


DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

REPORT OF INVESTIGATION

SUBJECT (b)(6); (b)(7)(C) Legal Attaché (Former) (b)(6); (b)(7)(C)		CASE NUMBER 2021-003469
OFFICE CONDUCTING INVESTIGATION Washington Field Office		DOJ COMPONENT Federal Bureau of Investigation
DISTRIBUTION	STATUS	
<input checked="" type="checkbox"/> Field Office WFO <input checked="" type="checkbox"/> AIGINV <input checked="" type="checkbox"/> Component FBI <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 Federal Bureau of Investigation (FBI) alleging that on (b)(6); (b)(7)(C) then-FBI Legal Attaché (b)(6); (b)(7)(C) sent two photos of FBI special agents (one female agent and one male agent) he believed were killed in a shooting (b)(6); (b)(7)(C) to a (b)(6); (b)(7)(C) without authorization. The FBI became aware of the unauthorized release of the two photos when (b)(6); (b)(7)(C) emailed the photos to (b)(6); (b)(7)(C) and requested confirmation that the two agents pictured in the photos were the agents who had been killed. The two photos of the agents sent to (b)(6); (b)(7)(C) were taken of an FBI computer screen that itself displayed the agents' photographic likenesses as seen in an internal FBI employee directory. The photos of the computer screen reflected that the computer screen was part of an FBI-issued Dell computer and captured the bottom of the computer screen which displayed the Microsoft Outlook email application icon with the words "Inbox - (b)(6); (b)(7)(C)". The FBI determined that FBI email address belonged to (b)(6); (b)(7)(C). It was subsequently determined that the two photos sent to the (b)(6); (b)(7)(C) were not of the two agents who were killed (b)(6); (b)(7)(C) but rather of two other FBI agents.

DATE (b)(6); (b)(7)(C) November 6, 2023	SIGNATURE (b)(6); (b)(7)(C)
PREPARED BY SPECIAL AGENT	
DATE November 6, 2023	SIGNATURE 
Russell W. Cunningham	
APPROVED BY SPECIAL AGENT IN CHARGE	Digitally signed by RUSSELL CUNNINGHAM Date: 2023.11.06 15:19:59 -05'00'

During the investigation, (b)(6); (b)(7)(C) admitted to the OIG that he had taken photos of the two FBI agents (one female agent and one male agent) by using his FBI-issued computer to access the agents' photos in a FBI (b)(6); (b)(7)(C) employee directory and taking pictures of his computer screen when their individual photos were displayed on his computer screen, and then sending the two photos to (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) using the "Signal" application (Signal app). (b)(6); (b)(7)(C) denied sending the photos to the (b)(6); (b)(7)(C) and speculated that (b)(6); (b)(7)(C) may have been responsible for sending the photos to (b)(6); (b)(7)(C)

Based on the OIG's review, the photos that (b)(6); (b)(7)(C) admitted to taking and sending to (b)(6); (b)(7)(C) appear to have been of the same computer screen as the photos that were sent to (b)(6); (b)(7)(C)

but were either different photos taken with (b)(6); (b)(7)(C) mobile phone camera zoomed in or physically closer to the computer screen, or cropped versions of the same photos sent to (b)(6); (b)(7)(C) ¹

The OIG investigation substantiated the allegations that (b)(6); (b)(7)(C) violated FBI Offense Code 3.6, Misuse of Government Computer, and FBI Offense Code 4.10, Unauthorized Disclosure – Sensitive Information, and FBI Media Policy 1002PG Section 4.1.1, when he accessed the FBI (b)(6); (b)(7)(C) intranet page to display the individual agent photos on his computer screen, take photos of his screen, and then sent those photos to (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C). A review of (b)(6); (b)(7)(C) Lync messages showed that (b)(6); (b)(7)(C) gave (b)(6); (b)(7)(C) inaccurate information about which FBI agents had been killed in the (b)(6); (b)(7)(C) shooting, and (b)(6); (b)(7)(C) used those wrong names to access the agent photos he found in the FBI (b)(6); (b)(7)(C) employee directory. A review of (b)(6); (b)(7)(C) FBI-issued (b)(6); (b)(7)(C) mobile phone showed that (b)(6); (b)(7)(C) sent the two photos of the FBI special agents to (b)(6); (b)(7)(C)

