were one of the recommendations made by a Task Force the DEA established to review employee misconduct related issues shortly after the Cartagena incident in April 2012, became effective on November 6, 2014.

<sup>33</sup> The FBI told the OIG that the memorandum makes clear that employees' personal relationships are subject to inquiry when they might violate the law, or violate FBI regulations, or negatively impact the FBI's ability to perform its responsibilities.

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prostitution regardless of where that conduct takes place, whether within the United States or abroad.

The FBI told the OIG that it has not revised its personal relationships policy and that it believes that the existing policy allows for the imposition of appropriate discipline. Further, the FBI stated that through its training and Office of Professional Responsibility (OPR) quarterly e-mails, it makes clear to all employees that the solicitation of prostitutes is misconduct regardless of where the conduct takes place.<sup>34</sup> The FBI stated that it continues to monitor the situation and will make policy revisions if necessary to promote compliance.

#### *Engaging in Notoriously Disgraceful Conduct*

The Code of Federal Regulations prohibits federal employees from engaging in “notoriously disgraceful” conduct. We reviewed the components’ policies to determine whether they contain the term “notoriously disgraceful conduct” or apply a different term to such behavior. Where the policies specifically mentioned “notoriously disgraceful conduct,” we looked for definitions or examples for the term.

ATF, DEA, and USMS policies use the term “notoriously disgraceful conduct.” (See Table 4.) All three policies use language that mirrors the Code of Federal Regulations, which states that an employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government.<sup>35</sup> None of the components’ policies defines what types of behavior constitute “notoriously disgraceful conduct,” and none specifically addresses conduct while working in foreign countries.

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<sup>34</sup> According to the FBI, the training provided to personnel deployed overseas for 30 days or more stresses that soliciting prostitutes will be treated as misconduct even when the conduct is legal in the foreign country. Deployment training is discussed later in this report.

<sup>35</sup> 5 C.F.R. § 735.203, Employee Responsibilities and Conduct.

**Table 4: Law Enforcement Component Policies Regarding Notoriously Disgraceful Conduct**

Components	Contains			Defines Notoriously Disgraceful Conduct	Provides Examples of Notoriously Disgraceful Conduct
	Term “Notoriously Disgraceful Conduct”	Term “Off-Duty”	Provisions Regarding Behavior on Official Travel		
ATF	✓	✓			
DEA	✓				
FBI					
USMS	✓	✓			

Legend: ✓ Policy contains language or provision listed.

Sources: OIG analysis of component policies.

Although the FBI does not use the term “notoriously disgraceful conduct,” it does remind employees to “conduct their personal activities in a manner that does not impede their professional performance or tarnish the reputation of the FBI.” However, the policy does not elaborate on the types of activities that may tarnish the FBI’s reputation and does not specifically address conduct while working in foreign countries.

*Comprehensive Approach*

We note that establishing clear policy requiring personnel to refrain from off-duty conduct that interferes with their ability to carry out their agencies’ mission is not, by itself, a sufficient safeguard. Changing decisions personnel make about their off-duty conduct takes time and can be greatly influenced by colleagues’ conduct. After the incidents in Cartagena, the Secret Service invited the FBI and other agencies to advise it on strengthening its internal controls on professional conduct and other areas that required improvement.<sup>36</sup> Although the Secret Service consequently instituted a number of reforms, a subsequent incident was publicly reported in April 2014, involving excessive off-duty drinking by

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<sup>36</sup> U.S. Department of Homeland Security Office of Inspector General, Adequacy of USSS Efforts to Identify, Mitigate, and Address Instances of Misconduct and Inappropriate Behavior, OIG-14-20 (December 2013), [http://www.oig.dhs.gov/assets/Mgmt/2014/OIG\\_14-20\\_Dec13.pdf](http://www.oig.dhs.gov/assets/Mgmt/2014/OIG_14-20_Dec13.pdf) (accessed April 17, 2014), 7.

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Secret Service agents deployed to protect the President during a summit in Amsterdam.<sup>37</sup>

That such incidents continue to occur underscores the fact that agencies can expect to invest long term in efforts that guide the off-duty behavior of employees representing the United States while working in other countries. In the next two sections of this report, we look at the steps the five DOJ components have and have not taken toward providing a comprehensive approach to guiding their employees' off-duty conduct abroad.

### Training

While putting clearly worded policy in place is the first step in addressing employees' off-duty conduct abroad, expectations have to be effectively communicated and reiterated so that employees will act in accordance with DOJ's core values wherever their jobs take them.<sup>38</sup> We examined whether the components provided their employees with training throughout their careers that emphasized responsibility for their personal conduct.

We found that the components varied in the training they provided. Only one component, the FBI, had a comprehensive program that laid a strong foundation regarding off-duty conduct during new employee and new agent training and provided additional training when employees were to be deployed abroad. The other components provided limited training regarding off-duty conduct to new employees and new agents, but do not follow up with periodic refresher training and have relatively little or no training on off-duty conduct before employees are deployed abroad.

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<sup>37</sup> Michael S. Schmidt, "Secret Service Employees Reassigned," *New York Times*, Apr. 8, 2014, A11, [http://www.nytimes.com/2014/04/09/us/secret-service-employees-reassigned.html?\\_r=0](http://www.nytimes.com/2014/04/09/us/secret-service-employees-reassigned.html?_r=0); Carol D. Leonnig, "Secret Service removing supervisor, tightening rules after drinking incidents," *Washington Post*, Apr. 8, 2014, [http://www.washingtonpost.com/politics/secret-service-removing-supervisor-tightening-rules-after-drinking-incidents/2014/04/08/576d0f58-bf39-11e3-bcec-b71ee10e9bc3\\_story.html](http://www.washingtonpost.com/politics/secret-service-removing-supervisor-tightening-rules-after-drinking-incidents/2014/04/08/576d0f58-bf39-11e3-bcec-b71ee10e9bc3_story.html).

<sup>38</sup> DOJ's core values are equal justice under the law, honesty and integrity, commitment to excellence, and respect for the worth and dignity of each human being. *Department of Justice Strategic Plan, FY 2014 – 2018*, <http://www.justice.gov/jmd/strategic2014-2018/doj-fy-2014-2018-strategic-plan.pdf>, 3.

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## *Training for New Personnel*

**New Employee Training.** The ATF, Criminal Division, and USMS do not offer formal presentations on conduct during new employee orientation. The Criminal Division told the OIG that its new employees receive training regarding off duty conduct from the Departmental Ethics Office, but the Division does not provide any additional training of its own regarding conduct to new employees. ATF and USMS do have some limited measures intended to acquaint new employees with the standards of conduct.

ATF requires supervisors to discuss ATF's standards of conduct with new employees. The standards touch on off-duty conduct and alcohol consumption. The USMS requires new employees to acknowledge that they have read the agency's standards of conduct, which discuss alcohol consumption, drug use, and off-duty conduct.<sup>39</sup>

Similar to the USMS, the DEA requires new employees to acknowledge that they have read the agency's standards of conduct, which discuss alcohol consumption, drug use, and off-duty conduct. In addition, the DEA discusses off-duty conduct in its new employee training.

The FBI provides a more extensive presentation to new employees that includes materials on conduct, a discussion of the FBI's core values, and sample cases to teach new employees how to apply standards and expectations to day-to-day situations.

**New Agent Training.** The ATF, DEA, FBI, and USMS include discussions of off-duty conduct in new agent training.

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<sup>39</sup> In addition, the USMS requires its employees to read a document ("Important Information about Employee Responsibility from the Office of the Director, the Office of Inspection and the Office of General Counsel") discussing employee responsibility, which covers receipt of ethics and conduct materials and examples of the most common USMS misconduct cases, including discussion about alcohol consumption, drug use, and off-duty conduct. All employees are required to acknowledge electronically, on an annual basis, that they have read the document.

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ATF’s new agent training has two sessions where presentations are made that discuss alcohol use, drug use, and off-duty conduct. In addition, the new agent training offers instruction on standards of conduct. It familiarizes trainees with a set of “commonsense, practical guidelines on which to build a safe, successful, and productive career as a special agent.” One of these guidelines is ATF’s rule on alcohol: “Do not drink any alcohol while, or within 6 hours before, carrying a firearm or operating a Government owned vehicle.” The presentations also cover drug use and make general reference to notoriously disgraceful conduct in the discussion regarding off-duty conduct. However, there is no discussion regarding the solicitation of prostitutes.

*The law enforcement officer shall be mindful of his special identification by the public as an upholder of the law. . . . [H]e will ...conduct his private life [so] that the public will regard him as an example of stability, fidelity, and morality.*

*Canons of Police Ethics (1957), Article 6: Private Conduct*

The DEA’s new agent training also offers limited discussion about standards of conduct and off-duty conduct. However, the DEA has recently updated its training materials to include specific discussion about the four behaviors examined in this review.

The USMS's new agent training includes modules that provide some discussion on misconduct offenses, such as driving under the influence (DUI), and emphasizes that USMS employees are held accountable for their action on and off duty.

The FBI’s new agent training is more comprehensive. The FBI told us that during new agent training it emphasizes the need for agents to behave professionally, on and off duty. The training includes a discussion of the *Canons of Police Ethics* that lay out 11 principles for law enforcement officers, including Article 6, quoted in the inset, specifically addressing off duty conduct. A training packet we reviewed included warnings about alcohol use and conduct that might be considered notoriously disgraceful, and said in part:

The essence of the FBI Standards of Conduct . . . is that the FBI “expects its employees to so comport themselves that their activities both on and off duty will not discredit either themselves or the Bureau.”

All trainees must read and sign the “Rules, Regulations and Requirements at the FBI Academy for new Agent Trainees.” This document reminds agents that, because they hold a position of trust and

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authority and are often seen in the public eye, they are held to a significantly higher standard of conduct than the average citizen.

### *Training for Personnel Going Abroad*

The components provide training to some of their employees going abroad, but that training varies by component and by the duration and destination of the employees' trips.<sup>40</sup> Some employees sent to other countries on official business receive no pre-deployment training.

**Deployments of 30 Days or More.** As discussed previously, the federal government requires that all of its employees going abroad for 30 days or more receive Department of State training, referred to as SAFE, or its equivalent. Included in the SAFE training is a brief reminder that employees "always represent the Government of the United States while serving officially abroad," and it also briefly discusses circumstances that can lead to excessive drinking when abroad.

When we examined the components' pre-deployment training, we found that at the Criminal Division, three of the four sections that send employees to foreign countries provided nothing in addition to SAFE. Only the Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) provided pre-deployment training in addition to SAFE.<sup>41</sup> OPDAT officials who have led the training said they emphasize that

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<sup>40</sup> We found that two components provide briefings to personnel being deployed to specific countries, regardless of how long they will be there. The FBI provides a briefing for employees going to countries considered "hostile," warning them against many circumstances they may encounter, including the ploys of hostile intelligence services. Employees are told to avoid moral indiscretions and vices and to "[r]emember you are a representative of the United States."

The USMS provides a briefing for all employees going to Colombia. The briefing includes the Department of State's cable prohibiting the solicitation of prostitutes. It also includes a U.S. Ambassador's firearms policy that prohibits: (1) consuming any alcohol while armed or 6 hours prior to being armed, (2) drinking alcohol to the point of having impaired judgment or the inability to perform duties, and (3) using medications or drugs while armed that may impair judgment or ability. USMS personnel told the OIG that since April 2013, it requires all USMS employees deployed to Colombia to complete and sign a form acknowledging that they received the briefing. The form is not used agency-wide and is specific to the requirements of the Chief of Mission in Colombia.

<sup>41</sup> OPDAT's mission is to work with host countries to develop fair and accountable justice sector institutions and to strengthen their capacities to combat domestic and international crimes consistent with international norms and standards.



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employees represent DOJ at all times. The OPDAT officials said that, after the incidents in Cartagena, they began emphasizing that employees should be aware that what is legal in foreign countries may not be legal at home. In addition, the Criminal Division's Deputy Designated Agency Ethics Official (DDAEO) stated that she is invited to participate in OPDAT's pre-deployment training. The DDAEO said she includes a discussion about the Standards of Conduct and what it means for employees deployed overseas and reminds employees that their conduct is a reflection on the Department. She indicated that the pre-deployment training discussion covers the use of drugs, excessive alcohol consumption, prostitution, and other disgraceful behavior. OPDAT has since notified the OIG that it has made conduct guidance a standard part of its pre-deployment training. OPDAT officials stated that the training addresses the various responsibilities inherent in representing the Department and the U.S. government overseas and includes a review of generally acceptable and expected standards of conduct.<sup>42</sup>

Of the law enforcement components, ATF has minor training requirements in addition to SAFE that pertain to the behaviors covered in this review, while the USMS has none. ATF stated that it required its employees to read and acknowledge its standards of conduct, described above, covering off-duty conduct, including restrictions on alcohol consumption.<sup>43</sup> The USMS reported having no training of its own for employees who are deployed for 30 days or more.

