

UNITED STATES GOVERNMENT  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF INSPECTOR GENERAL



# MEMORANDUM

DATE: October 22, 2013

TO: David L. Hunt, Inspector General

CC: [REDACTED]

FROM: [REDACTED] for Investigations; [REDACTED] Computer Forensics Investigator; [REDACTED] Attorney; [REDACTED] Investigator

SUBJECT: FCC Employee [REDACTED] Prohibited Use of Government Equipment and Time and Attendance Issues

## Background of Investigation

On March 21, 2013, FCC OIG initiated a proactive investigation of child pornography on the FCC Network (FCC OIG Case # OIG-I-13-17). To conduct the investigation, FCC Investigators provided a comprehensive listing of child pornography keywords to contractors from the FCC's Network Security Operations Center (NSOC). The contractors used the child pornography keywords to search for contraband on the network. On April 22, 2013, FCC Investigators were advised by contractor personnel assigned to the project that the keyword search had identified Internet Browser Favorites<sup>1</sup> believed to be associated with child

<sup>1</sup> The browser favorites included MI:GAROTIC - The red light district of file hosting & online storage. Adults ONLY!.url, Big ass latino titiies - teenks.com.url, ANGRYBLACKGIRL.FUCK THE DUMB!!!!.url, Good Booty Girls.url, Hot Curves, and Nude Girls. Fast Women...Curvelocity by Robert Fein.url

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pornography on a computer workstation (FCC Barcode [REDACTED]) assigned to [REDACTED] in the Consumer and Governmental Affairs Bureau (CGB).

On September 12, 2013, during an examination of access control badge data which shows that a target is present when a computer is used, FCC Investigator [REDACTED] identified a pattern of access that appears to indicate that [REDACTED] may be committing time and attendance fraud. As a result of this information an investigation was opened covering the potential child pornography issue as well as time and attendance fraud.

**Scope of Investigation**

FCC OIG staff conducted interviews and reviewed and analyzed relevant materials as detailed below.

Interviews

- [REDACTED] (Attachment #4)
- [REDACTED] / [REDACTED] (Attachment #5)

Reports/Equipment Reviewed

- Forensic examination of [REDACTED]'s FCC-issued computer (Attachment #1 Media Analysis Report)
- Access Control Badge Data Analysis Spreadsheet (Attachment #3)

**Findings: Prohibited Use of Government Equipment (Desktop Computer)**

1. FCC Directive FCCINST 1479.4, FCC Cyber Security Program, effective May 1, 2011

Subparagraph 7.12 of FCCINST 1479.4 provides that users must:

- Read, sign indicating acceptance of, and comply with the FCC Computer System User Rules of Behavior;
- Use FCC information system resources only for authorized FCC business purposes, except as provided by the FCC's limited personal use policy

2. FCC Cybersecurity Policy v3.1

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Effective Date: July 31, 2012

Paragraph 2.0.2 Broad Organizational Policies of FCC Cybersecurity Policy provides:

Staff using FCC information systems or accounts must not participate in unethical, illegal or inappropriate activities such as: for-profit commercial activities, pirating software, stealing passwords, stealing credit card numbers, and viewing/exchanging inappropriate written or graphic material (e.g., pornography).

Paragraph 2.11 Internet Usage of FCC Cybersecurity Policy provides that unacceptable uses of the Internet when using an FCC internet connection or account include:

- You must not use the Internet to view or download pornography.

3. FCC Computer System User Rules of Behavior

Form A-201

Revised January 2006

(Attachment #2 Rules of Behavior (ROB) signed by [REDACTED])

FCC Computer System User Rules of Behavior provides:

**POLICY FOR USE OF COMPUTER RESOURCES.**

As an employee or contractor of the Federal Communications Commission (FCC), you are required to be aware of, and comply with the FCC's policy on usage and security of computer resources, per OMB Circular A-130, Appendix III. Use of this system is for FCC authorized purposes only. Any other use may be misuse of Government property in violation of Federal regulations. All information in this system is subject to access by authorized FCC personnel at any time. Individual users have no privacy interest in such information.