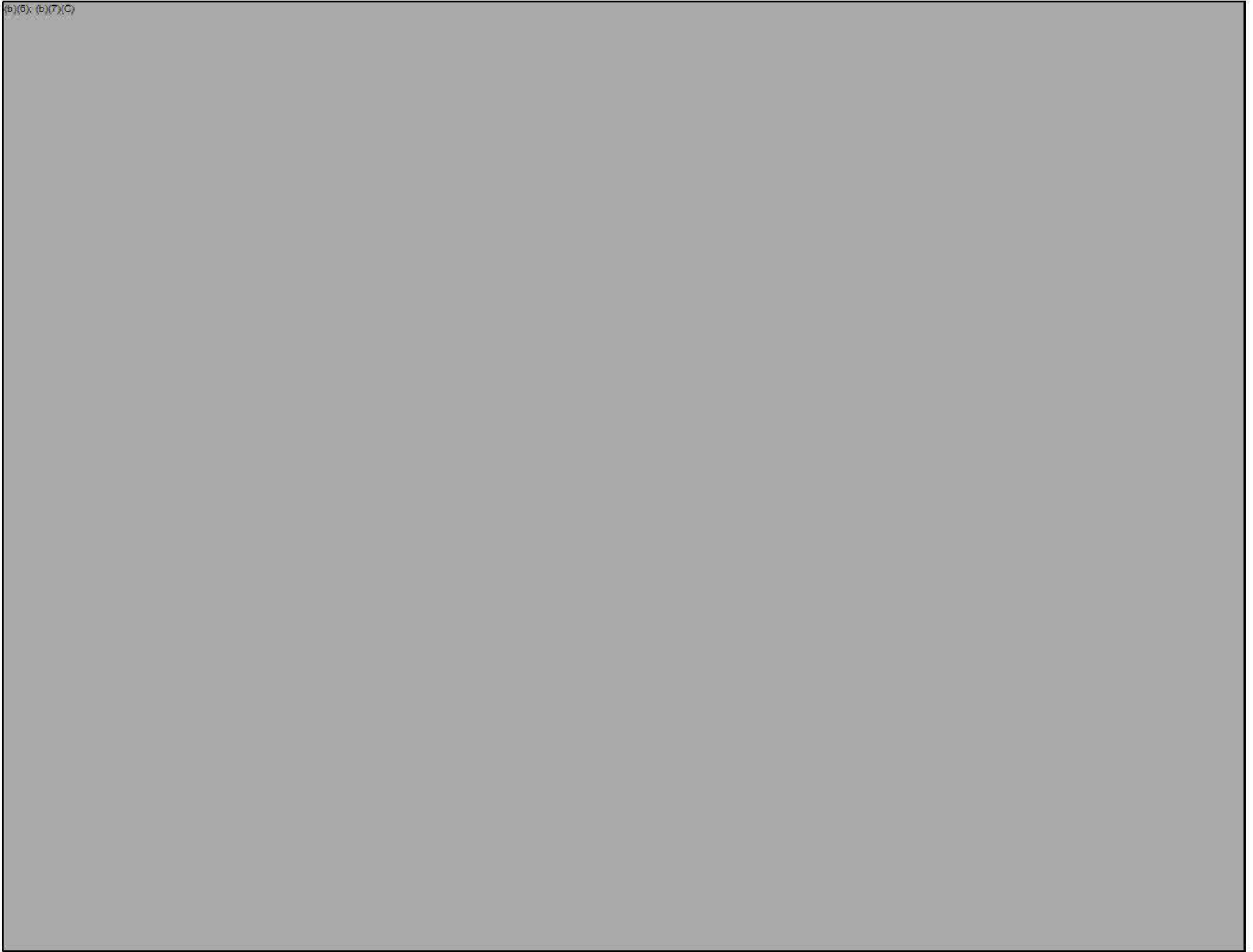
(b)(6); (b)(7)(C) using the Signal app on his FBI-issued phone. In an OIG compelled interview, (b)(6); (b)(7)(C) confirmed he accessed the agents' photos in the FBI (b)(6); (b)(7)(C) employee directory via the FBI's intranet and then took two photos of his computer screen with his FBI-issued mobile phone (one photo of a female agent and one photo of a male agent). (b)(6); (b)(7)(C) told the OIG that he sent these two photos to (b)(6); (b)(7)(C) via a group chat in the Signal app. However, (b)(6); (b)(7)(C) could not recall if he sent the two photos to anyone else. Given the differences in the two sets of photos (i.e., the ones sent to (b)(6); (b)(7)(C) and the zoomed-in or cropped ones sent to (b)(6); (b)(7)(C) and the lack of any evidence that (b)(6); (b)(7)(C) possessed any other photos of the two agents believed to have been killed in the (b)(6); (b)(7)(C) shooting, even if (b)(6); (b)(7)(C) forwarded the photos they received from (b)(6); (b)(7)(C) that would not account for the photos (b)(6); (b)(7)(C) obtained.

The OIG investigation also substantiated that (b)(6); (b)(7)(C) violated 18 U.S.C. § 1001, Statements or Entries Generally, and FBI Offense Code 2.6, Lack of Candor/Lying – Under Oath when, during the OIG compelled interview, he denied sending any photos to (b)(6); (b)(7)(C) and denied knowing who (b)(6); (b)(7)(C) was. (b)(6); (b)(7)(C) admitted to taking the photos but denied sending them to (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) could not recall if he sent the photos to anyone else outside of the FBI. (b)(6); (b)(7)(C) also denied personally knowing, working with, or speaking to (b)(6); (b)(7)(C). However, a review of (b)(6); (b)(7)(C) public profile page showed he posted a video from (b)(6); (b)(7)(C) account with the comment "Interesting discussion" approximately one week prior to the shooting. (b)(6); (b)(7)(C) subsequent compelled OIG administered polygraph examination resulted in "Deception Indicated" when asked if he had sent the photos to anyone in the media or anyone other than (b)(6); (b)(7)(C)

The OIG investigation also substantiated that (b)(6); (b)(7)(C) violated 28 C.F.R. § 45.13, Duty to Cooperate in an Official Investigation and FBI Offense Code 2.10, Failure to Cooperate in an Administrative Matter, when during a compelled interview, (b)(6); (b)(7)(C) refused to provide his personal phone number and refused to list any other social media accounts

¹ The differences between the two sets of photos were not discovered until after the initial (b)(6); (b)(7)(C) interviews and polygraphs were completed. The photos shown to (b)(6); (b)(7)(C) at those times were the photos sent to (b)(6); (b)(7)(C)

he may have had. (b)(6); (b)(7)(C) had access to three mobile phones on the day that the photos were sent to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) his personal mobile phone, his FBI-issued phone, and his FBI-issued (b)(6); (b)(7)(C) mobile phone.