The DEA provided the OIG with information from its Foreign Orientation Training Program handbook, which states that behavior the host government finds objectionable, unacceptable, or intolerable may result in the employee being expelled from the country. In addition, DEA's Office of Professional Responsibility provided the OIG with training material for the Foreign Orientation Training Program that discusses the prohibition on the solicitation of prostitutes, reminds employees that they

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<sup>42</sup> OPDAT officials also stated that the training program is no longer limited to employees deploying for the first time, but is now also required, to the extent practicable, of employees rotating to new posts.

<sup>43</sup> ATF Order 2130.1A, Employee Conduct and Accountability.

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are “always on-duty,” and states that if “you wouldn’t do it in the U.S. – don’t do it in a foreign country.”<sup>44</sup>

In contrast, the FBI conducts comprehensive pre-deployment training that addresses the four types of behavior we considered. The FBI requires its employees to take two courses it designed.<sup>45</sup> The first includes a module that helps students identify threats and precautions associated with the consumption of alcohol and drugs. The second includes a Department of State-approved alternative to a portion of the SAFE training as well as the portion of the Department of State’s online SAFE training that warns briefly against excessive drinking. The FBI also requires employees to review briefing slides linked to a form they must file prior to foreign travel. Among the slides’ tips are three that tell employees not to bring narcotics in or out of the foreign country, respond to sexual overtures, or “over indulge” in alcohol.

The FBI training emphasizes that employees may be at higher risk for misconduct while working abroad “because the employees will be removed from their emotional and psychological support structures – including relatives, friends, church members, neighbors, and the like.” The training materials we reviewed remind employees that the FBI will not tolerate improper behavior at home or abroad. The FBI also told us the training stresses that soliciting prostitutes, using drugs, and engaging in similar behavior will be treated as misconduct even when the conduct is legal in the foreign country. The FBI stated that the training highlights the potential for misconduct that might arise during “liaisoning” activities with foreign officials, especially when those officials are themselves misusing alcohol or drugs, patronizing strip clubs or similar establishments, or otherwise engaging in notoriously disgraceful conduct.

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<sup>44</sup> DEA’s Office of Professional Responsibility also provided the OIG with copies of slides dated July 24, 2014, which mention off-duty misconduct and the four behaviors that are discussed in this review. DEA officials told us that this information was part of training classes conducted in July and September 2014.

<sup>45</sup> The FBI courses are the Overseas Security Awareness Training and the Overseas Survival Awareness Program. In addition, the FBI’s Office of Integrity and Compliance (OIC) and its Office of Professional Responsibility (OPR) provides a block of instruction during the pre-deployment training in which employees are cautioned to conduct their professional activities in a manner that does not impede their professional performance or tarnish the FBI’s reputation. Employees are reminded to think about the potential ramifications of their actions.

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**Deployments of Less than 30 Days.** The U.S. government does not require federal employees traveling for less than 30 days to take pre-deployment training. Similarly, ATF, the Criminal Division's OPDAT, DEA, and USMS have no training requirements for these employees.

In contrast, the FBI provides training to its employees going abroad for less than 30 days and includes a module that tells employees not to overindulge in alcohol and not to bring narcotics or contraband into or out of the country. The FBI also requires employees making trips of less than 30 days to review the briefing slides linked to the form they must file prior to foreign travel of any length, including the tips described above.

### Post-Cartagena Communications with Employees

We specifically asked the law enforcement components whether they had responded to the incidents in Cartagena by communicating with their employees about professional behavior while working abroad. The ATF, FBI, and USMS issued reminders within weeks to all employees about the components' policies and standards:

- The ATF memorandum stated that its standards of conduct apply during international travel, and it reminded employees that their personal and professional conduct must be able to withstand public scrutiny. ATF also instituted a new policy requiring employees to certify that they have read ATF's standards of conduct prior to each international trip.
- The FBI sent an e-mail to all of its employees stating that employees are representatives of the FBI while traveling on official business and their conduct must reflect the FBI's standards on and off duty. The e-mail also specifically advised employees that they must adhere to U.S. legal requirements rather than foreign law, custom, or expectation. The message further stated that the FBI "will not tolerate improper or unlawful behavior, at home or abroad."
- The USMS memorandum reminded employees of its directive on professional responsibility and the federal standards on ethical conduct for executive branch employees. The memorandum stated that USMS policies regarding professional responsibility and conduct apply during domestic and international travel, and that employees are expected to follow all statutes, regulations, and policies that govern employee conduct wherever they may be.

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DEA officials told the OIG that shortly after learning about the Cartagena incident, the DEA established a Task Force, consisting of representatives from various DEA offices, to review employee misconduct related issues throughout the agency and identify any trends. DEA officials stated that the Task Force made several recommendations, including revising sections of the DEA personnel manual, issuing a reminder to all DEA employees about inappropriate conduct, and publishing “fact or fiction” questions for training on conduct. The reminder to all DEA employees about inappropriate conduct was finalized on October 22, 2014, and the “fact or fiction” questions were published on October 28, 2014. On November 6, 2014, the DEA formally disseminated the revised sections of the DEA personnel manual to DEA employees regarding the solicitation of prostitutes.<sup>46</sup>

DEA officials told the OIG that DEA executive officials also held several meetings with DEA supervisors to discuss what actions could be taken to reinforce the DEA’s expectations for its employees’ conduct. DEA officials stated that these actions included requiring that supervisors provide more detailed input regarding the performance of employees they recommend for foreign country assignments; requiring supervisors in foreign countries to conduct individual meetings and briefings with new employees selected for such assignments; and requiring employees to complete a Department of State diplomatic security form and briefing before they are permitted to arrive at post.

Finally, the DEA Academy developed and presented training to newer employees, agents, and supervisors about off-duty conduct. In the standards of conduct portion of the training, information is provided about overseas and off-duty conduct. DEA employees who are to be assigned abroad receive additional training about the solicitation of prostitutes as part of the Foreign Orientation Training Program. However, we found no indication that the DEA has provided additional training to DEA employees already working in foreign countries or to those about to travel on short term assignments.

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<sup>46</sup> We understand that the decision to delay implementation was made after DEA leadership consulted with the DEA’s Office of Chief Counsel and out of concern for a pending MSPB proceeding. We are concerned that this decision delayed for over two years the implementation of some of the reforms that DEA management concluded were necessary in light of the events in Cartagena.

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## CONCLUSION AND RECOMMENDATIONS

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Employees should be made aware that poor decisions about their off-duty conduct have serious ramifications for their careers and DOJ's ability to carry out its mission. We found that, for most DOJ employees sent abroad, little is done to inform and guide their judgment. The types of off-duty behavior discussed in this report can lead to incidents that undermine DOJ's credibility and effectiveness. The behaviors also make employees vulnerable to exploitation by foreign intelligence services or criminal organizations. The absence of Department-wide policy and incomplete component policies and training efforts regarding off-duty conduct pose a risk to DOJ and its mission.

As a general matter, DOJ has not vigorously and effectively communicated its authority and expectations regarding off-duty conduct. As far back as 1997, the Attorney General recognized that all DOJ employees needed to understand their obligations to avoid conduct on or off the job that might have a negative impact on their ability to perform DOJ's mission. However, 17 years later, the OIG found that DOJ has not established any Department-wide policies or training requirements regarding its expectations for employee conduct off duty.

Although DOJ has a significant international presence, the OIG believes DOJ has not taken sufficient steps to minimize the risk of employee off-duty misconduct. Unlike the Departments of Defense and State, DOJ has not established policies or training requirements regarding its employees' off-duty conduct when they are representing the U.S. government in foreign countries. As a result, not all employees have been provided with a foundation on which to make sound day-to-day decisions, especially with regard to behaviors that may be otherwise acceptable in some countries, but conflict with DOJ's core values or be illegal at home.

Despite DOJ's general inaction, we found that the FBI has taken more steps than other components to prepare its employees even when specific rules do not exist to guide their actions. We found its training establishes standards for employees' on- and off-duty conduct that reflect the FBI's core values. The training specifically addresses potential conflicts between what is permissible conduct for others abroad and what is required for FBI employees. We found that the new employee and new agent training is a good foundation to prepare FBI employees to make decisions that are consistent with the FBI's mission. In addition, prior to foreign travel, the FBI provides all of its employees with extensive pre-deployment training regarding conduct. We believe this training

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serves as a timely reminder that helps minimize the risk of misconduct. Nevertheless, the FBI's policies on the four specific behaviors we reviewed were not comprehensive.

The policies and training of the other four components fall short. The ATF, DEA, and USMS have not developed clear policies that guide their employees' behavior at all times and in all places. These three law enforcement components have not developed comprehensive new employee training regarding off-duty behavior. However, off-duty behavior is covered briefly in some context during the multi-week new agent training programs for ATF, DEA, and USMS candidates. As for the Criminal Division, it has not developed policies related to employee behavior, and three of the Division's four sections that send employees to foreign countries provide no training beyond the Department of State's SAFE module. The fourth section, OPDAT, did provide some additional training and has taken steps to improve that training.

Moreover, none of these four components has developed pre-deployment training to prepare their employees to deal with off-duty conduct in a foreign environment. They have done little to supplement the required Department of State training for federal employees who travel abroad for 30 days or more. Furthermore, the Department of State training's treatment is cursory when dealing with off-duty conduct and the types of decisions employees may have to make about their personal behavior. As a result, meeting this training requirement may give component managers a false sense that those they send to work abroad are well prepared. Shorter term travelers are provided scant, if any, pre-deployment training regarding personal behavior.

Our review revealed that, with the exception of some of the FBI training discussed above, DOJ and its components generally have not clearly communicated employees' off-duty responsibilities when in the United States or working abroad. While the components took some limited steps to communicate their expectations to employees, there have been delays and much more is required. In sum, there is a critical need for DOJ to develop clear policies and comprehensive training that create a consistent message that employee behavior must be beyond reproach at all times. Included in that message must be clear notice that employees remain subject to DOJ's requirements regardless of foreign law.

So that DOJ employees working abroad understand how their off-duty conduct can affect DOJ's mission, the OIG recommends that DOJ:

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1. Develop and disseminate clear and comprehensive Department-wide policy that communicates DOJ's authority and expectations regarding off-duty conduct.
  2. Identify best practices for guiding employee behavior and ensure that these practices are shared with all components that send employees to work in foreign countries.
  3. Ensure that the components develop clear, complementary, and consistent policies in a timely manner.

The OIG also recommends that the Criminal Division, ATF, DEA, FBI, and USMS:

4. Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.
5. Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.
6. Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

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## **APPENDIX I: SCOPE AND METHODOLOGY OF THE OIG'S REVIEW**

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To conduct the analysis for this report, the OIG compiled data regarding DOJ positions abroad and employees' trips to other countries. We focused our review on four types of off-duty, unprofessional behavior: consuming excessive alcohol, using illegal drugs, soliciting prostitutes, and engaging in notoriously disgraceful conduct.

We researched the federal government's authority and government-wide policies governing employees' off-duty conduct. We examined policies and guidance, along with new employee, new agent, and other training, regarding conduct while on foreign travel and while off-duty. We collected the law enforcement component tables of offenses and reviewed DOJ's and the Criminal Division's standards regarding misconduct and associated penalties.

Our review included discussions with DOJ officials and personnel at the Departments of Defense, Homeland Security, and State. In light of its extensive presence abroad, we reviewed the Department of State's Foreign Affairs Manual and the training the Department of State provides prior to foreign travel and the Department of Defense's directives regarding the four behaviors included in this report.

We also reviewed documentation regarding federal government employees' involvement with prostitutes during the 2012 Summit of the Americas in Cartagena, Colombia, and the aftermath of that conduct, including congressional testimony, news articles, and agency reports. We reviewed the OIG's investigation into the DEA employees' involvement with prostitutes during that time. We researched the federal government's policies, reports, and statistics regarding trafficking in persons and related activities. We also reviewed various OIG reports and specifically, the OIG and Treasury Department's reports regarding the Good O' Boy Roundups. In addition, we searched for Department-wide policies or communications regarding off-duty conduct issued after the OIG Roundups report or after the incidents in Cartagena.

After our initial working draft was provided to the components for technical comments, the DEA informed the OIG that it did take actions after the 2012 Cartagena incident and had revised its training materials. The OIG had previously requested this information from the DEA several times during fieldwork, but did not receive anything, so it had appeared to us that the DEA had not taken any action following the Cartagena incident. When asked why this relevant information was not provided to



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us at the time of our requests, DEA officials were unable to provide an explanation. The OIG requested and was entitled to this information from the outset of our review, and the failure to provide it in response to our requests during fieldwork unnecessarily delayed our work.