[REDACTED], FCC OIG computer forensics investigator, identified a large volume of pornographic and inappropriate<sup>2</sup> images and video files on [REDACTED]'s FCC-issued computer. Specifically, the computer forensics investigator identified two-hundred forty eight (248), pornographic image files, one-hundred thirty five (135) inappropriate image files, twenty-two (22) pornographic video files, and thirty-one (31) inappropriate video files. The computer

<sup>2</sup> For purposes of the forensic examination, the computer forensics investigator defined inappropriate images and video as images or videos depicting scantily clad women in sexually provocative poses.

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forensics investigator also found one (1) Adobe Acrobat document containing graphic descriptions of sexual activity and one (1) Microsoft Office document containing an inappropriate image. Further, the computer forensics investigator identified seven (7) video files depicting graphic violence. The computer forensics investigator determined that ██████ used the FCC network to obtain some of the pornographic and inappropriate material.

In an interview, ██████ admitted to using ██████ FCC issued desktop for "other than official government work." ██████ offered that ██████ may have music on ██████ computer, as well as pictures of videogames, cars, shoes, women in bikinis as well as "naked women, but nothing under 18 or 21." ██████ admitted that ██████ was getting these pictures from message boards or from Facebook pictures. These message boards also include topics related to sports and politics. ██████ visits these message boards daily and thought ██████ might have approximately 80 to 90 pornographic pictures. ██████ informed ██████ that during the computer forensic examination, 248 pornographic pictures and 22 pornographic videos were found. After additional questioning ██████ ultimately admitted to downloading pictures and knowing that ██████ had pornographic videos on his Commission-issued computer.

████████ stated ██████ is not passing pictures to FCC or other federal employees via ██████ FCC.GOV email address, nor does ██████ share articles ██████ finds on the message boards via ██████ FCC.GOV email address or visit adult web sites. ██████ admitted to using ██████ FCC computer to transfer pictures from ██████ phone to a Zip or thumb drive, and saved pornographic pictures and videos to ██████ C:\ drive on ██████ computer.

████████ offered that during the forensic examination, 7 videos of violence were found. ██████ stated that ██████ hasn't viewed it in a long time, "maybe 3,4, 5 years ago." ██████ admitted to finding these photos on YouTube or WorldStar. ██████ stated "I'm not searching for it."

**Findings: Suspected Marijuana Use**

1.Executive Order 12564 of September 15, 1986 Drug-Free Federal Workplace

Section 1 provides that:

- (a) Federal employees are required to refrain from the use of illegal drugs.
- (b) The use of illegal drugs by Federal employees, whether on duty or off duty, is contrary to the efficiency of the service.
- (c) Persons who use illegal drugs are not suitable for Federal employment.

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The computer forensic examination showed both images and videos of ██████ using what the investigators believed to be marijuana. These electronically stored pictures contain metadata (imbedded electronic information that gives GPS location information regarding where images or video were accessed, information that is stored on most electronic devices to include cell phones.) Investigators were able to use the GPS location information contained in the metadata associated with the pictures and determined that the pictures were taken at ██████'s home address.

█████ admitted to using marijuana about three times a month and as recently as 2 weekends prior to the interview.<sup>3</sup> ██████ claimed to use marijuana socially and does not smoke before or at work and only at night. ██████ says "it does not run my life." ██████ purchases marijuana on a monthly basis, spending between \$10 and \$20 per month. ██████ also trades alcohol for marijuana when friends come over to ██████ apartment. ██████ was shown several still images and asked if they were from ██████ computer and ██████ said "If it's on there, I'll be held accountable. I'll take full responsibility for it." ██████ indicated that these were older pictures and videos that ██████ had on ██████ phone and ██████ was using ██████ FCC computer to transfer files to a thumb drive but "I may have forgotten about them." ██████ is aware of the government policy on drug use and admitted "if you gave me a piss test today, I would fail." ██████ does not use marijuana with FCC employees. ██████ acknowledged the pictures were "from a while back when I was young and dumb." ██████ also conceded that the videos were of ██████ and "I should not have them on my computer."

**Findings: Time and Attendance Issues**

1.5 USC § 6101 - Basic 40-hour workweek; work schedules; regulations

(a) (1) For the purpose of this subsection, "employee" includes an employee of the government of the District of Columbia and an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541 (2) of this title, except as specifically provided under this paragraph.