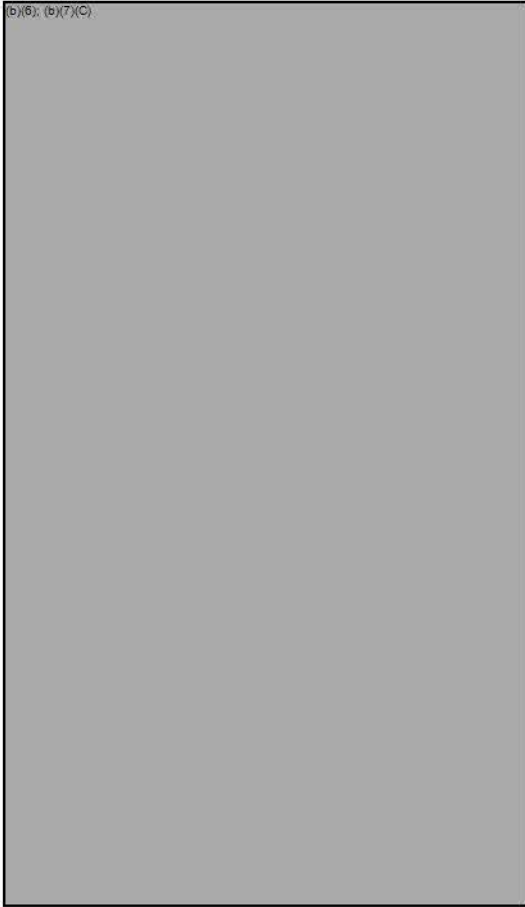
The U.S. Attorney's Office (b)(6); (b)(7)(C) declined prosecution.

(b)(6); (b)(7)(C) retired from the FBI on (b)(6); (b)(7)(C)

The OIG has completed its investigation and is providing this report to FBI for its review.

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).

ADDITIONAL SUBJECTS



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 Federal Bureau of Investigation (FBI) alleging that on (b)(6); (b)(7)(C) then-FBI Legal Attaché (b)(6); (b)(7)(C) sent two photos of FBI special agents (one photo of a female agent and one photo of a male agent) he believed were killed in a shooting (b)(6); (b)(7)(C) to (b)(6); (b)(7)(C) without authorization. The FBI became aware of the unauthorized release of the two photos when (b)(6); (b)(7)(C) emailed the two photos to the FBI Office of Public Affairs and requested confirmation that the two agents pictured in the photos were the agents who had been killed. The two photos of the agents sent to (b)(6); (b)(7)(C) were taken of an FBI computer screen that itself displayed the agents' photographic likenesses as seen in an internal FBI employee directory. The photos of the computer screen reflected that the computer screen was part of an FBI-issued Dell computer and captured the bottom of the computer screen which displayed the Microsoft Outlook email application icon with the words "Inbox (b)(6); (b)(7)(C)". The FBI determined that FBI email address belonged to (b)(6); (b)(7)(C). It was subsequently determined that the two photos sent to (b)(6); (b)(7)(C) were not of the two agents who were killed (b)(6); (b)(7)(C).

During the investigation, (b)(6); (b)(7)(C) stated that he only sent the photos to (b)(6); (b)(7)(C) and speculated that they may have sent the photos to (b)(6); (b)(7)(C).

Investigative Process

The OIG's investigative efforts consisted of the following:

Interviews of the following FBI personnel:

- (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C) Legal Attaché (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C)

Polygraph examination of the following FBI personnel:

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

Review of the following:

- CIO analysis of FBI-issued iPhones, referred (b)(6); (b)(7)(C) for (b)(6); (b)(7)(C)
- CIO analysis of the Dell laptop (b)(6); (b)(7)(C) used on (b)(6); (b)(7)(C)
- FBI-issued Android phone call and text message records for (b)(6); (b)(7)(C) for the period of (b)(6); (b)(7)(C) through (b)(6); (b)(7)(C)
- FBI email and Lync message records for (b)(6); (b)(7)(C) for the period of (b)(6); (b)(7)(C) through (b)(6); (b)(7)(C)
- UNet email records for (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C) page for (b)(6); (b)(7)(C)

- Information from (b)(6); (b)(7)(C)

Background

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

(b)(6); (b)(7)(C) Unauthorized Disclosure of Sensitive Information, False Statements, Failure to Cooperate, and Related Misconduct.

The information provided to the OIG by FBI INSD alleged that on (b)(6); (b)(7)(C) committed an unauthorized disclosure of sensitive information when he sent photographs of two agents (one female and one male) he believed had been killed (b)(6); (b)(7)(C) to (b)(6); (b)(7)(C). During the OIG investigation, (b)(6); (b)(7)(C) admitted to sending photos of the two agents to (b)(6); (b)(7)(C) and then speculated that one of them might have been responsible for the unauthorized disclosure to (b)(6); (b)(7)(C).

FBI's Information Systems Use Policy Directive states, in part, that "FBI personnel must use FBI information systems...for authorized purposes" and that "unauthorized use of the information system is prohibited." This policy defines an information system as "a set of information resources organized for the acquisition, collection, storage, processing, maintenance, use, sharing, dissemination, disposition, display, or transmission of information."

