



REPORT OF INVESTIGATION

SUBJECT Mark S. Bennett (***-**- Assistant United States Attorney Northern District of Ohio Cleveland, Ohio		CASE NUMBER 2019-009081	
OFFICE CONDUCTING INVESTIGATION Detroit Area Office		DOJ COMPONENT Executive Office for United States Attorneys	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office CFO <input checked="" type="checkbox"/> AIGINV <input checked="" type="checkbox"/> Component EOUSA <input type="checkbox"/> USA <input type="checkbox"/> Other		<input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED PREVIOUS REPORT SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Date of Previous Report:	

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 from May 2017 through June 2019, United States Attorney's Office (USAO) for the Northern District of Ohio (NDOH) Assistant United States Attorney (AUSA) Mark Bennett may have physically and verbally sexually harassed, to include deliberately running his arm across the breast of, then USAO-NDOH, [REDACTED] Intern **J.S.** **J.S.**

During the course of the investigation, the OIG found indications that Bennett may also have made sexually suggestive comments to USAO-NDOH AUSA [REDACTED] sent sexual comments over social media to Federal Bureau of Investigation (FBI), [REDACTED], Forensic Analyst [REDACTED]; and made sexual comments to U.S. Postal Inspection Service, [REDACTED], Postal Inspector [REDACTED]. In addition, the OIG found indications that Bennett may have lacked candor during an OIG interview when questioned about using his government laptop computer to access social media sites.

The OIG investigation substantiated the allegations that Bennett engaged in sexually harassing conduct by making sexually inappropriate comments to **J.S.**, [REDACTED], and [REDACTED] all in violation of federal regulations regarding sexual harassment and employee conduct, as well as in violation of DOJ Policy prohibiting sexual harassment in the workplace. The OIG also concluded that Bennett's unwelcome touching of **J.S.** breast violated Ohio Penal Code § 2907.06, Sexual Imposition, a misdemeanor. The OIG further found that Bennett lacked candor in his OIG interview, in violation of DOJ policy.

DATE November 5, 2020	SIGNATURE [REDACTED]
PREPARED BY SPECIAL AGENT [REDACTED]	
DATE November 5, 2020	SIGNATURE <i>William Hannah</i>
APPROVED BY SPECIAL AGENT IN CHARGE William J. Hannah	

Digitally signed by WILLIAM HANNAH
Date: 2020.11.05 17:02:38 -0600



The USAO-NDOH was recused from the investigation. The USAO for the Eastern District of Michigan and the Akron City Prosecutor's Office declined criminal prosecution of Bennett.

The OIG has completed its investigation and is providing this report to the EOUSA and 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).

DETAILS OF INVESTIGATION

Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for United States Attorneys (EOUSA) alleging that from May 2017 through June 2019, United States Attorney's Office (USAO) for the Northern District of Ohio (NDOH) Assistant United States Attorney (AUSA) Mark Bennett may have physically and verbally sexually harassed, to include deliberately running his arm across the breast of, then USAO-NDOH, [REDACTED] Office Intern **J.S.** [REDACTED].

During the course of the investigation, the OIG found indications that Bennett may also have made sexually suggestive comments to USAO-NDOH AUSA [REDACTED]; sent sexual comments over social media to Federal Bureau of Investigation (FBI), [REDACTED], Forensic Analyst [REDACTED]; and uttered sexual comments to U.S. Postal Inspection Service, [REDACTED], Postal Inspector [REDACTED]. In addition, the OIG found indications that Bennett may have lacked candor during an OIG interview when questioned about using his government laptop computer to access social media sites [REDACTED].

Investigative Process

The OIG's investigative efforts consisted of the following:

Interviews of the following USAO-NDOH personnel:

- Mark Bennett, AUSA

[REDACTED]

AUSA

[REDACTED]

J.S.

