

ABBREVIATED REPORT OF INVESTIGATION

SUBJECT Assistant United States Attorney (Retired) United States Attorney's Office		CASE NUMBER	
OFFICE CONDUCTING INVESTIGATION Miami Field Office		DOJ COMPONENT Executive Office for United States Attorneys	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	MFO	<input type="checkbox"/> OPEN	<input type="checkbox"/> OPEN PENDING PROSECUTION
<input checked="" type="checkbox"/> AIGINV		<input checked="" type="checkbox"/> CLOSED	
<input checked="" type="checkbox"/> Component	EOUSA	PREVIOUS REPORT SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/> USA		Date of Previous Report:	
<input type="checkbox"/> Other			

SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for United States Attorneys (EOUSA) alleging that [REDACTED] Assistant United States Attorney (AUSA) [REDACTED] possessed a cache of digital optical discs (DVDs) containing pornographic videos, lubrication gel, and sex toys in his office located in the United States Attorney's Office (USAO) [REDACTED].

During the course of the investigation, the OIG found indications that [REDACTED] may also have used poor judgment and displayed conduct unbecoming an AUSA when he viewed pornography on a personally-owned DVD player while in his office after hours and on weekends.

The OIG investigation substantiated the allegation that [REDACTED] misused government property by storing a cache of DVDs containing pornographic videos, sex toys, and lubrication gel in his government office. The OIG investigation also substantiated that [REDACTED] displayed conduct unbecoming an AUSA when he watched the pornographic DVDs on a personally owned DVD player while in his office after hours and on weekends. Finally, the OIG found that [REDACTED] used poor judgment by engaging in this misconduct for over a decade.

The USAO's [REDACTED], told the OIG that a on [REDACTED] found the pornographic material in [REDACTED] office when she went into his office to locate a case

DATE	December 4, 2020	SIGNATURE	[REDACTED]
PREPARED BY SPECIAL AGENT	[REDACTED]		
DATE	December 7, 2020	SIGNATURE	Digitally signed by JAMES BOYERSMITH Date: 2020.12.07 08:05:01 -05'00'
APPROVED BY SPECIAL AGENT IN CHARGE	James F. Boyersmith		

file. [REDACTED] stated that she had issues with [REDACTED] office being in disarray and constantly cluttered. She said that [REDACTED] kept his door locked even after she sent emails to him instructing him to clean his office and leave the door unlocked. [REDACTED] believed the boxes in [REDACTED] office were case files and she did not know there was inappropriate material in [REDACTED] office. [REDACTED] stated that she sent several emails to [REDACTED] requesting a case file, and after [REDACTED] failed to produce the case file, [REDACTED] used the master key to enter [REDACTED] office to search for the file [REDACTED] said that during the search, [REDACTED] discovered DVDs containing pornographic videos in a drawer in [REDACTED] office. [REDACTED] stated that upon discovery of the material, she called [REDACTED] and they conducted a workplace search. [REDACTED] said that they found DVDs containing pornographic videos, sex toys, and lubrication in [REDACTED] desk and office.

[REDACTED] told the OIG that he received a telephone call on [REDACTED], from [REDACTED], who told him about pornographic material found in [REDACTED] office. [REDACTED] said he conducted a workplace search on [REDACTED] with [REDACTED] and found approximately 1500 commercially produced adult DVDs, sex toys, and lubrication in [REDACTED] office. [REDACTED] stated that the DVDs were not homemade, and based on their covers, did not appear to contain any underage minors. [REDACTED] said that he then notified [REDACTED] about the matter.

[REDACTED] told the OIG that he assisted [REDACTED] with both the removal of the boxes of adult material in [REDACTED] office and the inventory of the adult DVDs. [REDACTED] told the OIG that he also found sex toys during the inventory. [REDACTED] said that the pornographic DVDs appeared to be professionally produced and were stamped with a statement that the actors were of legal age.

The OIG conducted a forensic examination on [REDACTED] government-issued computer and cell phone and found no evidence that pornography had been accessed, downloaded, viewed, or played on either device. The OIG investigation did not uncover any evidence of child pornography.

In a voluntary interview [REDACTED] told the OIG that the pornographic material found in his office belonged to him. He said that he previously had the DVDs containing the pornographic videos in his home; however, his wife found them and told him to remove the pornography from the house [REDACTED]. He said that in approximately [REDACTED], he took the material to his office [REDACTED] stated that he purchased the DVDs containing the pornographic videos from several mail order companies, and he had them delivered to his post office box. He said that he took the pornographic DVDs to his office on the weekends. He stated that he only watched the pornographic DVDs after hours and on weekends. [REDACTED] denied that he viewed the pornographic DVDs during work hours. [REDACTED] admitted that he watched the pornography in his office on a personally owned portable DVD player with an integrated screen [REDACTED]. [REDACTED] denied that he possessed or viewed any child pornography. [REDACTED] claimed that the sex toys in his office were gifts from the companies where he ordered the pornographic DVD material. He stated that he did not know how many pornographic DVDs he owned but he purchased the DVDs on a monthly basis and took them into his office and stored them there. [REDACTED] stated that he did not use his work computer or his work cell phone to purchase, access, or watch pornographic material. He said that he did not show or provide any of the pornographic materials to any other DOJ employees.

This case was not presented for criminal prosecution because there was no evidence of any criminal violations.

[REDACTED] retired from his position at the USAO effective [REDACTED]

The OIG investigation concluded that [REDACTED] had a cache of DVDs containing pornographic videos, sex toys, and lubrication gel in his office. The OIG investigation substantiated the allegations that [REDACTED] engaged in

misconduct when he misused government property (his office) and displayed conduct unbecoming an AUSA when he watched the pornographic DVDs [REDACTED] while in his office. The basic obligations of public service provide that, among other things, federal employees “shall protect and conserve Federal property and shall not use it for other than authorized activities.” 28 C.F.R. § 2635.101(b)(9). Although [REDACTED] did not utilize a government device to view the pornographic material, it was inappropriate and a breach of public trust for him to have engaged in such activity within a federal building. [REDACTED] misconduct also violated 5 C.F.R. § 735.203, which provides that “[a]n employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.” Finally, [REDACTED] repeated engagement in this activity on federal property for over decade reflects poor judgment.

The OIG has completed its investigation and all administrative actions are complete. The OIG is providing this report to the EOUSA for its information and to DOJ’s Office of Professional Responsibility for appropriate action.

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