FBI Media Policy 1002PG Section 4.1.1 states that, unless explicitly authorized, FBI personnel must not communicate with the media regarding FBI matters and must notify the Public Affairs Office of any contact regarding FBI matters with any individuals reasonably believed to be members of the media.

FBI Offense Code 2.10, Failure to Cooperate in an Administrative Matter, states that FBI employees are in violation of this policy if they fail or refuse to fully participate in an administrative matter, including OIG investigations.

FBI Offense Code 2.6, Lack of Candor/Lying – Under Oath, states that employees are in violation of the code if they knowingly provide false information in a verbal or written statement made under oath. This misconduct includes false statements, misrepresentations, the failure to be fully forthright, or the concealment or omission of a material fact/information.

FBI Offense Code 3.6, Misuse of Government Computer, makes it a violation of FBI policy to use a government computer for unofficial or unauthorized purposes.

FBI Offense Code 4.10, Unauthorized Disclosure – Sensitive Information, states that an employee shall not, without authorization, disclose or attempt to disclose the FBI's sensitive material.

18 U.S.C. § 1001, Statements or Entries Generally, makes it a violation of federal law to knowingly and willfully make a materially false statement or representation.

28 C.F.R. § 45.13, Duty to Cooperate in an Official Investigation, states that Department of Justice employees have a duty to cooperate fully with the Office of the Inspector General and shall respond to questions posed during the course of an investigation upon being informed that their statement will not be used to incriminate them in a criminal proceeding.

The OIG's review of the predicated material indicated that, on (b)(6); (b)(7)(C) took photos of an FBI-issued computer screen displaying photos of a male FBI agent and a female FBI agent. In a later OIG interview, (b)(6); (b)(7)(C) confirmed that he took these photos as he incorrectly believed those were the agents who had been killed during the execution of a search warrant (b)(6); (b)(7)(C).

In an OIG interview, (b)(6); (b)(7)(C) told the OIG he received an email from (b)(6); (b)(7)(C) asking if two photographs of FBI agents (b)(6); (b)(7)(C) provided (one female agent and one male agent) were of the two FBI agents killed in the (b)(6); (b)(7)(C) shooting.² (b)(6); (b)(7)(C) explained that he noticed the photos provided by the (b)(6); (b)(7)(C) looked like pictures taken of a computer screen and that an FBI email address was visible at the bottom of each of the photos. After searching for the email address in the FBI directory, (b)(6); (b)(7)(C) identified the email address as belonging to (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) confirmed in an email to the OIG that the photos provided by (b)(6); (b)(7)(C) to (b)(6); (b)(7)(C) were located on the FBI (b)(6); (b)(7)(C) internal website on the Employee Search page. Of particular note, (b)(6); (b)(7)(C) stated that any FBI computer accessing the FBI (b)(6); (b)(7)(C) network is first confronted with a warning banner that states, in part, that "this information system is provided for U.S. Government-authorized use only. Unauthorized or improper use of this system may result in disciplinary action."

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

INSD also told the OIG that (b)(6); (b)(7)(C) was (b)(6); (b)(7)(C) with (b)(6); (b)(7)(C) on (b)(6); (b)(7)(C). OIG took possession of seven phones and four subscriber identity module (SIM) cards that FBI (b)(6); (b)(7)(C) identified as the FBI-issued (b)(6); (b)(7)(C) mobile phones from (b)(6); (b)(7)(C) that would have been available for use by (b)(6); (b)(7)(C) around the time of the (b)(6); (b)(7)(C) shooting. An OIG analysis of those phones identified three of the FBI-issued mobile phones as being active on (b)(6); (b)(7)(C). The three active FBI-issued mobile phones each contained the Signal app, and the Signal accounts were registered under the usernames (b)(6); (b)(7)(C). OIG was able to link the (b)(6); (b)(7)(C) mobile phone to (b)(6); (b)(7)(C) using a Signal message sent from the mobile phone (b)(6); (b)(7)(C).