(former) Intern

[REDACTED]

Interviews of the following FBI [REDACTED] personnel:

[REDACTED]
[REDACTED] Financial Investigative Analyst

Interviews of the following personnel:

[REDACTED]
[REDACTED], U.S. Postal Inspection Service, Postal Inspector
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Review of the following:

- Cyber Investigations Office (CIO) forensic analysis of Bennett's government laptop computer.
- Justice Security Operation Center (JSOC), Internet History Logs for Bennett's government laptop computer.
- Verizon Wireless records for Bennett's personal cell phone.
- Training information from the Offices of the United States Attorneys, National Advocacy Center.
- Training records from the USAO-NDOH [REDACTED]
- Facebook Messenger and Instagram Messages the OIG received from [REDACTED]
- Emails, text messages, Skype messages, Facebook Messenger messages the OIG received from [REDACTED].

Background and Authority

Ohio Penal Code § 2907.07, Sexual Imposition (misdemeanor), prohibits engaging in sexual contact with another, either knowing or recklessly disregarding that the contact is offensive to the other person. The Penal Code defines sexual contact to include touching of another's breast.

29 C.F.R. § 1604.11, "Sexual Harassment," states in pertinent part the following:

(a) Harassment on the basis of sex is a violation of section 703 of title VII. 1 Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

...

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

...

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

5 C.F.R. § 735.203, "Employee Responsibilities and Conduct" states in pertinent part the following: "an employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

The DOJ, Office of the Attorney General, Prevention of Harassment in the Workplace, Policy Memorandum 2015-04, states in part:

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

The DOJ Memorandum for Heads of Department Components Regarding Sexual Harassment and Sexual Misconduct, dated April 30, 2018, sets forth policies and procedures to ensure that: (1) substantiated allegations of sexual harassment or misconduct result in serious and consistent disciplinary action, (2) components report allegations of sexual harassment or misconduct to the Office of Inspector General and the components' security divisions when appropriate, (3) components appropriately consider allegations of or disciplinary actions for sexual harassment or misconduct in making decisions about awards, public recognition, or favorable personnel actions, and (4) components can be held accountable for their handling of allegations of sexual harassment and misconduct.

Bennett's Sexual Harassment and Unwelcome Sexual Touching of J.S.

The information provided to the OIG alleged that from May 2017 through June 2019, Bennett may have physically and verbally sexually harassed J.S.

J.S. told the OIG that from May 2017 through June 2019, Bennett made several inappropriate sexual comments to her, and on one occasion, touched her breast. J.S. explained that their communication with each other started out as jovial, back-and-forth banter. However, J.S. told the OIG that, as time went on, Bennett's sexual comments increased, made her feel uncomfortable, and often interfered with J.S.'s ability to complete her work. J.S. said that Bennett talked about his sexual relationship with his wife, J.S.

J.S. stated that Bennett made comments about J.S.'s physique, and on one occasion, he sent J.S. a social media message to ask her why she haunted his dreams. J.S. stated that Bennett sent pictures to her, via either text message or through a social media platform, of himself

J.S. said that during another occasion in the library, Bennett brushed his arm against J.S.'s breast while reaching for a law book and stared at her the entire time. J.S. said that Bennett's behavior made her uncomfortable and caused her to move from her assigned workstation to other employees' work areas to avoid him.

J.S. told the OIG that J.S. told him that J.S. felt uncomfortable around Bennett, and that J.S. tried to avoid Bennett while in the Office. J.S. said that he noticed J.S. frequented the Office's front desk instead of getting her work done.

J.S. said that Bennett told him in a later conversation that he had screwed up by sending J.S. text messages in which he indicated his willingness to engage in a sexual relationship with her. However, J.S. stated that Bennett denied, in an unsolicited comment, that he groped J.S.

J.S. told the OIG that J.S. told her that Bennett had touched her breast while they

worked in the [REDACTED] library. [REDACTED] said that she read Facebook Messenger messages J.S. [REDACTED] received from Bennett, and although [REDACTED] could not remember the specific content of the messages, she believed they were inappropriate and flirtatious. [REDACTED] said that J.S. [REDACTED] told her Bennett's behavior made her uncomfortable. [REDACTED] described one occasion when J.S. [REDACTED] came into [REDACTED] office and closed the door soon after Bennett arrived at the [REDACTED] Office in order to avoid him. [REDACTED] thought Bennett's behavior towards J.S. [REDACTED] interfered with J.S. [REDACTED] ability to get her work done as an intern.