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**APPENDIX II: ATTORNEY GENERAL MEMORANDUM ON  
OFF-DUTY CONDUCT, 1997**

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Office of the Attorney General  
Washington, D. C. 20530

April 2, 1997

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL *[Signature]*  
SUBJECT: Off-duty Conduct of DOJ Employees

My May 16, 1996, memorandum informed you of the Inspector General's report voicing concern about the level of awareness on the part of Department employees of their obligation to refrain from off-duty conduct that negatively affects their job performance. It also informed you of a working group, convened by the Assistant Attorney General for Administration, that was tasked with developing written materials that could be used for this purpose.

The working group--consisting of representatives from the Office of Inspector General, the Immigration and Naturalization Service, the Executive Office for United States Attorneys, the Bureau of Prisons, the United States Marshals Service, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division, and the Justice Management Division--has now completed its work. The group has developed, and recommended that I distribute, the attached document.

The document provides some basic guidelines on off-duty conduct. This document is not intended for distribution to all employees, but instead, should be customized as necessary by your training staffs, and incorporated into your current ethics awareness programs. In this manner, each component can take advantage of its own experiences and case histories in order to make the training guidelines meaningful and memorable. Please make this document available to those in your component responsible for ethics training, basic law enforcement training, and new employee orientation, and have them incorporate its content into those programs.

As I stated previously, it is the mission of the Department of Justice to enforce and interpret the laws of the United States in a fair and unbiased manner. It is our responsibility to ensure that all Department employees are aware of and understand their obligations to avoid conduct on or off the job which may have a negative impact on their ability to perform this mission.

Attachment

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## Off-Duty Conduct

The recent participation of federal employees in the "Good O' Boy Roundup" raises concern about the level of awareness on the part of Department employees regarding their obligation to refrain from off-duty conduct that may negatively impact upon their ability to perform their jobs or detract from the Department's mission. The following sets forth the basis for the expectation that federal employees will comport themselves appropriately on and off the job; explains the legal foundation for the principle that off-duty conduct may be grounds for discipline; and gives examples of off-duty activities that have resulted in employee discipline.

Executive Order 12674 as modified by Executive Order 12731 provides that "Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain." Relevant to activities outside of the workplace, the Executive Order states that

Employees shall [1] satisfy in good faith their obligations as citizens, including all just financial obligations . . . that are imposed by law . . . [2] adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap . . . [and 3] avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

Office of Personal Management Regulation provides at 5 CFR § 732.203 that

[a]n employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

An employee may be disciplined for off-duty conduct if there is a nexus (connection) between the offending conduct and the employee's job-related responsibilities so that the proposed discipline would "promote the efficiency of the service."

Generally, a sufficient nexus or connection can be established if the misconduct adversely affects the employee's or his co-workers' job performance or management's trust and confidence in the employee's job performance.

Nexus may also be proven by showing that an employee engaged in off-duty conduct that interferes with or adversely affects the agency's mission. This usually applies where the employee

engages in the very type of behavior which the agency and/or the employee is charged with preventing or addressing:

Where an employee's off-duty behavior is blatantly inconsistent with the mission of the employer and is known or likely to become known, most any employer, public or private, however broad minded, would want to fire the employee and . . . we find no evidence that Congress intended to deny this right to federal agencies.

Wild v. United States Department of Housing and Urban Development, 692 F.2d 1129 (7th Cir. 1982).

Some off-duty conduct is considered to be so egregious that the nexus to federal employment "speaks for itself" and raises a rebuttable presumption of nexus to the efficiency of the service. Graham v. U.S. Postal Service, 49 MSPR 364 (1991). There is an automatic presumption that a federal employee's commission of a violent crime adversely affects the efficiency of the service and is so grievous as to raise a rebuttable presumption that discipline is appropriate. Similarly, sexual misconduct with minors is regularly held to provide a presumption of nexus warranting removal, which is effectively impossible to rebut.

Higher-level employees and those entrusted with sensitive responsibilities are subject to closer scrutiny and greater potential discipline for off-duty misconduct reflecting on honesty and integrity than those employees with less responsibility. For example, law enforcement officers are entrusted with responsibilities (such as conducting arrests, searches and seizures, and providing testimony in criminal proceedings) which, if abused, could severely impact the lives of innocent people. Therefore, law enforcement officers may be more severely punished than other federal employees for many types of off-duty misconduct, and/or may be punished for some conduct that other employees would not be punished for at all.

One of the law enforcement officers' most important responsibilities is to provide objective and unbiased testimony during criminal and related proceedings. Federal Rule of Evidence 608(b) allows defense counsel to impeach an officer during cross examination by asking about specific instances of past conduct which are probative of veracity or bias. Giglio v. United States, 405 U.S. 150, 154 (1972); Brady v. Maryland, 373 U.S. 83 (1971).

Accordingly, while the most serious misconduct--e.g. the commission of a violent crime or illegal drug use--may well be the basis for criminal prosecution, any off-duty conduct on the part of a law enforcement officer that would undermine his or her

credibility or demonstrate bias could adversely affect the ability of such officer to perform his or her official duties.

Specific off-duty conduct which has resulted in federal employees being disciplined, and in some cases dismissed, includes:

- sexual misconduct;
- racist or sexist remarks or conduct;
- threats against coworkers or supervisors;
- fraud;
- falsification to obtain employment, employment benefits, workers' compensation, disability, or sick leave;
- failure to pay just debts, including taxes;
- misuse of a government credit card; and
- conflicts of interest (improper use of one's official position for private gain).

One particularly sensitive area of off-duty conduct involves speech and expression. While all citizens of the United States, including Government employees, enjoy the First Amendment constitutional right to freedom of expression and association, it is within the power of the government to restrict employees' activities, and impose discipline for certain remarks, in ways that would be unconstitutional if applied to the public at large. United States v. NTEU, 115 S.Ct. 1003, 1012 (1995). The Supreme Court has established a test which requires "balancing the interests of the [employee], as a citizen, in commenting upon matters of public concern, and the interests of the State, as an employer, in promoting the efficiency of the public services it performs through its employees." Pickering v. Board of Education, 391 U.S. 563, 568 (1968).

Speech is considered a "matter of public concern" if it is for the purpose of commenting on an issue of importance to the public or inciting debate upon such an issue. Connick v. Myers, 461 U.S. 138 (1983). Even where the particular speech at issue meets this standard, however, the government interest in efficient operation may still outweigh the employee's interest and justify discipline where the speech: (1) threatens the maintenance of discipline or harmony among coworkers; (2) has a detrimental effect on close working relationships where personal loyalty and confidence are necessary; (3) impedes the speaker's proper performance of his or her daily duties; or (4) interferes

with the regular operation of the office generally. Rankin v. McPherson, 483 U.S. 378, 387 (1987).

Racist conduct by DOJ personnel is inconsistent with the mission of the Department to enforce the laws against racial discrimination, and certain forms of racist speech or conduct may seriously undermine the reputation and effectiveness of the employee involved and the agency as a whole. Mings v. Dept. of Justice, 813 F.2d 384 (Fed.Cir. 1987). Where the employee's conduct is inconsistent with the mission of the agency, dismissal may be appropriate even without proof of a specific detrimental effect on the employee's ability to do his or her job. Speech expressing a viewpoint on issues of race, such as discrimination, affirmative action, and racial harassment, has been interpreted to address matters of public concern and to be protected under the First Amendment. Boger v. Wayne County, 950 F.2d 316 (6th Cir. 1991); Meyers v. City of Cincinnati, 934 F.2d 726 (6th Cir. 1991); Matulin v. Village of Lodi, 862 F.2d 609, 612 (6th Cir. 1988). On the other hand, disruptive racist speech furthering some "purely private interest" is not protected. Tindle v. Caudell, 56 F.3d 966, 970 (8th Cir. 1995). For example, the First Amendment generally does not protect mere racial epithets. Waters v. Churchill, 114 S.Ct. 1878, 1886 (1994).

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**APPENDIX III: EXCERPTS FROM THE DEPARTMENT OF  
STATE CABLE ON HUMAN TRAFFICKING, 2012**

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The following three paragraphs are excerpts from the 2012 Department of State cable related to human trafficking:

3. It is the position of the U.S. government that the procurement of commercial sex can fuel the demand for sex trafficking. Women, children, and men are trafficked into the commercial sex trade regardless of whether prostitution is legal or criminalized in a country, and thus, the procurement of commercial sex runs the risk of facilitating or supporting human trafficking. There are concerns that prostituted youth, including LGBT youth, are especially vulnerable to human trafficking and other forms of exploitation. Department employees should understand that a victim of sex trafficking may not appear to be under duress, given that coercion and threats of violence are often used to hold people in servitude. Indeed, there is a good chance that a sex trafficking victim will appear to be engaging in a commercial sex transaction willingly. Flirtatious or seductive behavior is a necessary element of attracting clients to prostitution and does not/not (sic) signify the consent of a person engaging in a commercial sexual activity; individuals who engage in such behaviors may well be trafficking victims. Department employees should also know that sex trafficking is not confined to street-based prostitution or inexpensive brothels. This crime occurs in residences, high-end hotels and entertainment venues, as well as in massage parlors and the back areas of small bars or restaurants. Further, assumptions based on appearances as to whether or not an individual is 18 years old are frequently erroneous, as many brothel managers and pimps dress minors to look older. Purchasing sex from a minor is a serious crime under U.S. law.

4. In addition to the human rights implications noted above, involvement with the commercial sex industry is unacceptable in light of the diplomatic and foreign policy goals of the United States and the conduct that is expected of Foreign Service personnel. As stated in 3 FAM 4111, the attainment of U.S. foreign policy objectives depends substantially on the confidence of both the American and foreign public in the individuals selected to serve in the Foreign Service. The U.S. government therefore requires the maintenance of the highest standards of conduct by employees of the Foreign Service, including an especially high degree of integrity, reliability, and prudence. Given the representational nature of employment in the Service and the diplomatic privileges and immunities granted employees of the Service abroad, it is necessary that employees observe such standards during and after working hours, as well as when the employee is on leave or in travel status.

5. Foreign Service personnel and all other personnel under Chief of Mission Authority, including federal government employees from Tenant Agencies, should not in any way abet sex trafficking or solicit people in prostitution, irrespective of whether prostitution is legal in the host country. As long established in the FAM, frequenting prostitutes is considered "notoriously disgraceful conduct" and Foreign Service personnel who engage in this conduct may be subject to disciplinary action. (See 3 FAM 4138, 4139.14, 4300.) Penalties range from admonishment, reprimand, suspension, to separation from the Department, depending on the circumstances. In some instances, such conduct may also have an adverse impact on an employee's

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security clearance. Disciplinary action has been taken against employees in the past for this behavior. Locally Employed Staff (which includes Ordinarily Resident Americans and Foreign Service Nationals) will be subject to discipline by post management.



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## APPENDIX IV: DOD SOUTHCOM GENERAL ORDER NUMBER 1, 2012

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REPLY TO  
ATTENTION OF

DEPARTMENT OF DEFENSE  
UNITED STATES SOUTHERN COMMAND  
OFFICE OF THE COMMANDER  
9301 NW 33RD STREET  
DORAL, FL 33172-1202

SCCC

28 May 2012

### GENERAL ORDER NUMBER 1

**TITLE:** Prohibited Activities for U.S. Department of Defense and Certain U.S. Coast Guard Personnel Present Within the United States Southern Command (USSOUTHCOM) Area of Responsibility (AOR)

**PURPOSE:** To identify and regulate conduct that is prejudicial to the maintenance of good order and discipline of forces in the USSOUTHCOM AOR.

**AUTHORITY:** Title 10, United States Code, Section 164(c); the Uniform Code of Military Justice (UCMJ), Title 10, United States Code, Sections 801-940; and DOD Instruction 3020.41, dated 20 December 2011.

#### 1. APPLICABILITY:

a. This General Order applies to the following personnel while present in the USSOUTHCOM AOR:

- (1) All United States Department of Defense military personnel and civilian employees;
- (2) All United States Coast Guard personnel assigned, attached, or TACON to Department of Defense organizations;
- (3) All United States Government agency and department liaison officers and detailees assigned, attached, or TACON to Department of Defense organizations; and
- (4) All contingency contractor personnel (as defined in DOD Instruction 3020.41, dated 20 December 2011) serving with, employed by, or accompanying the Armed Forces of the United States.

b. This General Order does not apply to personnel assigned to: Defense Attaché Offices; United States Marine Corps Security Detachments; sensitive intelligence and counterintelligence activities that are conducted under the direction and control of the Chief of Mission/Chief of Station; or other United States Government agencies and departments, except as referenced in paragraph 1.a above.

c. The specific prohibitions contained in paragraph 4.b are applicable only to individuals (including civilians as referenced in paragraph 1.a above) with duty in the USSOUTHCOM's AOR and while participating in exercises or specified operations, regardless of whether the

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individual is permanent party, deployed, or on temporary duty to the AOR and regardless of whether the individual is on or off duty. Members of Security Cooperation Offices who only provide routine logistical or administrative support (such as facilitating country clearances or the movement of supplies or equipment) are *not* considered to be participating in an exercise or specified operation.