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

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

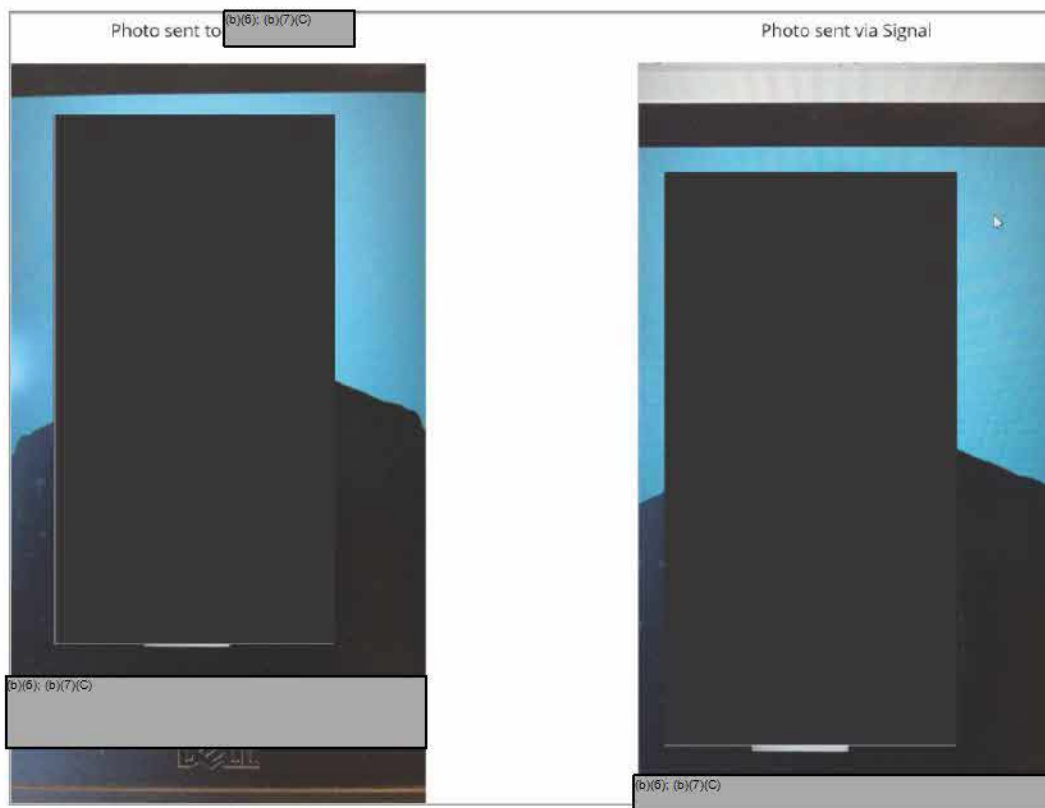
An OIG analysis of the FBI-issued (b)(6); (b)(7)(C) mobile phones revealed that (b)(6); (b)(7)(C) sent two photos via Signal on (b)(6); (b)(7)(C) at 11:06am and 11:07am Eastern Standard Time (EST). The extraction report for (b)(6); (b)(7)(C) phone did not list the users to whom (b)(6); (b)(7)(C) sent the photos. The extraction report did, however, indicate that (b)(6); (b)(7)(C) received replies from (b)(6); (b)(7)(C) phones associated with (b)(6); (b)(7)(C). OIG analysis of (b)(6); (b)(7)(C) FBI-issued (b)(6); (b)(7)(C) mobile phones indicated that they received the photos in Signal.

² The photos sent to (b)(6); (b)(7)(C) were later determined to be photos of the two agents (b)(6); (b)(7)(C) admitted to taking pictures of in the mistaken belief that they were the agents killed (b)(6); (b)(7)(C).

OIG also analyzed the FBI-issued laptop that INSD identified as the one (b)(6); (b)(7)(C) had access to on (b)(6); (b)(7)(C). This laptop was manufactured by Dell and appeared similar to the one captured in the photos of the FBI agents provided by (b)(6); (b)(7)(C). The OIG determined, however, that this laptop was only used to set up a remote connection to a virtual desktop, and thus did not contain specific user information. FBI's Enterprise Security Operations Center was subsequently able to determine that (b)(6); (b)(7)(C) logged in and out of FBINET on the day in question but was unable to provide any further usage data on the virtual desktop.

An OIG review of (b)(6); (b)(7)(C) FBI-issued desk and FBI-issued mobile phones showed no calls or text messages to numbers that could be associated with, mentioning, or alluding to, (b)(6); (b)(7)(C).

An OIG comparison of the two photos received by (b)(6); (b)(7)(C) from (b)(6); (b)(7)(C) (of one female FBI agent and one male FBI agent) and the photos recovered from (b)(6); (b)(7)(C) FBI-issued mobile phones revealed that they were different versions of the same computer screen image. Specifically, (b)(6); (b)(7)(C) photo of a female FBI agent is a picture of a computer screen displaying an image of a female FBI Special Agent. Visible at the bottom of this photo is the monitor's Dell logo. Also visible at the bottom of the screen are the letters (b)(6); (b)(7)(C). By contrast, the photo of a female agent (b)(6); (b)(7)(C) sent to (b)(6); (b)(7)(C) via the Signal app appears to be a different, zoomed in shot. The Dell logo is no longer visible and the letters visible at the bottom of the screen are limited to (b)(6); (b)(7)(C). In addition, in the photo of the female FBI agent (b)(6); (b)(7)(C) sent via the Signal app, there is a mouse cursor visible on the upper right-hand side of the photo that is not present in (b)(6); (b)(7)(C) photo. Importantly, (b)(6); (b)(7)(C) email address in the Microsoft Outlook email application icon at the bottom of the screen remains visible in both photos, indicating that (b)(6); (b)(7)(C) took two separate photos of the female agent. The two photos of the female agent are below, with the face of the agent obscured by the OIG.



Similarly, (b)(6); (b)(7)(C) photo of the male FBI agent is a picture of a computer screen displaying an image of the agent. Visible at the bottom of (b)(6); (b)(7)(C) photo is the bottom of a screen and the letters (b)(6); (b)(7)(C). There is also a black bar visible at the top of the screen in this photo. By contrast, the photo that (b)(6); (b)(7)(C) sent to (b)(6); (b)(7)(C) via the Signal app of a male FBI agent appears to have been zoomed in

or cropped as there is no text visible at the bottom of this photo and no black bar along the top. The two photos of the male agent are below, with the face of the agent obscured by the OIG.