[REDACTED] told the OIG that J.S. [REDACTED] told her that Bennett sent J.S. [REDACTED] sexual messages on various social media platforms and tried to pursue her. [REDACTED] said that J.S. [REDACTED] told her that she did not want to report Bennett's behavior because she was concerned it may have a negative effect on her ability to obtain future employment at the USAO. [REDACTED] believed Bennett made J.S. [REDACTED] uncomfortable, and that his behavior towards J.S. [REDACTED] created a situation where J.S. [REDACTED] could not work at her own station because she wanted to avoid Bennett. [REDACTED] said that J.S. [REDACTED] began sitting with [REDACTED] at her desk location to hide from Bennett.

[REDACTED] said that J.S. [REDACTED] also described an incident in which Bennett brushed up against her breast while in the [REDACTED] library. [REDACTED] recalled J.S. [REDACTED] receiving several messages from Bennett that were sexual in nature, either via text or Facebook Messenger. [REDACTED] stated that, in one of the messages, Bennett implied J.S. [REDACTED] should provide him with a sexual favor in exchange for a letter of recommendation, and in another message Bennett commented on J.S. [REDACTED] physique and told her how good she looked. [REDACTED] vaguely recalled J.S. [REDACTED] telling him about a social message she received from Bennett in which Bennett asked J.S. [REDACTED] why she haunted his dreams. [REDACTED] told the OIG that he advised J.S. [REDACTED] to report Bennett's inappropriate behavior.

[REDACTED] Bennett made references to J.S. [REDACTED] buttocks, including comments about their size and that Bennett could not wait to "have them."

In a voluntary interview, Bennett told the OIG that he worked with J.S. [REDACTED] from 2017 through 2018. [REDACTED] Bennett stated that he and J.S. [REDACTED] discussed her romantic relationships, but he said that was not inappropriate because J.S. [REDACTED] initiated the conversations. Bennett stated that he had written a letter of recommendation for J.S. [REDACTED] and may have asked her what he would get out of it, but he said he was referring to possibly lunch or drinks with her, not sex. Bennett said that he probably sent messages to J.S. [REDACTED] that referenced her physique, and reasoned he tried to help her low self-esteem. Bennett acknowledged [REDACTED]

[REDACTED] that he talked to J.S. [REDACTED] about his sexual relationship with his wife. Bennett admitted he should not have engaged in this type of communication with J.S. [REDACTED] and explained he has a character flaw when women flirt with him. Bennett stated that he did not believe his actions rose to the level of sexual harassment, and he denied touching J.S. [REDACTED] breast. [REDACTED]

The USAO-NDOH was recused from the investigation. The USAO for the Eastern District of Michigan and the Akron City Prosecutor's Office declined criminal prosecution of Bennett.

OIG's Conclusion

The OIG investigation concluded that Bennett sexually harassed J.S. both physically and verbally by conveying sexually charged communications to her and physically touching J.S. breast. The OIG found J.S. account of her interactions with Bennett, including that he touched her breast without her consent, to be more credible than Bennett's account, particularly in light of the corroboration provided by the OIG's interviews of other witnesses. The OIG further credited J.S. account that Bennett's conduct caused her to be uncomfortable and interfered with her ability to conduct her work at the USAO. The OIG finds by a preponderance of the evidence that Bennett's conduct violated Ohio Penal Code § 2907.06, Sexual Imposition. The OIG further finds that Bennett's conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

Bennett's Sexual Harassment of [REDACTED]

During the course of the investigation, the OIG found indications that Bennett may have made comments to FBI Financial Investigative Analyst [REDACTED] which were sexual in nature and made her feel uncomfortable.

[REDACTED]

[REDACTED] further stated that Bennett had made statements to her over several years, which [REDACTED] described as comments he probably should not have made which had distracted [REDACTED] from her work at the FBI. [REDACTED] said that some of Bennett's comments were flirtatious or contained sexual connotations, [REDACTED] stated that the comments made [REDACTED] uncomfortable [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OIG's Conclusion

The OIG investigation concluded Bennett sent [REDACTED] messages of a sexual nature which interfered with [REDACTED] work environment. [REDACTED]

[REDACTED] The OIG therefore found that Bennett's actions constituted administrative misconduct in violation of federal regulations regarding sexual harassment and employee conduct as well as DOJ policy prohibiting sexual harassment in the workplace.