(1) The applicability of paragraph 4.b(1) to exercises extends from 12 hours before STARTEX until ENDEX. These prohibitions do not otherwise apply to site visits or other preparatory activities in advance of an exercise.

(2) The term "specified operations," for purposes of this General Order, is as defined as operations which are directed pursuant to a DEPORD, EXORD, or OPORD. The term does *not* include ongoing detention operations at Joint Task Force-Guantanamo, routine ship deployments, or other routine daily operations of USSOUTHCOM subordinate organizations.

**2. PUNITIVE GENERAL ORDER:** Paragraph 4 of this General Order is punitive. All persons subject to the UCMJ who violate the prohibitions contained therein are subject to prosecution and/or disciplinary and administrative action under Article 92 of the UCMJ. U.S. government employees who violate these provisions are subject to administrative or disciplinary action under applicable directives or implementing instructions governing civilian disciplinary or administrative actions. Contingency contractors who violate these provisions are subject to administrative action under DOD instruction 3020.41.

**3. STATEMENT OF MILITARY PURPOSE:** Operations and exercises place United States Armed Forces within USSOUTHCOM AOR countries. Some of these countries have local laws and customs that permit or allow various activities that are prohibited or restricted by the laws of the United States and policies of the Department of Defense. Maintaining the high standards of conduct of a strong and disciplined force, maintaining personnel health and safety, and adhering to the core values expected of the U.S. Armed Forces is essential to preserving positive relations with our host nations and ensuring the success of operations and exercises in USSOUTHCOM AOR countries. In addition, the high operational tempo combined with fast-paced duties required of U.S. Armed Forces make it prudent to restrict certain activities in order to maintain good order and discipline and ensure optimum force readiness. Activities prohibited by this General Order create significant risk to OPSEC and INFOSEC. Furthermore, excessive alcohol consumption in particular has been a contributing factor in the majority of injuries and accidents, as well as diplomatic incidents and criminal misconduct involving military personnel and DOD civilians in this AOR. These incidents have the potential to adversely affect U.S. foreign policy and the Command's theater engagement goals and objectives.

**4. PROHIBITED ACTIVITIES:**

*a. At All Times.*

(1) It is prohibited to introduce, purchase, possess, use, sell, transfer, manufacture, or consume any controlled substances without a valid prescription unless specifically authorized for an official purpose (such as the authorized transport of military medical supplies). Prescription drugs must be accompanied by the original prescription label which identifies the prescribing medical facility or authority.

(2) It is prohibited to knowingly enter into contact with a prostitute or a person who provides sexually oriented massages. If a person subject to this General Order unknowingly enters into contact with a prostitute or a person who provides sexually oriented massages, other than a passing, unwanted solicitation by the other person, the person subject to this General Order is required to immediately cease the contact and report the incident to the first officer in the Chain of Command.

(3) It is prohibited to patronize a prostitute or receive a sexually oriented massage.

(4) It is prohibited to directly or indirectly arrange for a prostitute or sexually oriented masseuse to come to your own hotel room or other quarters or to go to the hotel room or other quarters occupied by any person subject to this General Order.

(5) It is prohibited to use an escort service or dating service.

(6) It is prohibited to enter an establishment that is off-limits or where it is known by the person subject to this General Order that any of the following are present or habitually present: prostitution, sexually oriented massage, or illicit drug use. If a person subject to this General Order unknowingly enters any establishment that is off-limits or where prostitution, sexually oriented massage, or drug use are present or habitually present, that person is required to immediately leave the establishment and report the incident to the first officer in the Chain of Command.

(7) It is prohibited to remove, possess, sell, deface, or destroy archeological artifacts or national treasures.

(8) It is prohibited to sell, barter, or exchange any currency other than at the official host-nation exchange rate or commercial rate commonly available at hotels.

*b. While Participating in Exercises or Specified<sup>1</sup> Operations.*

(1) It is prohibited to introduce, purchase, consume, sell, or transfer alcohol. It is *not* prohibited to otherwise possess closed containers of alcohol during an exercise or specified operation acquired prior to the exercise or operation or as an unsolicited gift from a partner nation representative, if they are intended for consumption after the exercise or operation.

(2) It is prohibited to introduce, purchase, possess, use, or sell privately owned firearms, ammunition, or explosives.

**5. ADDITIONAL REQUIREMENTS:**

a. All personnel not covered under the provisions of paragraph 4.b of the General Order will exercise restraint in the consumption of alcohol and display a professional demeanor at all times and follow the local alcohol policy of the Senior Defense Official/Defense Attaché or that of the Security Cooperation Office, if one is in effect.

b. All personnel not covered under the provisions of paragraph 4.b of the General Order will ensure that any purchase, possession, use, or sale of privately owned firearms, ammunition, or explosives, is consistent with both U.S. and host nation law or policy.

c. SOUTHCOM subordinate organizations and Senior Defense Officials are free to issue more restrictive orders than those contained in this General Order.

**6. INDIVIDUAL DUTY:** All persons to whom this General Order is applicable are responsible for knowing and understanding the prohibitions contained herein. All such persons are further charged with the responsibility to become familiar with and respect the laws, regulations, and customs of their host nation, while still maintaining strictest compliance with U.S. law and DOD policy. Acts of disrespect or violations of host nation laws, regulations and customs may be punished under applicable criminal statutes and administrative regulations.

**7. UNIT COMMANDER RESPONSIBILITY:** Commanders, Security Cooperation Office Chiefs, Force Protection Officers, and military and civilian supervisors are charged with ensuring that ALL PERSONNEL are briefed on the prohibitions and requirements of this General Order. The enclosed Briefing Paper may be used for this purpose, but the text of the General Order itself contains the binding provisions. Commanders may further limit their forces as they deem necessary.

**8. CONFISCATION OF OFFENDING ARTICLES:** Items determined to violate this General Order may be considered contraband by command or law enforcement authorities if found in the USSOUTHCOM AOR. Before destruction of contraband, commanders or law enforcement

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<sup>1</sup> For a definition of "specified operations," see paragraph 1.c(2).

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personnel will consult with their servicing judge advocate. Military customs and other pre-clearance officials will enforce this General Order during their inspections of personnel prior to departure to and from the AOR and return to CONUS.

9. **EFFECTIVE DATE:** This General Order is effective immediately.

10. **EXPIRATION:** This General Order will expire when rescinded by the Commander, USSOUTHCOM, or higher authorities.

11. **WAIVER AUTHORITY:** Authority to waive or modify the prohibitions in Paragraph 4.b(1) of this General Order is hereby delegated to USSOUTHCOM Component Commanders and to the Senior Defense Official in the corresponding country. Component Commanders are authorized to delegate their waiver authority to no lower than the O-6 level. Any waivers granted shall be in writing and reported immediately to the Chief of Staff, USSOUTHCOM, through the Office of the Staff Judge Advocate, USSOUTHCOM. Contact (305)437-1307 for processing instructions.

Encls  
GO 1 Briefing Paper

  
Douglas M. Fraser  
General, U.S. Air Force  
Commander

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## Briefing Paper on SOUTHCOM General Order #1

### 1. Background.

- ❖ SOUTHCOM General Order #1 is new, but incorporates, updates, and replaces the previous SOUTHCOM Alcohol Policy (Policy Memorandum 37-12, 1 Feb 2012).

### 2. Provisions.

- ❖ GO 1 applies to all DOD personnel, USCG and certain other interagency personnel (while TACON to DOD), and certain contractors while in the SOUTHCOM AOR.
- ❖ Part 1 (§ 4.a.) applies to such persons while in the SOUTHCOM AOR *at all times* and prohibits:
  - Use, purchase, possession, etc. of controlled substances without a prescription;
  - Knowingly having contact with a prostitute or someone that gives sexually oriented massages;
  - Patronizing a prostitute or receiving a sexually oriented massage;
  - Arranging for a prostitute or sexually oriented masseuse to come to a hotel room or other quarters;
  - Using an escort or dating service;
  - Knowingly entering an establishment that provides prostitution, sexually oriented massage, or illicit drugs;
  - Removing, possessing, selling, defacing, or destroying archeological artifacts or national treasures; and
  - Selling, bartering, or exchanging currency on the black market.
- ❖ Part 2 (§ 4.b.) applies to persons while in the SOUTHCOM AOR *only while participating in exercises or in operations* with a DEPOD, EXORD, or OPORD (other than routine daily operations) and prohibits:
  - Consumption, purchase etc. of alcohol; and
  - Use, purchase, possession, etc. of privately owned firearms, ammunition, or explosives.
- ❖ Alcohol prohibition during exercises applies from 12 hours before STARTEX to ENDEX.
- ❖ Alcohol prohibition may be waived in writing by a Component Commander or the Senior Defense Official. Component Commanders may delegate their waiver authority to no lower than the O-6 level.
- ❖ Component Commanders or Senior Defense Officials may set more stringent requirements.

### 3. FAQ.

- Q** *I am permanently assigned to the MILGROUP in country XXX. Does this mean I can no longer drink alcohol?*
- A** Just like any other person (permanent party, TDY, or deployed) GO 1 does not prohibit you from drinking alcohol unless you are participating in an exercise or specified operation. The exercise restriction only applies from 12 hours before STARTEX until ENDEX. The specified operation restriction applies until the operation is declared over or the alcohol prohibition is waived. If you are *not* participating in the exercise or specified operation, then the alcohol prohibition does *not* apply to you.
- Q** *I am going TDY in the SOUTHCOM AOR for a TCA conference. Does this mean I cannot drink alcohol during the conference?*
- A** No. A TCA conference, Subject Matter Exchange, or similar event is not a “specified operation,” so the alcohol prohibition does not apply.

**APPENDIX V: LAW ENFORCEMENT COMPONENT TABLES OF  
OFFENSES AND PENALTIES**

The ATF, DEA, FBI, and USMS use tables of offenses and penalties as a management tool for meting out discipline. Table 5 provides the portions of the tables that are relevant to the four behaviors considered in this report: consuming excessive alcohol, using illegal drugs, soliciting prostitutes, and engaging in notoriously disgraceful conduct. The Criminal Division told the OIG that it does not use a table of penalties and offenses because of the restrictive nature of penalties and the inability to adequately adjust them to particular circumstances.

**Table 5: Excerpts from the Law Enforcement Components’  
Tables of Offenses**

<b>Component</b>	<b>Offense</b>	<b>Explanation (if Any)</b>	<b>Penalty</b>
<b>Consuming Alcohol</b>			
<b>ATF</b>	Transporting a firearm after consuming alcohol.	Violation of policy as stated in ATF O 2130.1, Conduct and Accountability.	1-day suspension up to removal.
	Operating a government vehicle after consuming alcohol.	Operating a government vehicle in violation of ATF O 2130.1, Conduct and Accountability.	3-day suspension up to removal.
	Driving under the influence (DUI) in private vehicle off duty.	Unsafe operation and failure to obey traffic laws resulting in serious injury or loss of life.	7-day suspension up to removal.
<b>DEA</b>	Reporting for duty under the influence of intoxicants.	Under the influence is described in the standards of conduct.	5-day suspension up to removal. Removal on second offense.
	Operating a government vehicle while under the influence of alcohol.	Under the influence is described in the standards of conduct.	60-day suspension up to removal. Removal on second offense.
<b>FBI</b>	Alcohol abuse – Under the influence while on duty.	Without authorization, consuming alcohol while on duty or during a break; consuming alcohol prior to reporting for duty to the extent that it has an effect on the employee’s workplace or performance.	Standard penalty: 15-day suspension. Penalties range from oral reprimand up to dismissal.
	Driving under the influence (DUI)/Driving while intoxicated (DWI) – government vehicle.	Operating any government vehicle while intoxicated or impaired by alcohol or controlled substance.	45-day suspension up to dismissal. Removal on second offense.