Photo sent to (b)(6); (b)(7)(C)



Photo sent via Signal



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

The OIG searched (b)(6); (b)(7)(C) FBI-issued (b)(6); (b)(7)(C) mobile phone, standard FBI-issued mobile phone, FBI Lync messages, and FBI email accounts and did not locate any evidence that (b)(6); (b)(7)(C) had contacted (b)(6); (b)(7)(C) or disseminated photos of the FBI (b)(6); (b)(7)(C) agents beyond (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) an OIG review of (b)(6); (b)(7)(C) public (b)(6); (b)(7)(C) page demonstrated he knew of (b)(6); (b)(7)(C) prior to the (b)(6); (b)(7)(C) shooting and that he knew, or had reason to know, that (b)(6); (b)(7)(C) was a member of the media. Specifically, in the week prior to the (b)(6); (b)(7)(C) shooting, (b)(6); (b)(7)(C) "shared" a (b)(6); (b)(7)(C) post published by (b)(6); (b)(7)(C) which included a video of (b)(6); (b)(7)(C) appearance on a television show. (b)(6); (b)(7)(C) created his own post sharing (b)(6); (b)(7)(C) video and adding the comment "Interesting discussion." In addition, (b)(6); (b)(7)(C) "liked" a comment left on one of (b)(6); (b)(7)(C) later posts regarding the (b)(6); (b)(7)(C) shooting. The OIG sought (b)(6); (b)(7)(C) consent to an OIG search of his personal phone, communication applications, and social media accounts, but (b)(6); (b)(7)(C) refused to give that consent. Moreover, (b)(6); (b)(7)(C) refused to provide any information about his personal use of electronic communication or social media applications or accounts.

OIG conducted a compelled interview of (b)(6); (b)(7)(C) and prior to the start of this interview he was placed under oath by OIG investigators. (b)(6); (b)(7)(C) was also presented with OIG Form III-226/3, Warnings and Assurances to Employee Required to Provide Information. This form advised (b)(6); (b)(7)(C) that he had a duty to answer the questions posed to him during the interview, and that his answers could not be used against him in a criminal proceeding. (b)(6); (b)(7)(C) signed the form indicating that he understood.

During his compelled interview, (b)(6); (b)(7)(C) confirmed that the email address visible at the bottom of the two photos submitted by (b)(6); (b)(7)(C) belonged to him. (b)(6); (b)(7)(C) also admitted to taking photos of two FBI (b)(6); (b)(7)(C) agents (one male and one female) and sending them to (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) told the OIG that he obtained the photos by accessing the FBI (b)(6); (b)(7)(C) intranet website, enlarging the pictures of the agents located on that website on his screen, and taking photos of the screen with his FBI-issued (b)(6); (b)(7)(C) mobile phone. (b)(6); (b)(7)(C) told the OIG he took these two photos of the male and female agents as he believed them to have been the agents killed in the (b)(6); (b)(7)(C) shooting. He said he could not recall sending the photos he took of the two agents to anyone other than (b)(6); (b)(7)(C). When asked how he thought the photos he sent to (b)(6); (b)(7)(C) ended up going to (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) claimed that he had "no idea" but then noted that (b)(6); (b)(7)(C) and said that OIG should talk to them. He then stated that it "appears someone tried to set [him] up" and then explicitly speculated that one of (b)(6); (b)(7)(C) had sent the photos to (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) specifically denied sending any photos or information to (b)(6); (b)(7)(C) and told the OIG that he did not know (b)(6); (b)(7)(C) though he did admit that (b)(6); (b)(7)(C) name sounded familiar. When the OIG questioned (b)(6); (b)(7)(C) about (b)(6); (b)(7)(C) appearance on his public (b)(6); (b)(7)(C) account, (b)(6); (b)(7)(C) said he accepts as a "friend" anyone connected to the FBI on (b)(6); (b)(7)(C) and that he has over 500 such people connected to him on that site. (b)(6); (b)(7)(C) denied personally knowing or communicating with (b)(6); (b)(7)(C) or having any media contact regarding the photos of the two FBI (b)(6); (b)(7)(C) agents.

During his interview, (b)(6); (b)(7)(C) told the OIG that, in addition to his FBI-issued (b)(6); (b)(7)(C) mobile phone and his standard FBI-issued phone, he also had access to his personal phone on the day of the (b)(6); (b)(7)(C) shooting. When the OIG asked (b)(6); (b)(7)(C) for his personal phone number, he refused to provide it. (b)(6); (b)(7)(C) also refused to provide information on any other social media accounts he might have had in addition to his (b)(6); (b)(7)(C) account.

(b)(6); (b)(7)(C) also was administered a compelled OIG polygraph examination, where (b)(6); (b)(7)(C) again admitted to taking photos of the two FBI (b)(6); (b)(7)(C) agents and forwarding them to (b)(6); (b)(7)(C). When asked the question, "Did you send either of those photos to members of the media," (b)(6); (b)(7)(C) responded, "No." When asked the question, "Did you send either of those photos to anyone else on that day," (b)(6); (b)(7)(C) responded, "No." An analysis of the test data for both questions indicated deception. During his post-test interview, (b)(6); (b)(7)(C) continued to deny sending the photos to anyone other than (b)(6); (b)(7)(C) and terminated the interview.