Bennett's Sexual Harassment of [REDACTED]

During the course of the OIG's investigation, the OIG found indications that Bennett may have also made inappropriate comments to AUSA [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] described Bennett's comments as unprofessional and inappropriate, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

OIG's Conclusion

The OIG investigation concluded Bennett made comments to [REDACTED] and [REDACTED], which made [REDACTED] feel uncomfortable and caused an offensive work environment. The OIG credited [REDACTED] account over Bennett's [REDACTED]

The OIG further credited [REDACTED] statement that Bennett's conduct made her feel uncomfortable. The OIG found that Bennett's conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

Bennett's Sexual Harassment of [REDACTED]

During the course of the OIG's investigation, the OIG found indications that Bennett may have also made inappropriate comments to U.S. Postal Inspector [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] recalled that Bennett's comments were sexual in nature [REDACTED] said that he knew the comments made [REDACTED] feel uncomfortable, and he believed they had affected her work. [REDACTED]

[REDACTED]

[REDACTED] told the OIG that sometime in 2010, he had contacted [REDACTED] regarding his concerns about the inappropriate comments Bennett made to [REDACTED] recalled that the comments were sexual in nature [REDACTED]



[REDACTED] he met with Bennett and told him he was aware of Bennett's inappropriate comments to [REDACTED]. [REDACTED]

[REDACTED]

OIG's Conclusion

The OIG investigation concluded Bennett made comments to [REDACTED] to feel uncomfortable and interfered with her work environment. The OIG credited [REDACTED] account of Bennett's comments, which was corroborated in large part by [REDACTED] the OIG further credited [REDACTED] statement that Bennett's comment made her feel uncomfortable [REDACTED]. The OIG found that Bennett's conduct violated federal regulations regarding sexual harassment and employee conduct, as well as DOJ policy prohibiting sexual harassment in the workplace.

Bennett's Lack of Candor

During the course of the investigation, the OIG found indications that Bennett lacked candor in his voluntary interview with the OIG regarding his access to social media sites on his government laptop.

Justice Manual Section 1-4.200 states in pertinent part:

All Department employees have an obligation to cooperate with OPR and OIG misconduct investigations (28 C.F.R. § 45.13) and must respond truthfully to questions posed during the course of an investigation upon being informed that their statements will not be used to incriminate them in a criminal proceeding. Employees who refuse to cooperate with OPR or OIG misconduct investigations after having been informed that their statements will not be used to incriminate them in a criminal proceeding may be subject to formal discipline, including removal. Employees are obligated to cooperate and respond truthfully even if their statements can be used against them in connection with employment matters.

As noted above, the OIG learned during this investigation about inappropriate messages that Bennett sent to certain individuals via social media sites. In light of this information, the OIG asked Bennett whether he had used his government laptop computer to access those social mediate sites. Bennett told the OIG that he had not signed into Facebook and Twitter on his government laptop computer and advised he completely avoided those sites on his government laptop computer. Bennett reasoned that they (USAO) have always told personnel that accessing those sites increased the likelihood of viruses on your computer.

The OIG reviewed the JSOC Internet history logs pertaining to Bennett's government laptop computer, identified

as Internet protocol (IP) [REDACTED]. The logs showed between March 2019 and June 2019, Bennett accessed several social media sites, more than 25 times, to include Facebook and Twitter with his government laptop computer. [REDACTED] advised the OIG that between March 2019 and June 2019, [REDACTED] had been assigned exclusively to Bennett's government laptop.

The USAO-NDOH was recused from the investigation. The USAO for the Eastern District of Michigan declined criminal prosecution of Bennett.

OIG's Conclusion

The OIG investigation concluded that Bennett lacked candor in his interview with the OIG when questioned by the OIG about accessing social media sites on his government laptop computer, in violation of DOJ policy. The information was relevant to the OIG investigation in an effort to determine if Bennett used his government laptop during work hours for any inappropriate communications with others he worked with.