<b>Component</b>	<b>Offense</b>	<b>Explanation (if Any)</b>	<b>Penalty</b>
	DUI/DWI – private vehicle.	Operating any privately owned vehicle while intoxicated or impaired by alcohol or controlled substance.	30-day suspension up to dismissal. Removal on second offense.
<b>USMS</b>	Reporting for duty under the influence of intoxicants.	Under the influence is described in the standards of conduct.	5-day suspension up to removal. Removal on second offense.
	Operating a government vehicle while under the influence of alcohol.	Under the influence is described in the standards of conduct.	60-day suspension up to removal. Removal on second offense.
<b>Using Illegal Drugs</b>			
<b>ATF</b>	Possession, use, and/or distribution of illegal drugs on or off duty.	More severe penalty will be imposed for distribution. Penalty may be affected by the type of substance.	3-day suspension up to removal on first offense. Removal on second offense.
<b>DEA</b>	Unauthorized use or possession of narcotics, dangerous drugs, or marijuana.	No explanation.	Removal on first offense.
	Reporting for duty under the influence of drugs.	Under the influence is described in the standards of conduct.	5-day suspension up to removal. Removal on second offense.
	Operating a government vehicle while under the influence of drugs.	Under the influence is described in the standards of conduct.	60-day suspension up to removal. Removal on second offense.
<b>FBI</b>	Drugs – use or possession.	Knowingly and consciously ingesting, injecting, inhaling, or possessing an illegal controlled substance or anabolic steroid, on or off duty, after entering on duty.	Standard penalty: Dismissal. Penalty could be mitigated to suspension of 10-60 days if there is minimal occurrence in distant past.
	Substance abuse – under the influence while on duty.	Using a prescribed medicine in a manner inconsistent with the prescribing physician's instructions, having an effect on the employee's workplace or performance.	Standard penalty: 15-day suspension. Penalties range from oral reprimand up to dismissal.
<b>USMS</b>	Unauthorized use or possession of narcotics, dangerous drugs, or marijuana.	No explanation.	Removal on first offense.
	Reporting for duty under the influence of drugs.	Under the influence is described in the standards of conduct.	5-day suspension up to removal. Removal on second offense.



<b>Component</b>	<b>Offense</b>	<b>Explanation (if Any)</b>	<b>Penalty</b>
	Operating a government vehicle while under the influence of drugs.	Under the influence is described in the standards of conduct.	60-day suspension up to removal. Removal on second offense.
<b>Soliciting Prostitutes</b>			
<b>FBI</b>	Indecent/Lascivious Acts	Inappropriately acting in a manner to appeal to or gratify the sexual desires of the employee, his victim, or both. If a foreign jurisdiction lawfully permits acts described herein, this offense will apply if the act is contrary to a law the FBI is chartered to enforce.	Standard penalty: 30-day suspension. Penalties range from 5-day suspension up to dismissal.
<b>Engaging in Notoriously Disgraceful Conduct</b>			
<b>ATF</b>	Conduct prejudicial to the government.	Includes criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government. Examples include, but are not limited to: retaliation for filing EEO complaint, whistleblower complaint, grievances or any other protected activity.	Removal on first offense.
<b>DEA</b>	Criminal, dishonest, infamous, or notoriously disgraceful misconduct.	No explanation.	14-day suspension up to removal. Removal on second offense.
<b>FBI</b>	Unprofessional conduct – off duty.	Engaging in conduct, while off duty, which dishonors, disgraces, or discredits the FBI; seriously calls into question the judgment or character of the employee; or compromises the standing of the employee among his peers or his community.	Standard penalty: 5-day suspension. Penalties range from oral reprimand up to dismissal.
<b>USMS</b>	Criminal, dishonest, infamous, or notoriously disgraceful misconduct.	No explanation.	14-day suspension up to removal. Removal on second offense.
	Off duty misconduct.	To include operation of private vehicle while under the influence.	Reprimand or suspension, up to removal.

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Sources: ATF Guide for Offenses and Penalties, revised, March 9, 2010; DEA Guide for Disciplinary Offenses and Penalties, undated; FBI Penalty Guidelines and Offense and Codes Explanation, effective January 15, 2012; and USMS Table of Disciplinary Offenses and Penalties, May 3, 2012.

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## APPENDIX VI: DEA STANDARDS OF CONDUCT QUESTIONNAIRE AND ACKNOWLEDGMENT FORM

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**DEA SENSITIVE**

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**Exhibit 1/2735.14**

**CIRCLE  
ONE**      **STANDARDS OF CONDUCT QUESTIONS**

- YES NO 1. Reporting Responsibility. Do you know that if you become aware of any information indicating that another employee of DEA is in violation of these Standards of Conduct, you have an obligation to report that information immediately to your supervisor or to the Office of Professional Responsibility?
2. Occurrences an Employee Must Report to His or Her Supervisor:
- YES NO A. Are you aware that you, as a DEA GS-1811 employee, upon discharging your firearm, in other than a sporting or recreational situation or practice on a firing range, must report this incident to your supervisor?
- YES NO B. Are you aware that you, as a DEA employee must report to your supervisor all incidents of personally being arrested, taken into custody, held for investigation or detained for questioning, regardless of your duty status at the time?
- YES NO C. Are you aware that you, as a DEA employee, must immediately report all infractions with an official government vehicle to the proper supervisory level?
- YES NO D. Do you know that you, as a DEA employee, must report any additional illegal activities or misconduct which has not been mentioned above and has not been reported to your supervisor?
- YES NO 3. Use of Drugs. Are you aware that you, as a DEA employee, may not use a controlled substance which has not been properly prescribed by a licensed physician or properly obtained for the treatment or illness of a condition?
4. Misuse of Office and Coercion:
- YES NO A. Are you aware that you, as a DEA employee, may not use your official position for private gain, or coerce or give the appearance of coercion to provide financial benefit to yourself or to another person?
- YES NO B. Do you know that you, as a DEA employee, may not use your official position to give preferential treatment to another employee, or attempt to bribe public officials and/or witnesses?
- YES NO C. Are you aware that you, as a DEA employee, may not conduct unauthorized or illegal searches of premises, automobiles or persons?
- YES NO D. Are you aware that you, as a DEA employee, may not embezzle, steal, purloin, sell, convey or dispose of in an unauthorized manner any record, voucher, money substance, or thing of value to the United States.
- YES NO E. Do you know that you, as a DEA employee, may not use your position to sell, collect for personal use, or otherwise dispose of controlled substances in an unauthorized manner?

March 3, 2010

Page 1 of 4  
DEA SENSITIVE

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- YES NO F. Do you know that you, as a DEA employee, may not use your position to tamper with or remove evidence, purchased, seized or otherwise in the possession of DEA or one of its employees?
- YES NO G. Are you aware that you, as a DEA employee, may not solicit or otherwise engage in personal business transactions which involve or give the appearance of involving the use of official time or facilities?
- YES NO H. Are you aware that you, as a DEA employee, may not associate with individuals known or suspected to be involved in illegal drug trafficking or other criminal activity in other than a strictly professional capacity. This prohibition also applies to informant contacts.
- YES NO I. Are you aware that you may not engage in extrinsic social, financial or business contacts with above referenced individuals?
- YES NO \*5. Gifts, Gratuities, Entertainment and Favors. Are you aware that unless an exception applies, you, as a DEA employee, may not accept or solicit a gift or gratuity from a prohibited source or if given because of your official position?\*
6. DEA Records and Official Information:
- YES NO A. Are you aware that you, as a DEA employee, may not intentionally destroy, mutilate, remove, falsify, conceal, alter or make an unauthorized copy of a government record for your own purposes?
- YES NO B. Do you know that you, as a DEA employee, may not make false or fraudulent statements to create any false document?
- YES NO C. Are you aware that you, as a DEA employee, may not use information which comes to you by reason of your employment with DEA for personal financial gain or for the financial gain of another?
- YES NO D. Do you know that you, as a DEA employee, may not knowingly or willfully communicate, furnish, transmit or otherwise divulge privileged, administratively controlled or classified information to an unauthorized person which reasonably could be expected to cause damage to the National Security of the United States, would adversely affect the accomplishment of DEA's operation and mission, or would be contrary to law, regulation or public policy?
7. Use of Government Property:
- YES NO A. Are you aware that you, as a DEA employee, may not knowingly purchase or have another person purchase on your behalf, property from the Federal government that was seized by DEA or another Federal agency during an investigation in which DEA employees participated?
- YES NO B. Do you know that you, as a DEA employee, may not disclose to another person any information concerning such property (i.e., appraised value, etc.) which would give that person an advantage over prospective bidders at auction?
- YES NO C. Are you aware that you, as a DEA employee, may not utilize a government vehicle while under the influence of alcohol or drugs?

March 3, 2010

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DEA SENSITIVE

\*Revision

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- YES NO D. Are you aware that you, as a DEA employee, may not engage in an unauthorized use of a government owned or leased vehicle?
8. Use of Intoxicating Beverages:
- YES NO A. Are you aware that you, as a DEA employee, may not consume alcoholic beverages in DEA offices or on government property designated for the conduct of official business?
- YES NO B. Are you aware that you, as a DEA employee, may not be under the influence of intoxicants at the start of or at any time during working hours, and further you may not consume alcoholic beverages during your assigned duty hours, to include time taken for meals, or when you will be operating an official government vehicle (OGV)?
- YES NO C. Are you aware of the fact that the only two exceptions to Item B above involve (a) the consumption of alcohol in furtherance of a specific law enforcement operation for purposes of securing evidence or (b) while representing DEA on an approved duty assignment? In each instance, prior approval by a supervisor of the GS-15 rank or higher and superior in rank to the employee involved must be obtained.
- YES NO D. Are you aware that if you, as a DEA employee, are engaged in one of the exceptions noted in Item C above, any consumption of alcohol must be strictly limited to ensure that the employee is not impaired from performing assigned duties or operating an official government vehicle?
- YES NO 9. Unauthorized Recording of Employee Conversations. Are you aware that you, as a DEA employee, may not record conversations of other employees without the consent of all parties, except in the conduct of officially authorized investigations?
- YES NO \*10. Financial Interest. Are you aware that you, as a DEA employee, cannot participate personally and substantially in most official matters that may affect your personal financial interests or those financial interests imputed to you (e.g. spouse, dependent child)? \*
- YES NO 11. Gambling, Betting and Lotteries. Are you aware that you, as a DEA employee, may not participate in gambling, betting or management of lotteries while on government-owned or leased property while on official duty?
- \*12. Speeches, Lectures and Publications:
- YES NO A. Are you aware that you, as a DEA employee, may not receive a fee or remuneration from an outside source for a public appearance, speech, lecture or publication when its content came from official data or ideas which are not public information?

March 3, 2010

Page 3 of 4  
DEA SENSITIVE

\*Revision

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YES NO B. Do you know that you, as a DEA employee, may not engage in teaching, writing or lecturing (with or without compensation) that is dependent on information obtained as a result of your government employment, unless the information has been made available to the general public and otherwise complies with 5 C.F.R. § 2635.807?\*

**\*13. Employment Outside of DEA:**

YES NO A. Are you aware that you, as a DEA employee, may not engage in any outside employment which will create or appear to create a conflict of interest as defined by 18 U.S.C. § 208, 5 C.F.R. §§ 2635.402 and 2635.502, 5 C.F.R. § 3801, and 28 C.F.R. § 45.2, reflect adversely upon the Department of Justice, or in any manner interfere with availability or the proper and effective performance of your duties?

YES NO B. Are you aware that you, as a DEA employee, while engaged in outside employment may not use appropriated funds or items purchased or leased through expenditures of appropriated funds in furtherance of your outside employment?

YES NO C. Are you aware that you, as a DEA employee, may not engage in the misuse of office space, government vehicles, government furnished transportation, other government employees such as couriers, franked envelopes or franked mail stickers, computer hardware and software, wireless mobile devices, reproduction equipment, bulletin boards, telephone service or any other items of service purchased by appropriated funds?\*

I have acknowledged each of the questions contained in this document pertaining to my Standards of Conduct. I recognize the fact that these responsibilities represent the prescribed minimum acceptable behavior for employees of DEA. They are not to be considered all-inclusive and may be supplemented by DEA as necessary. Therefore, with my signature, I certify that I have familiarized myself with the content of these Standards of Conduct and understand the personal responsibilities they represent.