The OIG later conducted another, voluntary, interview of (b)(6); (b)(7)(C) in which he again stated that he accessed the (b)(6); (b)(7)(C) intranet website and took photos with his (b)(6); (b)(7)(C) phone of the two agents he believed to have been killed. (b)(6); (b)(7)(C) could not recall if he took pictures with any phone other than the (b)(6); (b)(7)(C) phone. (b)(6); (b)(7)(C) could not recall how many different times he took pictures of the agents' photos stating "unless I took a photo and I didn't like it and I took a second photo to make it more clear... maybe I snapped it twice. I don't know," (b)(6); (b)(7)(C) denied several times that he sent the photos to (b)(6); (b)(7)(C). When asked if he sent them to anyone else, other than (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) said he could not recall:

OIG: And again, I just have to ask, did you take and send the photo on the left to (b)(6); (b)(7)(C) ?

(b)(6); (b)(7)(C) No.

OIG: Okay.

(b)(6); (b)(7)(C) I did not send anything to (b)(6); (b)(7)(C). I'm going to tell you that for the thousandth time. So don't ask me that again. I did not send anything, I've never had contact with (b)(6); (b)(7)(C).

³ At the time of this interview, the existence of two different sets of photos had not yet been determined.

OIG: And did you send that photo to anyone else outside of that group chat?

(b)(6); (b)(7)(C) Not that I recall.

OIG: Not that you recall or you didn't do it?

(b)(6); (b)(7)(C) Not that I recall.

When shown the two different sets of photos, one set from the Signal app and one set from (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) speculated that he was being set up by (b)(6); (b)(7)(C)

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

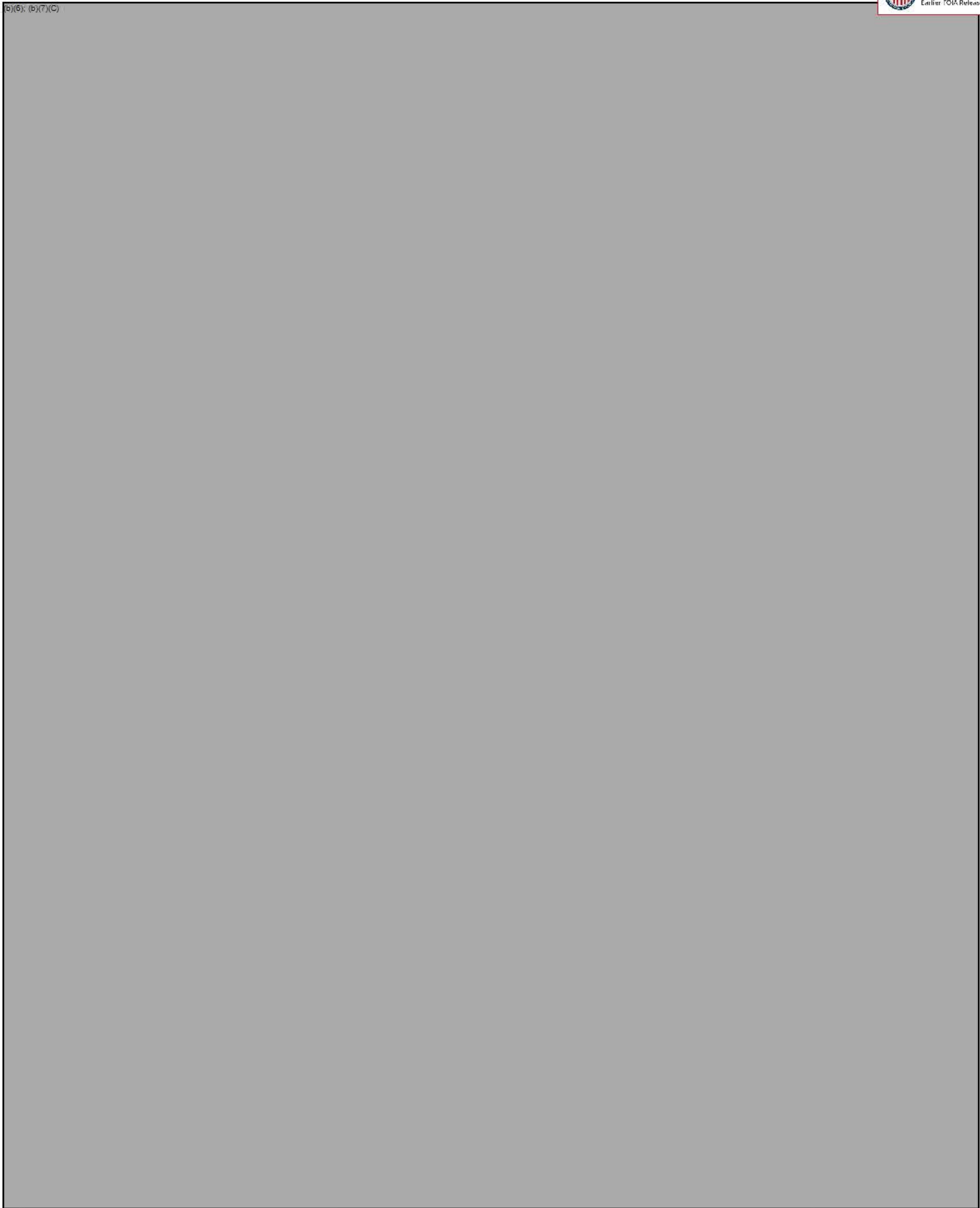
In explaining how (b)(6); (b)(7)(C) might have "set him up", (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) who must have accessed his account on the Enterprise Remote Access System (ERAS) laptop and taken the photos. (b)(6); (b)(7)(C) said the (b)(6); (b)(7)(C) shared the ERAS laptop and that (b)(6); (b)(7)(C) had helped him log on to the laptop because it was a very complicated process. (b)(6); (b)(7)(C) said that when he finished with the laptop he might not have signed out of his email, he would just close the laptop and put it in a hotel safe. (b)(6); (b)(7)(C) could not recall specifically if he shared the laptop with anyone else the day of the shooting but said he was "pretty sure" he did because that was typical behavior; however, he could not recall who he might have shared it with. (b)(6); (b)(7)(C)

