

DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

REPORT OF INVESTIGATION

SUBJECT [REDACTED] Assistant United States Attorney (retired) [REDACTED]		CASE NUMBER [REDACTED]	
OFFICE CONDUCTING INVESTIGATION Dallas Field Office (El Paso Area Office)		DOJ COMPONENT Executive Office for United States Attorneys	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office	DFO	<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 provided by the Department of Homeland Security, Homeland Security Investigations (HSI), relating to an HSI and Internal Revenue Service (IRS) investigation into [REDACTED] husband of retired Assistant United States Attorney (AUSA) [REDACTED]. [REDACTED] retired from the United States Attorney's Office [REDACTED], prior to the OIG initiating this investigation [REDACTED].

In [REDACTED], HSI provided the OIG with [REDACTED] emails obtained from the [REDACTED] email server which were sent from [REDACTED] DOJ email account to [REDACTED]. The [REDACTED] email, dated [REDACTED], was sent directly to a private attorney on behalf of [REDACTED] (and copied to [REDACTED]), [REDACTED] emails addressed the [REDACTED] tax [REDACTED] matters. The emails raised a concern that [REDACTED] may have misused her government position [REDACTED].

DATE	March 31, 2021	SIGNATURE	[REDACTED]
PREPARED BY	ASSISTANT SPECIAL AGENT IN CHARGE		
DATE	March 31, 2021	SIGNATURE	Cloey C. Pierce <i>Cloey Chaney Pierce</i> Digitally signed by CLOEY PIERCE Date: 2021.03.31 14:37:47 -05'00'
APPROVED BY	SPECIAL AGENT IN CHARGE		

[REDACTED]

Although working jointly with HSI and IRS, the OIG investigation focused on her involvement with [REDACTED], and her potential use of government resources in doing so.

[REDACTED]

When contacted by the OIG for a voluntary interview, [REDACTED] declined to be interviewed. The OIG does not have authority to compel or subpoena testimony from former Department employees or non-Department employees. [REDACTED] attorney later provided the OIG with an unsolicited and unsworn written statement from [REDACTED], in which [REDACTED] stated [REDACTED] and that she had complied with all ethical requirements.

The OIG investigation substantiated the allegation that in [REDACTED], [REDACTED] sent an email from her DOJ email account to a third party on behalf of her husband, and in doing so violated the applicable federal ethics regulation (5 C.F.R. § 2635.702(b), Misuse of Position) and DOJ policy (DOJ Order 2740.1A, Use and Monitoring of DOJ Computers and Computer Systems), because the email could have given the false impression that [REDACTED] was acting in an official capacity on behalf of [REDACTED]

[REDACTED]

The OIG is providing this report to the Executive Office for U.S. Attorneys for its information and to the Department'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 the same standard when reviewing a federal agency's decision to take 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).

DETAILS OF INVESTIGATION

Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation in [REDACTED] upon the receipt of information provided by the Department of Homeland Security, Homeland Security Investigations (HSI) relating to an HSI and Internal Revenue Service (IRS) investigation into [REDACTED] husband of retired Assistant United States Attorney (AUSA) [REDACTED]

In [REDACTED], HSI provided the OIG with [REDACTED] emails obtained from the [REDACTED] email server which were sent from [REDACTED] DOJ email account to [REDACTED]. The [REDACTED] email, dated [REDACTED], was sent directly from [REDACTED] to a third party on behalf of [REDACTED] (and copied to [REDACTED])

[REDACTED] emails addressed the

tax

matters. [REDACTED]

[REDACTED] Although working jointly with HSI and IRS, the OIG investigation focused on [REDACTED]

her involvement with her husband's [REDACTED], and her potential use of government resources in doing so.

Investigative Process

The OIG's investigative efforts consisted of the following:

Interviews of the following USAO [REDACTED] personnel:

Interview of the following individual:

Review of the following:

- [REDACTED]
- [REDACTED] government emails
- USAC [REDACTED] policies on [REDACTED] computer rules of behavior
- [REDACTED]
- [REDACTED]
- [REDACTED]
- An unsolicited written statement from [REDACTED] to the OIG defending her actions in this matter

[REDACTED] retired from the USAO- [REDACTED] declined to be interviewed by the OIG. The OIG does not have authority to compel or subpoena testimony from former Department employees or non-Department employees.

[REDACTED] Misuse of Position and DOJ-issued Computer

The information provided to the OIG by the HSI and the IRS alleged that [REDACTED] may have violated DOJ email policies by sending an email from her DOJ email account directly to a third party which provided the false impression that [REDACTED] was acting in an official capacity.

5 C.F.R. § 2635.702(b), Misuse of Position, provides that “an employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another.”

Similarly, DOJ Order 2740.1A(3)(d) (2010), Use and Monitoring of DOJ Computers and Computer Systems, states in pertinent part:

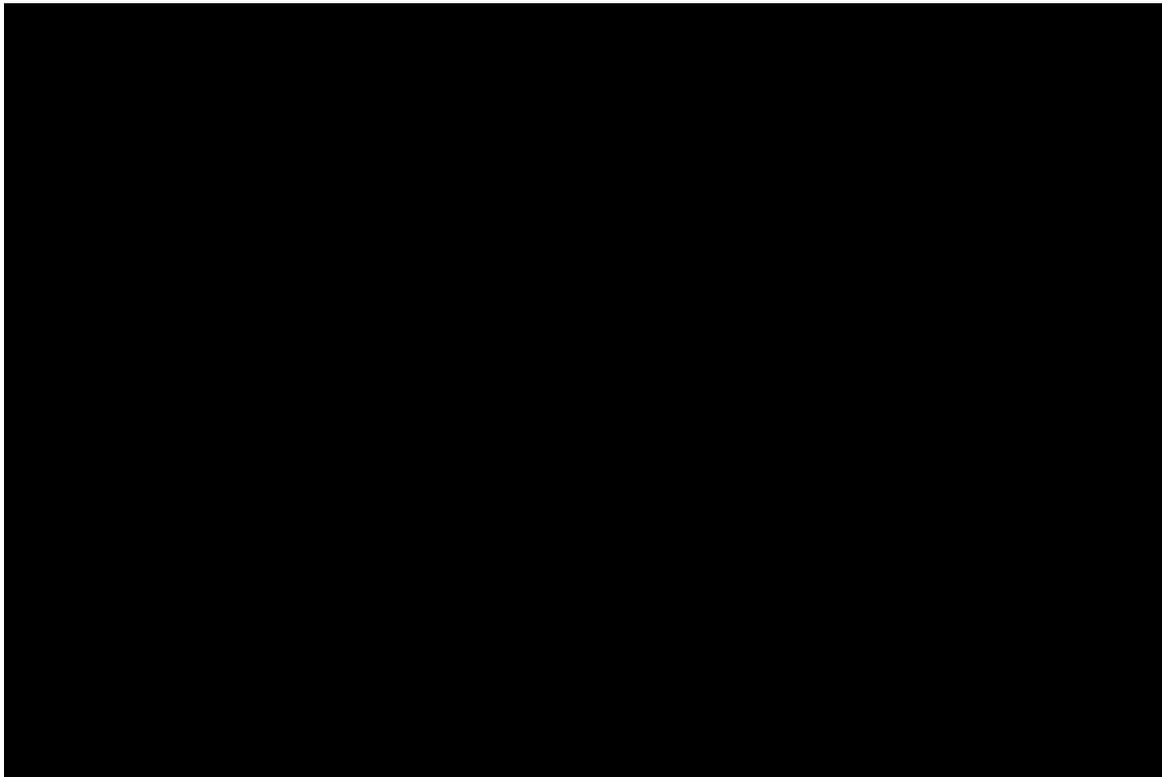
Proper Representation: It is the responsibility of employees to ensure that they are not giving the false impression that they are acting in an official capacity when they are using government office equipment for nongovernment purposes. If there is expectation that such a personal use could be interpreted to represent an agency, then an adequate disclaimer must be used. One acceptable disclaimer is -"The contents of this message are mine personally and do not reflect any position of the Government or my agency."

The following is a summary of [REDACTED] emails which were the focus of the OIG’s investigation.

[REDACTED] *email regarding* [REDACTED]

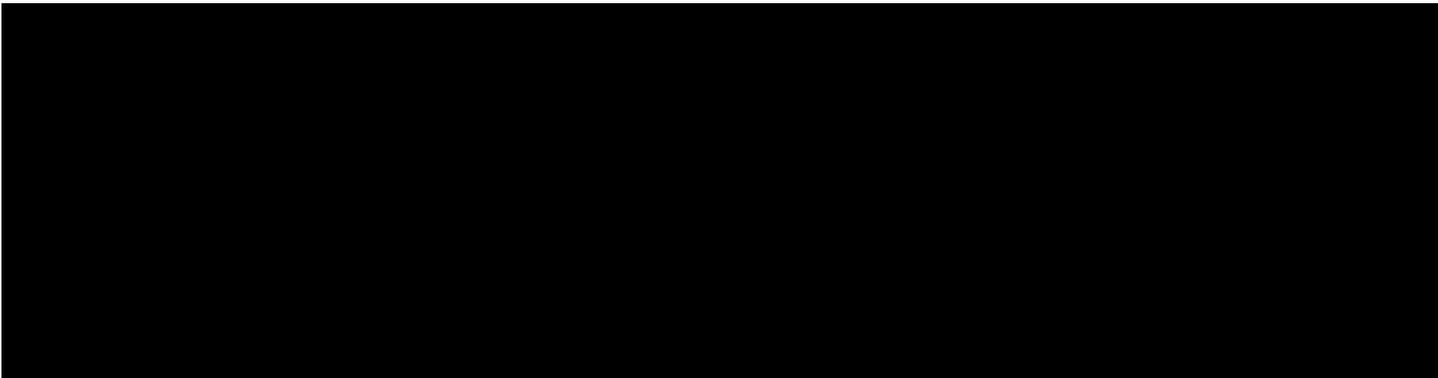
On [REDACTED], [REDACTED] sent an email from her DOJ account [REDACTED] directly to a private attorney named [REDACTED] on behalf of [REDACTED] her then husband, and copied [REDACTED] on this email. The email read as follows:

[REDACTED]



The OIG investigation did not reveal any response from [REDACTED] to [REDACTED]





When contacted by the OIG for a voluntary interview, [REDACTED] declined to be interviewed. The OIG does not have authority to compel or subpoena testimony from former Department employees or non-Department employees.

OIG's Conclusion

The OIG investigation substantiated the allegation that by sending the [REDACTED] email from her DOJ email account to a private attorney, in connection with tax [REDACTED] matters involving her then husband, [REDACTED] misused her position, in violation of 5 C.F.R. § 2635.702(b), and misused her DOJ-issued computer, in violation of DOJ Order 2740.1A(3)(d) (2010). Although the email did not identify [REDACTED] as an AUSA or an attorney, a recipient of this email could reasonably have believed that [REDACTED] was acting in an official capacity as a representative of the United States (through her use of a ".gov" email address) or more specifically as a representative of the U.S. Department of Justice (through her use of a "@usdoj.gov" email address).