(3) Except when the head of an Executive agency, a military department, or of the government of the District of Columbia determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that—

<sup>3</sup> Based on the interview date of September 18, 2013.

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- (A) assignments to tours of duty are scheduled in advance over periods of not less than 1 week;
- (B) the basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;
- (C) the working hours in each day in the basic workweek are the same;
- (D) the basic nonovertime workday may not exceed 8 hours;
- (E) the occurrence of holidays may not affect the designation of the basic workweek; and
- (F) breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

2. 5 USC Chapter 63, Subchapter I – Annual and Sick Leave

5 USC § 6302 - General provisions

(a) The days of leave provided by this subchapter are days on which an employee would otherwise work and receive pay and are exclusive of holidays and nonworkdays established by Federal statute, Executive order, or administrative order.

According to the Federal Communications Commission's Employee Handbook, page 16, "Tours of duty will be established by the supervisor to cover an eight and one-half hour period, including lunch, and will begin between 7:00 a.m. and 10:00 a.m. and end between 3:30 p.m. and 6:30 p.m."

██████████'s tour of duty is from 8am until 4:30pm. ██████████ does not telework or work a compressed work schedule. ██████████ admitted that ██████████ "usually gets in the office around 8-8:30 and leaves around 3:45-4:00pm." ██████████ stated that "██████████<sup>4</sup> okays me coming in 5 -10 minutes late, and ██████████ is okay if I have to leave early." ██████████ stated that if ██████████ is missing more than 2 hours of work, ██████████ would put in a leave slip, but for 30 minutes to an hour ██████████ does not.

██████████ informed ██████████'s that ██████████ badge access data from July 12, 2013 to September 11, 2013 shows that ██████████ is short by 55 hours. ██████████ stated that 4 -5 months ago ██████████ had to "duck out early" for some personal things. When ██████████ explained the time period reviewed covered two months, not just a few days in which ██████████ may have left early, ██████████ offered that "██████████ begs me to take leave." ██████████ also stated that "I have the leave to cover the hours, just take it." ██████████ showed ██████████ the spreadsheet and asked if ██████████ had any

<sup>4</sup> ██████████, Bureau Chief, Office of Native Affairs and Policy (ONAP), Consumer and Governmental Affairs Bureau (CGB), FCC

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explanation for the missing hours. [redacted] stated "it sounds about right." When initially asked how long [redacted] had been leaving early [redacted] said 3 or 4 months, however after additional questioning admitted [redacted] has been arriving late or leaving early for "a couple of years."<sup>5</sup>

**Conclusions: Prohibited Use of FCC Owned Computer**

Our investigation has established that [redacted] engaged in personal, extensive non-work related use of [redacted] FCC-issued computer in violation of FCC Directive 1479.4 and the FCC Cybersecurity Policy. [redacted] has admitted to visiting and viewing pornographic material and adult sites.

**Conclusions: Suspected Marijuana Use**

Our investigation established the likelihood of and [redacted] has in fact admitted to, marijuana use in violation of Government illegal drug use policy.

**Conclusions: Time and Attendance Issues**

Based upon the access control system badge data and [redacted]'s admission that [redacted] has arrived later and left earlier than [redacted] official tour of duty hours, it is reasonable to conclude that [redacted] has not followed the time and attendance rules relative to [redacted] official tour of duty. Analysis of Access Badge Data and payroll records show 55 hours for which [redacted] was paid but was not in the building and was not on authorized leave.

**Recommendations**

[redacted]

**Attachments**

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<sup>5</sup> [redacted] and [redacted] interviewed [redacted] on Wednesday September 18, 2013. The interview concluded at approximately 10:50am. At 11:06am on that same day, [redacted] completed [redacted] timesheet covering pay period 18, from September 8 through September 21. [redacted] did not account for leave on [redacted] timesheet, even though [redacted] had just admitted to investigators that [redacted] arrived late and left early during this time period.

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Attachment #1 Media Analysis Report dated 9/6/2013(note: graphic images and language)

Attachment #2 Rules of Behavior (ROB) signed by [REDACTED] 1/5/07

Attachment #3 Access control badge data analysis spreadsheet

Attachment #4 Memorandum of Interview: [REDACTED]

Attachment #5 Memorandum of Interview: [REDACTED]

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