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

(b)(6); (b)(7)(C) was asked if, after closing the laptop, it would automatically log out of his account, and he said that he thought that was the case, but he could not recall. When describing the usual way he handled the laptop, (b)(6); (b)(7)(C) said that after using the laptop he would shut it and put it back in the safe, then when he came back to use it again he would open it up and log back in because the password would automatically reset after a period of time. (b)(6); (b)(7)(C) could not recall an instance in which he opened up the laptop to see that (b)(6); (b)(7)(C) email account was still logged in.

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

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



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

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

On (b)(6); (b)(7)(C) retired from the FBI.

OIG's Conclusion

The OIG investigation substantiated that (b)(6); (b)(7)(C) violated FBI Offense Code 4.10, Unauthorized Disclosure – Sensitive Information; FBI Offense Code 3.6, Misuse of Government Computer; FBI Media Policy 1002PG Section 4.1.1, 18 U.S.C. § 1001, Statements or Entries Generally; FBI Offense Code 2.6 Lack of Candor/Lying – Under Oath; and FBI Offense Code 2.10 Failure to Cooperate in an Administrative Matter.

The OIG investigation concluded that (b)(6); (b)(7)(C) was responsible for two photos of FBI agents he believed to have been killed in the line of duty during a shooting (b)(6); (b)(7)(C) on (b)(6); (b)(7)(C) being sent to a member of the media, (b)(6); (b)(7)(C) without authorization, as alleged, in violation of FBI Offense Code 3.6, Misuse of Government Computer, FBI Offense Code 4.10, Unauthorized Disclosure – Sensitive Information and FBI Media Policy 1002PG Section 4.1.1. (b)(6); (b)(7)(C) admitted to accessing an internal FBI (b)(6); (b)(7)(C) database to take photos of the agents he believed to have been killed, and to forwarding those photos to (b)(6); (b)(7)(C) with (b)(6); (b)(7)(C) in violation of FBI Offense Code 3.6, Misuse of Government Computer. (b)(6); (b)(7)(C) denial that he also, and without authorization, distributed photos of the two FBI agents he believed to have been killed in the (b)(6); (b)(7)(C) shooting to (b)(6); (b)(7)(C) was not found to be credible for a number of reasons. First, (b)(6); (b)(7)(C) stated the only people he sent the photos of the FBI agents to were (b)(6); (b)(7)(C) and he speculated that one or more of them could have forwarded the photos to (b)(6); (b)(7)(C). The photos sent to (b)(6); (b)(7)(C) differed from the photos sent to (b)(6); (b)(7)(C) in that the photos sent to (b)(6); (b)(7)(C) were closer and more cropped. Moreover, a Microsoft Outlook inbox icon bearing (b)(6); (b)(7)(C) email address appeared in both of the photos sent to (b)(6); (b)(7)(C) yet only appeared in one of the photos sent to (b)(6); (b)(7)(C). Taken together, these facts indicate that (b)(6); (b)(7)(C) could not have sent the photos that (b)(6); (b)(7)(C) received. Second, the OIG's investigation found that (b)(6); (b)(7)(C) was the only one (b)(6); (b)(7)(C) who possessed a documented awareness of (b)(6); (b)(7)(C) prior to the incident. Finally, during his compelled polygraph, (b)(6); (b)(7)(C) denials that he sent the photos of the FBI agents he initially believed to have been killed in the (b)(6); (b)(7)(C) shooting to anyone in the media or anyone other than (b)(6); (b)(7)(C) showed indications of deception.

The OIG investigation also concluded that (b)(6); (b)(7)(C) made false statements, lied under oath, and demonstrated a lack of candor while under oath, in violation of 18 U.S.C. § 1001 - Statements or Entries Generally and FBI Offense Code 2.6, Lack of Candor/Lying – Under Oath. The photo of the female agent sent to (b)(6); (b)(7)(C) was a

different photo than the one sent to (b)(6); (b)(7)(C) as evidenced by the presence of a cursor in the latter but not in the former. (b)(6); (b)(7)(C) failure to disclose the fact that he took at least two separate photos of the female agent concealed a material fact from investigators.

The OIG investigation also concluded that (b)(6); (b)(7)(C) failed to cooperate fully in an OIG investigation and failed to respond to questions posed during the investigation, after being informed that his answers would not be used against him in criminal proceedings, in violation of 28 C.F.R. § 45.13, Duty to Cooperate in an Official Investigation and FBI Offense Code 2.10 Failure to Cooperate in an Administrative Matter. Prior to his compelled interview, (b)(6); (b)(7)(C) explicitly acknowledged his understanding that he had a duty to reply to questions, that his answers would not be used against him as part of a criminal prosecution, and that failure to reply fully could result in administrative action. Despite these acknowledgements, (b)(6); (b)(7)(C) still refused to answer questions posed to him by OIG investigators.

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