Employee's Signature \_\_\_\_\_  
Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Employee's Printed Name and title: \_\_\_\_\_  
\_\_\_\_\_

Supervisor's Signature \_\_\_\_\_  
Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Supervisor's Printed Name and title: \_\_\_\_\_  
\_\_\_\_\_

---

**APPENDIX VII: DEA ADMINISTRATOR MEMORANDUM ON ALCOHOL  
CONSUMPTION, 1999**

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\*\*\*\*\*  
\* UNCLASSIFIED \*  
\*\*\*\*\*

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SUBJECT: STANDARDS OF CONDUCT RELATING TO THE CONSUMPTION OF ALCOHOL  
(FFS: 060-01)  
  
<text>  
ATTENTION: ALL DEA EMPLOYEES

1. ON OCTOBER 27, 1994, I ISSUED A CLEAR DIRECTIVE REGARDING THE USE OF ALCOHOL BY DEA EMPLOYEES WHILE ON OR OFF-DUTY. THE DIRECTIVE STATES:
2. THE DEA STANDARDS OF CONDUCT HAVE LONG FORBIDDEN EMPLOYEES TO CONSUME ALCOHOL WHILE ON GOVERNMENT PREMISES OR TO BE UNDER THE INFLUENCE OF ALCOHOL WHILE ON DUTY. EFFECTIVE IMMEDIATELY, DEA EMPLOYEES ARE FORBIDDEN TO CONSUME ALCOHOLIC BEVERAGES DURING THEIR ASSIGNED DUTY HOURS, TO INCLUDE TIME TAKEN FOR MEALS, OR WHEN THEY WILL BE OPERATING AN OFFICIAL GOVERNMENT VEHICLE (OGV).
3. THE ONLY EXCEPTION TO THIS PROVISION, WHICH MUST BE APPROVED IN ADVANCE BY A SUPERVISOR OF THE GS-15 RANK OR HIGHER, AND SUPERIOR IN RANK TO THE EMPLOYEE INVOLVED, IS WHEN SUCH CONSUMPTION OCCURS DURING THE COURSE OF A SPECIFIC LAW ENFORCEMENT OPERATION FOR PURPOSES OF SECURING EVIDENCE OR WHILE REPRESENTING THE DEA ON AN APPROVED DUTY ASSIGNMENT.
4. ANY CONSUMPTION UNDER THE ABOVE EXCEPTION MUST BE STRICTLY LIMITED TO INSURE THAT THE EMPLOYEE IS NOT IMPAIRED FROM PERFORMING ASSIGNED DUTIES OR OPERATING AN OFFICIAL GOVERNMENT VEHICLE.
5. EMPLOYEES WITH LAW ENFORCEMENT RESPONSIBILITIES MAY HAVE TO RETURN TO DUTY AT ANY TIME AND SHOULD NOT ENGAGE IN THE CONSUMPTION OF ALCOHOL TO SUCH AN EXTENT THEY ARE UNFIT TO RETURN TO DUTY.

---

6. ALL DEA EMPLOYEES SHOULD BE AWARE THAT VIOLATIONS OF THE ABOVE STANDARDS MAY RESULT IN SEVERE DISCIPLINARY ACTIONS, UP TO AND INCLUDING REMOVAL.

7. THE PREMISE OF ALLOWING DEA AGENTS TO CARRY WEAPONS IN AN OFF-DUTY STATUS IS RELATED TO THE INHERENT DANGERS FACED BY ALL LAW ENFORCEMENT OFFICERS. IN ORDER TO PROTECT OUR AGENTS FROM VIOLENT DEFENDANTS OR CRIMINAL ORGANIZATIONS WHO MAY TARGET THEM, WE HAVE AS A MATTER OF POLICY, ALLOWED OUR AGENTS TO CARRY THEIR WEAPONS WHILE IN AN OFF-DUTY STATUS. HOWEVER, THAT AUTHORITY CARRIES WITH IT SIGNIFICANT RESPONSIBILITY.

8. ONE OF THOSE RESPONSIBILITIES IS THAT AGENTS SHOULD NOT USE ALCOHOL TO SUCH A LEVEL THAT THEY BECOME INTOXICATED AND CANNOT RETURN TO DUTY. THIS STANDARD OF MODERATION IS ANALOGOUS TO THE LAWS WHICH LIMIT THE AMOUNT OF ALCOHOL AN INDIVIDUAL CAN UTILIZE AND OPERATE A MOTOR VEHICLE IN A SAFE MANNER.

9. THE REASON FOR THIS STRINGENT STANDARD IS TO AVOID THE POTENTIALLY SERIOUS PROBLEM OF AN AGENT IN A PUBLIC SETTING BEING REQUIRED TO TAKE EMERGENCY ACTION IF THEIR ABILITIES ARE IMPAIRED BY THE USE OF ALCOHOL. QUESTIONS COULD EASILY AND LEGITIMATELY BE RAISED BY MEMBERS OF THE PUBLIC ABOUT THE PROFESSIONALISM AND THE STABILITY OF AN AGENT WHO LACKS THE SELF RESTRAINT AND JUDGEMENT TO APPEAR IN THE PUBLIC IN AN INEBRIATED CONDITION.

10. THE RESPONSIBILITY FOR AVOIDING THIS DANGEROUS SITUATION RESTS WITH INDIVIDUAL AGENTS AND THEIR IMMEDIATE SUPERVISOR. THE FAILURE OF AGENTS TO ADHERE TO BOTH ON DUTY AND OFF DUTY STANDARDS WILL RESULT IN THE MOST STRINGENT DISCIPLINARY ACTIONS. SUPERVISORS WILL ALSO BE HELD ACCOUNTABLE, WHERE APPROPRIATE, FOR VIOLATIONS OF THESE RULES OF CONDUCT.

11. THE OVERALL IMAGE OF DEA AS A PROFESSIONAL AND HONORABLE LAW ENFORCEMENT AGENCY DEPENDS ON ALL OF OUR MEMBERS ACTING IN A PROFESSIONAL MANNER. THOSE WHO VIOLATE THESE RULES HARM THE REPUTATION OF THE OVERWHELMING NUMBER OF HARD WORKING HONORABLE, AND HEROIC DEA AGENTS.

12. SPECIAL AGENTS IN CHARGE SHOULD INSURE THAT ALL AGENTS IN THEIR COMMAND ARE IMMEDIATELY MADE AWARE OF THIS TELETYPE AND INSURE THAT THEY HAVE READ THE INSTRUCTIONS.

THOMAS A. CONSTANTINE  
ADMINISTRATOR

\*\*\*\*\*  
\* UNCLASSIFIED \*  
\*\*\*\*\*



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**APPENDIX VIII: THE OFFICE OF THE DEPUTY ATTORNEY GENERAL'S  
RESPONSE TO THE DRAFT REPORT**

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U. S. Department of Justice

Office of the Deputy Attorney General

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Associate Deputy Attorney General

Washington, D.C. 20530

December 17, 2014

**MEMORANDUM**

TO: Michael Horowitz  
Inspector General  
U.S. Department of Justice

FROM: Carlos Felipe Uriarte *CFU*  
Associate Deputy Attorney General

SUBJECT: Response: Review of Policies and Training Governing Off-Duty Conduct  
by Department Employees Working in Foreign Countries

We appreciate the audit undertaken by the Department of Justice (DOJ or the Department), Office of the Inspector General (OIG) regarding the Department's policies and training governing off-duty conduct by Department employees working in foreign countries. In this review, OIG reviewed the off-duty conduct policies for the Criminal Division and four of DOJ's law enforcement components (the Drug Enforcement Administration; Bureau of Alcohol, Tobacco, Firearms and Explosives; Federal Bureau of Investigation; and U.S. Marshals Service). The report makes six recommendations regarding the policies and training governing off-duty conduct by DOJ employees working in foreign countries, three of which are directed to the Department. We address these recommendations below, and concur with all three.

---

**Recommendation No. 1 to the Department of Justice:** Develop and disseminate clear and comprehensive Department-wide policy that communicates DOJ's authority and expectations regarding off-duty conduct.

**Response: Concur.** The Department will develop clear and comprehensive Department-wide policy guidance that communicates the Department's expectations regarding off-duty conduct. We expect that this guidance will assist the Criminal Division, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Marshals Service in developing their own policies regarding off-duty conduct in response to Recommendation No. 4.

**Recommendation No. 2 to the Department of Justice:** Identify best practices for guiding employee behavior and ensure that these practices are shared with all components that send employees to work in foreign countries.

**Response: Concur.** The Department will develop best practices for guiding employee behavior that will be included with the Department-wide policy guidance that will be shared with all components that send employees to work in foreign countries.

**Recommendation No. 3 to the Department of Justice:** Ensure that the components develop clear, complementary, and consistent policies in a timely manner.

**Response: Concur.** The Department will ensure that all components that send employees to work in foreign countries develop clear, complementary, and consistent policies that are consistent with the Department-wide policy guidance that communicates the Department's expectations regarding off-duty conduct.

cc: Mark Giuliano, Federal Bureau of Investigation  
Leslie Caldwell, Criminal Division  
Michele Leonhart, Drug Enforcement Administration  
B. Todd Jones, Bureau of Alcohol, Tobacco, Firearms and Explosives  
Stacia Hylton, United States Marshals Service

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**APPENDIX IX: OIG ANALYSIS OF THE OFFICE OF THE  
DEPUTY ATTORNEY GENERAL'S RESPONSE**

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The Office of the Inspector General (OIG) provided a draft of this report to the Office of the Deputy Attorney General (ODAG) for its comment. ODAG's response is included in Appendix VIII to this report. The OIG analysis of ODAG's response and actions necessary to close the recommendations are discussed below.

**Recommendation 1:** Develop and disseminate clear and comprehensive Department-wide policy that communicates DOJ's authority and expectations regarding off-duty conduct.

**Status:** Resolved.

**ODAG Response:** ODAG concurred with this recommendation and stated the Department will develop clear and comprehensive Department-wide policy guidance that communicates the Department's expectations of off-duty conduct. ODAG expects the guidance will assist the components in developing their own policies on off-duty conduct in response to recommendation 4.

**OIG Analysis:** ODAG's actions are responsive to our recommendation. Please provide by April 30, 2015, copies of the Department's policy guidance on off-duty conduct. If the policy guidance has not been formally disseminated, please provide a status on the matter.

**Recommendation 2:** Identify best practices for guiding employee behavior and ensure that these practices are shared with all components that send employees to work in foreign countries.

**Status:** Resolved.

**ODAG Response:** ODAG concurred with this recommendation and stated the Department will develop best practices for guiding employee behavior, which will include the Department-wide policy guidance, that will be shared with all components that send employees to work in foreign countries.

**OIG Analysis:** ODAG's actions are responsive to our recommendation. Please provide by April 30, 2015, examples of best practices of guidance for employee behavior when working in foreign countries.

**Recommendation 3:** Ensure that the components develop clear, complementary, and consistent policies in a timely manner.

---

**Status:** Resolved.

**ODAG Response:** ODAG concurred with this recommendation and stated the Department will ensure that all components that send employees to work in foreign countries develop clear, complementary, and consistent policies that are consistent with the Department's policy guidance communicating Department expectations on off-duty conduct.

**OIG Analysis:** ODAG's actions are responsive to our recommendation. Please provide by April 30, 2015, a status of the ODAG's efforts in ensuring that components develop clear, complementary, and consistent policies with the Department's policy guidance on expectations on off-duty conduct when working in foreign countries.

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**APPENDIX X: THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS  
AND EXPLOSIVES' RESPONSE TO THE DRAFT REPORT**

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U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

---

Washington, DC 20226  
www.atf.gov

603030:ADW  
8300

DEC 17 2014

MEMORANDUM TO: Nina S. Pelletier  
Assistant Inspector General  
Evaluation and Inspections Division

FROM: Assistant Director  
(Office of Professional Responsibility and Security Operations)

SUBJECT: ATF's Response to the Office of Inspector General's Review of Policies  
and Training Governing Off-Duty Conduct by Department Employees  
Working in Foreign Countries, Assignment Number A-2013-003

This memorandum serves to transmit ATF's response to the above-cited report. Attached is a summary of the status of the action taken relative to the cited recommendations.

Should you have any questions or need additional information, please contact the Chief of ATF's Audit Liaison Branch, Adam Pallotto at (202) 648-8706.

Michael Gleysteen

Attachment

cc: Director  
Assistant Director (HRPD)  
Assistant Director (OSII)  
Chief Counsel  
Assistant Director, Audit Liaison Group, Department of Justice



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

Washington, DC 20226

www.atf.gov

603000:ARP  
6000

MEMORANDUM TO: Assistant Director  
(Office of Professional Responsibility and Security Operations)

FROM: Assistant Director (Office of Human Resources and Professional  
Development)

SUBJECT: Review of Policies and Training Governing Off-Duty Conduct by  
Department Employees Working in Foreign Countries

This Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) appreciates the opportunity to respond to the recommendations contained in the above cited report. The off-duty improprieties of employees undermine the ability of ATF to carry out our mission and adversely impact their careers. We welcome the Office of Inspector General's (OIG) constructive comments and recommendations on this matter.

Our response to the report's three recommendations directed at the components are as follows:

**Recommendation 4: Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.**

**Response (Concur):** ATF will consolidate and, if necessary, develop additional policy guidance regarding off-duty conduct while on official travel in foreign countries. The resulting policy directive will be in accordance with any forthcoming DOJ guidance on off-duty conduct, including off-duty alcohol consumption, what constitutes notoriously disgraceful conduct, solicitation, and firearms use. Coordination between affected offices within ATF will take place when Departmental guidance is in place.

**OIG Recommendation 5: Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.**

**Response (Concur):** When the policy directive that is consistent with DOJ guidance is finalized, the ATF National Academy will incorporate it into the training modules on conduct and ethics delivered during basic training. New employees who do not onboard at the ATF National Academy will be provided training on the new policy as part of the required on-line courseware

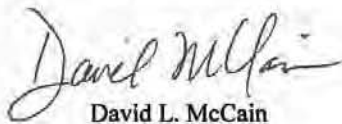
Assistant Director  
(Office of Professional Responsibility and Security Operations)

assigned to all new employees. In addition, all employees will be periodically reminded of the policy throughout their career.

**OIG Recommendation 6: Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.**

**Response (Concur):** As the new policy directive that is consistent with DOJ policy is finalized, the ATF International Affairs Division and other divisions with international missions will collaborate to determine the best course for applying the new comprehensive policy to pre-deployment training for employees being sent abroad.

Again, thank you for the opportunity to respond to your recommendations. Should you have any questions regarding this memorandum feel free to have a member of your staff contact Adam Pallotto, Chief of the Audit Liaison Branch, at (202) 648-8706.



David L. McCain

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## **APPENDIX XI: OIG ANALYSIS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES' RESPONSE**

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The Office of the Inspector General (OIG) provided a draft of this report to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for its comment. ATF's response is included in Appendix X to this report. The OIG analysis of ATF's response and actions necessary to close the recommendations are discussed below.

**Recommendation 4:** Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.

**Status:** Resolved.

**ATF Response:** ATF concurred with this recommendation and stated ATF will consolidate and, if necessary, develop additional policy guidance on off-duty conduct while on official travel in foreign countries. ATF also stated that the resulting policy directive will be in accordance with any forthcoming DOJ guidance on off-duty conduct to include off-duty alcohol consumption, what constitutes notoriously disgraceful conduct, solicitation, and firearms usage. Coordination among affected ATF offices will take place once the Departmental guidance is in place.

**OIG Analysis:** ATF's actions are responsive to our recommendation. Please provide by April 30, 2015, copies of any revised or additional policy guidance that was issued related to off-duty guidance while on official travel in foreign countries. In addition, please provide the status of the coordination efforts with ATF offices related to the issuance of Departmental guidance.

**Recommendation 5:** Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

**Status:** Resolved.

**ATF Response:** ATF concurred with this recommendation and stated that when the Department guidance is finalized, the ATF National Academy will incorporate this guidance into the training modules on conduct and ethics that is delivered during basic training. ATF also stated that new employees who are not onboard at the ATF National Academy will be provided training on the new policy as part of required online courseware that is



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assigned to all new employees. Further, all employees will be periodically reminded of the policy throughout their careers.

**OIG Analysis:** ATF's actions are responsive to our recommendation. Please provide by April 30, 2015, copies of the training modules that will incorporate the Department guidance. In addition, please provide copies of the online courseware for new employees that covers the new policy as well as information on how all employees will be periodically reminded about the policy.

**Recommendation 6:** Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

**Status:** Resolved.

**ATF Response:** ATF concurred with this recommendation and stated that once the new ATF policy directive that is consistent with Department policy is finalized, the ATF International Affairs Divisions and other ATF divisions with international missions will collaborate to determine the best course for applying the new policy to pre-deployment training for employees who are being sent abroad.

**OIG Analysis:** ATF's actions are responsive to our recommendation. Please provide by April 30, 2015, copies of the information that is shared in pre-deployment training for employees who will be sent abroad. If the training materials have not been finalized, please provide a status on development of the pre-deployment training materials.

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## APPENDIX XII: THE CRIMINAL DIVISION'S RESPONSE TO THE DRAFT REPORT

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U.S. Department of Justice

Criminal Division

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Washington, D.C. 20530

### MEMORANDUM

**TO:** Nina S. Pelletier  
Assistant Inspector General  
Evaluation and Inspections Division  
Office of the Inspector General

**DEC 17 2014**

**FROM:** Leslie R. Caldwell *LR C / RAC*  
Assistant Attorney General

**SUBJECT:** *Response to Draft Audit Report: Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries, Assignment No. A-2013-003*

This memorandum responds to the Office of the Inspector General's (OIG) request for comment on the recommendations contained in the subject draft audit report.

During the course of the audit, the Criminal Division augmented its training and guidance with regard to off-duty conduct and, consistent with the recommendations in the draft audit report, will continue to do so. Indeed, the Criminal Division's Deputy Designated Agency Ethics Official (DDAEO) recently updated its annual training for all Criminal Division employees to include training on policies regarding off-duty conduct, both domestically and abroad. All Criminal Division employees are required to complete this training by December 31, 2014.

Additionally, with regard to the table entitled "Components' Presence in Foreign Countries" on Page 4 of the draft report, the Criminal Division notes that the 80 "permanent positions" cited are actually detail and term positions, not permanent positions.

With respect to the OIG's recommendations in the draft report, Criminal Division intends to take the following actions:

**Recommendation 4:** Disseminate clear, complementary and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.

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**Response:** The Criminal Division concurs with this recommendation. The Criminal Division will enhance existing guidance and disseminate a comprehensive policy regarding off-duty conduct, both domestically and overseas. The Criminal Division will conform its policy with the forthcoming DOJ guidance on off-duty conduct.

**Recommendation 5:** Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation and periodic training throughout employees' careers.

**Response:** The Criminal Division concurs with this recommendation. Once the Criminal Division's new policy is finalized, the Criminal Division will train its employees on the policy during new employee orientation and existing periodic training programs.

**Recommendation 6:** Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

**Response:** The Criminal Division concurs with this recommendation. Once the Criminal Division's new policy is finalized, the Criminal Division will collaborate internally to determine the best method of reinforcing the new policy during pre-deployment training for employees being sent overseas.

Should you have any questions or concerns regarding this report, please contact Tracy Melton, Acting Executive Officer at 202-305-0534.

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## APPENDIX XIII: OIG ANALYSIS OF THE CRIMINAL DIVISION'S RESPONSE

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The Office of the Inspector General (OIG) provided a draft of this report to the Criminal Division for its comment. The Criminal Division's response is included in Appendix XII to this report. The OIG analysis of the Criminal Division's response and actions necessary to close the recommendations are discussed below.

In addition, the Criminal Division stated that during the course of the OIG's review, it had augmented its training and guidance with regard to off-duty conduct so that is consistent with the recommendations in the draft report and stated that it will continue to do so. For example, the Criminal Division's Deputy Designated Agency Ethics Official (DDAEO) recently updated the annual training for all Criminal Division employees to include training on policies on off-duty conduct, both domestically and abroad. All Criminal Division employees are required to complete the training by December 31, 2014. Finally, the Criminal Division noted that the 80 "permanent positions" that are cited in the draft report are actually detail and term positions, not permanent positions.

The OIG takes note that the Criminal Division continues to augment its training and guidance on off-duty conduct, domestically and abroad. The Criminal Division's efforts are consistent with the recommendations made in this report. In addition, the OIG has made additional clarifications to the report related to the Criminal Division overseas positions.

**Recommendation 4:** Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.

**Status:** Resolved.

**Criminal Division Response:** The Criminal Division concurred with this recommendation and stated that the Criminal Division will enhance existing guidance and disseminate a comprehensive policy on off-duty conduct, both domestically and overseas. The Criminal Division also stated that it will conform its policy to the forthcoming Department guidance on off-duty conduct.

**OIG Analysis:** The Criminal Division's actions are responsive to our recommendation. Please provide by April 30, 2015, copies of the Criminal Division's enhanced guidance and policy that discusses off-duty conduct, both domestically and overseas.

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**Recommendation 5:** Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

**Status:** Resolved.

**Criminal Division Response:** The Criminal Division concurred with this recommendation and stated that, once the Criminal Division's new policy is finalized, it will train its employees on the new policies during new employee orientation and existing periodic training programs.

**OIG Analysis:** The Criminal Division's actions are responsive to our recommendation. By April 30, 2015, please provide copies of the training materials that is used in new employee orientation and existing periodic training programs.

**Recommendation 6:** Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

**Status:** Resolved.

**Criminal Division Response:** The Criminal Division concurred with this recommendation and stated that once the new Criminal Division policy is finalized, the Criminal Division will collaborate internally to determine the best method of reinforcing the new policy during pre-deployment training for employees being sent overseas.

**OIG Analysis:** The Criminal Division's actions are responsive to our recommendation. By April 30, 2015, please provide copies of the pre-deployment training materials that discuss the new Criminal Division policy. If the pre-deployment training material is still under development at that time, please provide a status report on how the Criminal Division plans to disseminate the information.

**APPENDIX XIV: THE DRUG ENFORCEMENT ADMINISTRATION'S  
RESPONSE TO THE DRAFT REPORT**



U. S. Department of Justice  
Drug Enforcement Administration


[www.dea.gov](http://www.dea.gov)

Washington, D.C. 20537

DEC 17 2014

MEMORANDUM

TO: Nina S. Pelletier  
Assistant Inspector General  
Evaluations and Inspections  
Office of the Inspector General

FROM:   
Michael A. Dixon  
Acting Deputy Chief Inspector  
Office of Inspections

SUBJECT: DEA's Response to the OIG Draft Report: "*Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries*"

The Drug Enforcement Administration (DEA) has reviewed the Department of Justice (DOJ) Office of the Inspector General's (OIG) Draft Report entitled, *Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries*. DEA acknowledges OIG's efforts in conducting a review to improve policies and training governing off-duty conduct by DOJ employees working in foreign countries.

The OIG makes six recommendations in the report in which three recommendations are for the Criminal Division, ATF, DEA, FBI, and USMS. Below are DEA's responses to the recommendations.

**Recommendation 4: Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.**

DEA concurs with this recommendation and will ensure that its policies that are provided to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries are in line with newly developed Department-wide policy that communicates DOJ's expectation regarding off-duty conduct.

**Recommendation 5: Raise awareness of that policy and how it applies to a variety of situation through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.**

DEA concurs with this recommendation and will ensure that its policies that are provided to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries are in line with newly developed Department-wide policy that communicates DOJ's expectation regarding off-duty conduct and that the policy raises awareness of how it applies to a variety of situations through basic law enforcement training as well as new employee orientation, and periodic training.

**Recommendation 6: Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.**

DEA concurs with this recommendation and will ensure that its policies that are provided to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries are in line with newly developed Department-wide policy that communicates DOJ's expectation regarding off-duty conduct and that the policy is reinforced as to how it is applied through pre-deployment training for employees being sent overseas.

If you have any questions regarding this response, please contact the Audit Liaison Team, on 202-307-8200.

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## APPENDIX XV: OIG ANALYSIS OF THE DRUG ENFORCEMENT ADMINISTRATION'S RESPONSE

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The Office of the Inspector General (OIG) provided a draft of this report to the Drug Enforcement Administration (DEA) for its comment. The DEA's response is included in Appendix XIV to this report. The OIG analysis of the DEA's response and actions necessary to close the recommendations are discussed below.

**Recommendation 4:** Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.

**Status:** Resolved.

**DEA Response:** The DEA concurred with this recommendation and stated the DEA will ensure that its policies are provided to all personnel on off-duty conduct to include provisions for employees representing the government in other countries are in line with the Department-wide policy that will communicate Department expectations on off-duty conduct.

**OIG Analysis:** The DEA's actions are responsive to this recommendation. By April 30, 2015, please provide copies of any new or revised DEA policies on off-duty conduct that will be provided to employees working in foreign countries that will communicate the Department's expectations on off-duty conduct.

**Recommendation 5:** Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

**Status:** Resolved.

**DEA Response:** The DEA concurred with this recommendation and stated that the DEA will ensure that its policies are provided to all personnel on off-duty conduct, including provisions for employees representing the government in other countries. The policies will be in line with newly developed Department-wide policy communicating the Department's expectation on off-duty conduct and will raise awareness of how it applies to a variety of situations through basic law enforcement training, new employee orientation, and periodic training.



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**OIG Analysis:** The DEA's actions are responsive to this recommendation. By April 30, 2015, please provide copies of the training materials that will incorporate the Department's policy and expectations on off-duty conduct. If the training materials are still being developed at that time, please provide a status report.

**Recommendation 6:** Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

**Status:** Resolved.

**DEA Response:** The DEA concurred with this recommendation and stated that the DEA will ensure that its policies are provided to all personnel on off-duty conduct, including provisions for employees representing the government in other countries are in line with the newly developed Department-wide policy that communicates the Department's expectations on off-duty conduct and that the policy is reinforced as to how it is applied through pre-deployment training for employees being sent overseas.

**OIG Analysis:** The DEA's actions are responsive to this recommendation. By April 30, 2015, please provide information on how DEA reinforces its policies on off-duty conduct through pre-deployment training to employees who are being sent overseas.

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**APPENDIX XVI: THE FEDERAL BUREAU OF INVESTIGATION'S  
RESPONSE TO THE DRAFT REPORT**

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**U.S. Department of Justice  
Federal Bureau of Investigation**

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Washington, D. C. 20535-0001

December 11, 2014

The Honorable Michael E. Horowitz  
Inspector General  
Office of the Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Mr. Horowitz:

The Federal Bureau of Investigation (FBI) appreciates the opportunity to review and respond to your office's report entitled, *Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries*.

We are pleased that you found, "...the FBI, had a comprehensive [training] program that laid a strong foundation regarding off-duty conduct during new employee and new agent training and provided additional training when employees were to be deployed abroad."

We agree that it is important to raise awareness of as well as reinforce policy regarding off-duty conduct of FBI employees including those working abroad. We will tailor FBI policies to be consistent with any forthcoming Department Of Justice-wide guidance regarding the same. In that regard, we concur with your three recommendations to the FBI.

Should you have any questions, feel free to contact me. We greatly appreciate the professionalism of your audit staff throughout this matter.

Sincerely,

Laura R. Ingber  
Section Chief  
External Audit and Compliance Section  
Inspection Division

Enclosure

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## **AUDIT OF THE REVIEW OF POLICIES AND TRAINING GOVERNING OFF-DUTY CONDUCT BY DEPARTMENT EMPLOYEES WORKING IN FOREIGN COUNTRIES**

**Report Recommendation #4:** Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.

**FBI Response to Recommendation #4:** Concur. The FBI has clear, consistent, and comprehensive policies prohibiting the use of illegal drugs, excessive alcohol consumption, unprofessional conduct (on and off-duty), misuse of official position, misuse of a government vehicle, improper personal relationships, misuse of government property (e.g., smart phones), unreported contact with foreign nationals, misuse of government databases, misuse of government travel cards, the receipt of improper gifts, and other matters. As is made clear to all employees, these policies apply whether at home *or abroad*. In fact, employees deploying abroad are advised that their conduct is subject to a heightened standard of review by virtue of the fact that they will be living and working in a foreign land subject to increased risks and potential compromises.

**Report Recommendation #5:** Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

**FBI Response to Recommendation #5:** Concur. The FBI provides extensive training to its employees, including, but not limited to, new agent training, new employee training, international deployment training, intelligence analyst training, summer intern training, and chief division counsel training. The FBI's policies cited above, expected standards of conduct, and Core Values are discussed repeatedly in these training classes by, among others, the Office of Professional Responsibility (OPR), the Office of Integrity and Compliance, the Inspection Division, and the Office of General Counsel.

**Report Recommendation #6:** Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

**FBI Response to Recommendation #6:** Concur. As noted above in response to Recommendation 2, the FBI provides robust and highly informative pre-deployment training to FBI employees being sent abroad, including discussions of the policies cited above in response to Recommendation 1. In its training, OPR cites examples of previously adjudicated cases to inform and instruct deploying personnel in a highly relevant manner of the expected standards of conduct while living and working abroad as representatives of the FBI and the U.S. Government. OPR emphasizes that deploying employees are bound by the FBI's strict code of conduct irrespective of where they find themselves, irrespective of the conduct of their international hosts, and irrespective of the law, custom or policies of the foreign government.

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**APPENDIX XVII: OIG ANALYSIS OF THE FEDERAL BUREAU  
OF INVESTIGATION'S RESPONSE**

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The Office of the Inspector General (OIG) provided a draft of this report to the Federal Bureau of Investigation (FBI) for its comment. The FBI's response is included in Appendix XVI to this report. The OIG analysis of the FBI's response and actions necessary to close the recommendations are discussed below.

**Recommendation 4:** Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.

**Status:** Resolved.

**FBI Response:** The FBI concurred with this recommendation and stated that the FBI has clear, consistent, and comprehensive policies prohibiting the use of illegal drugs, excessive alcohol consumption, unprofessional conduct (on- and off-duty), improper personal relationships, unreported contacts with foreign nationals, and other matters. The FBI stated that these policies apply whether at home or abroad and that employees deploying abroad are advised that their conduct is subject to a heightened standard of review by virtue of the fact that they will be living and working in a foreign land subject to increased risks and potential compromises.

**OIG Analysis:** The FBI's actions are responsive to our recommendation. By April 30, 2015, please provide copies of any new or revised FBI policies that are issued or as a result of incorporating the forthcoming Department-wide policy guidance on off-duty conduct.

**Recommendation 5:** Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

**Status:** Resolved.

**FBI Response:** The FBI concurred with this recommendation and stated that the FBI provides extensive training to its employees, including, but not limited to, new agent training, new employee training, international deployment training, intelligence analyst training, summer intern training, and chief division counsel training. The FBI's policies, expected standards of conduct, and Core Values are discussed repeatedly in these training

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classes by the Office of Professional Responsibility (OPR), the Office of Integrity and Compliance, the Inspection Division, the Office of General Counsel, and others.

**OIG Analysis:** The FBI's actions are responsive to our recommendation. By April 30, 2015, please provide copies of any new or revised training materials on off-duty conduct that was issued or as a result of incorporating the forthcoming Department-wide policy guidance on off-duty conduct.

**Recommendation 6:** Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

**Status:** Resolved.

**FBI Response:** The FBI concurred with this recommendation and stated that the FBI provides robust and highly informative pre-deployment training to FBI employees being sent abroad. The FBI further stated that in the training, OPR cites examples of previously adjudicated cases to inform and instruct deploying personnel in a highly relevant manner of the expected standards of conduct while living and working abroad as representatives of the FBI and the U.S. Government. It was also stated that OPR emphasizes that deploying employees are bound by the FBI's code of conduct irrespective of where they find themselves; irrespective of the conduct of their international hosts; and irrespective of the law, custom or policies of the foreign government.

**OIG Analysis:** The FBI's actions are responsive to our recommendation. By April 30, 2015, please provide a status report on any new or revised pre-deployment training on the subject of off-duty conduct or as a result of incorporating the forthcoming Department-wide policy guidance on off-duty conduct.

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**APPENDIX XVIII: THE UNITED STATES MARSHALS SERVICE'S  
RESPONSE TO THE DRAFT REPORT**

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U.S. Department of Justice  
United States Marshals Service  
*Office of the Associate Directors*

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*Alexandria, VA 22301*

December 17, 2014

MEMORANDUM TO: Nina S. Pelletier  
Assistant Inspector General  
Evaluation and Inspections Division  
Office of the Inspector General

FROM: William D. Snelson *William D. Snelson*  
Associate Director for Operations

SUBJECT: Response to Draft Audit Report: Review of Policies and Training  
Governing Off-Duty Conduct by Department Employees Working  
in Foreign Countries, Assignment No. A-2013-003

This is in response to correspondence from the Office of the Inspector General (OIG) requesting comment on the recommendations associated with the subject draft audit report.

We note OIG's acknowledgment in the report that USMS has a policy in effect stating that its employees must refrain from using prohibited controlled substances, even when those substances are commercially available without a prescription, or are ingested legally, in a foreign country. We also note that OIG acknowledges USMS' existing Code of Conduct (applicable to all USMS employees, whether on travel or not), and USMS' conduct-oriented training specific to employee missions in Colombia.

Since this audit, USMS divisions with international missions have been working to develop guidance and training regarding other specific types of off-duty conduct (domestically and internationally). Further actions we plan to take with respect to OIG's recommendations to the DOJ components are outlined in our attached response.

Should you have any questions or concerns regarding this response, please contact Isabel Howell, Audit Liaison, at 202-307-9744.

Attachments

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Memorandum from Associate Director for Operations Snelson Page 2  
Subject: Response to Draft Audit Report: Review of Policies and Training Governing Off-Duty  
Conduct by Department Employees Working in Foreign Countries, Assignment No. A-2013-003

cc: Richard Theis  
Director, Audit Liaison Group  
Internal Review and Evaluation Office  
Justice Management Division

Isabel Howell  
External Audit Liaison  
United States Marshals Service

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**USMS Response to OIG Draft Report**  
**Review of Policies and Training Governing Off-Duty Conduct by Department Employees**  
**Working in Foreign Countries, Assignment No. A-2013-003**

**Recommendation 4: Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.**

**Response (Concur):** USMS will consolidate and enhance existing guidance, and, as necessary, develop additional guidance regarding off-duty conduct while on official travel in foreign countries. The resulting policy directive will conform to forthcoming DOJ guidance on off-duty conduct, including off-duty alcohol consumption, what constitutes notoriously disgraceful conduct, solicitation, and firearms use. USMS will also evaluate whether language regarding off-duty conduct should be added to its existing International Training Policy Directive. Collaborative meetings and discussions between affected USMS divisions (Training Division, Office of General Counsel, Office of Professional Responsibility, and divisions with international missions) will begin once Departmental guidance is in place.

**Recommendation 5: Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.**

**Response (Concur):** As the new policy directive consistent with DOJ policy is finalized, USMS divisions responsible for developing employee training modules on conduct and ethics will work collaboratively with the Training Division to determine how the new comprehensive policy directive will be incorporated into existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

**Recommendation 6: Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.**

**Response (Concur):** As the new policy directive consistent with DOJ policy is finalized, the USMS Training Division and divisions with international missions will collaborate to determine the best course for applying the new comprehensive policy to pre-deployment training for employees being sent abroad.



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## APPENDIX XIX: OIG ANALYSIS OF THE UNITED STATES MARSHALS SERVICE'S RESPONSE

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The Office of the Inspector General (OIG) provided a draft of this report to the United States Marshals Service (USMS) for its comment. The USMS's response is included in Appendix XVIII to this report. The OIG analysis of USMS's response and actions necessary to close the recommendations are discussed below.

In addition, the USMS stated that since the OIG review, USMS divisions with international missions have been working to develop guidance and training on other specific types of off-duty conduct, domestically and internationally. The OIG takes note that the USMS is working on developing guidance and training on other aspects of off-duty conduct, domestically and abroad. The USMS's efforts are consistent with the recommendations made in this report.

**Recommendation 4:** Disseminate clear, complementary, and comprehensive policy to all personnel regarding off-duty conduct, including provisions for employees representing the government in other countries.

**Status:** Resolved.

**USMS Response:** The USMS concurred with this recommendation and stated that the USMS will consolidate and enhance existing guidance, and, as necessary, develop additional guidance on off-duty conduct while on official travel in foreign countries. The resulting policy directive will conform to forthcoming Department guidance on off-duty conduct, to include off-duty alcohol consumption, what constitutes notoriously disgraceful conduct, solicitation, and firearms use. In addition, the USMS will evaluate whether language on off-duty conduct should be added to its existing International Training Policy Directive. Collaborative meetings and discussions among affected USMS division will begin once the Departmental guidance is in place.

**OIG Analysis:** The USMS's actions are responsive to our recommendation. By April 30, 2015, please provide copies of any consolidated, enhanced, or additional guidance that were issued for off-duty conduct while on official travel in foreign countries or as a result of the forthcoming Department guidance on off-duty conduct.

**Recommendation 5:** Raise awareness of that policy and how it applies to a variety of situations through existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

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**Status:** Resolved.

**USMS Response:** The USMS concurred with this recommendation and stated when the new policy directive consistent with the Department policy is finalized, USMS divisions responsible for developing training modules on conduct and ethics will work collaboratively with the Training Division to determine how the new comprehensive policy directive will be incorporated into existing basic law enforcement training, new employee orientation, and periodic training throughout employees' careers.

**OIG Analysis:** The USMS's actions are responsive to our recommendation. By April 30, 2015, please provide copies of the training modules on conduct and ethics that were developed as a result of the finalized USMS policy directive.

**Recommendation 6:** Reinforce the policy and how to apply it through pre-deployment training for employees being sent abroad.

**Status:** Resolved.

**USMS Response:** The USMS concurred with this recommendation and stated that when the new policy directive consistent with the Department policy is finalized, the USMS Training Division and divisions with international missions will collaborate to determine the best course for applying the new comprehensive policy to pre-deployment training for employees being sent abroad.

**OIG Analysis:** The USMS's actions are responsive to our recommendation. By April 30, 2015, please provide information on how the USMS incorporated its new policy directive to its pre-deployment training for employees being sent abroad.



Office of the Inspector General  
U.S. Department of Justice  
[www.justice.gov/oig](http://www.justice.gov/oig)

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