



Celebrating 20 Years: 1999-2019

WIFLE Foundation 20<sup>th</sup> Anniversary Leadership Training

July 15 - 18, 2019 Hyatt Crystal City, Arlington VA

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# Celebrating 20 Years 1999-2019

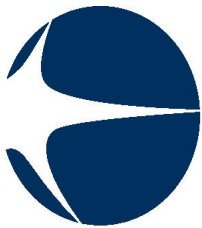


### **20<sup>th</sup> Annual WIFLE 2019 Leadership Training!**

In July, WIFLE will hold its 20<sup>th</sup> Annual Leadership Training. The Hyatt Crystal City in Arlington, VA, is this year's host for the training – easily accessible to all of you located in the Washington, DC area. Kickoff ceremonies are Tuesday, July 16, 2019, with training continuing through Thursday, July 18, 2019.

Optional Monday training classes are included in your training registration fee, but please sign up early. Monday training classes are limited in size and pre-registration is required. And don't forget the Julie Y. Cross Memorial Golf Tournament also on Monday. In addition, during this year's training week, WIFLE will hold its Annual Awards Luncheon on Wednesday, July 17, as well as sponsor a career day with agency recruiters that will be open to the public.

Come join WIFLE to celebrate its 20<sup>th</sup> year of leadership training. Reduced fees are valid through April 30, 2019. Complete details about the week of training are found at [wifle.org](http://wifle.org).



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### **MAINTAINING HEALTHY RELATIONSHIPS AS A FEDERAL LAW ENFORCER: Secrets to Successfully Manage Stress from Your Job and Stop It from Harming Your Personal Life**

Most jobs have a certain degree of pressure attached to them, but working as a federal law enforcer can truly take stress to the next level. And no matter how much you may try to avoid it, it's practically impossible to prevent that stress from creeping into your personal

#### **FEDERAL EMPLOYEE PROGRAM ADMINISTRATOR**

life. The worst part is that it may take a friend or a family member to point out just how much it's all getting to you. It may be why [law enforcers carry higher risks of divorce](#) than many other professions. If you're starting to feel your personal and professional life crumble from the inside out, there are ways to turn it around.

#### **Hit the Ground Running**

Your brain is more equipped to [handle tough decisions at the beginning of the day](#) rather than the end. Interestingly enough, this is true even if you consider yourself to be a night owl. (If you work the night shift, you can count the beginning of the day as immediately after you wake up.) Rearranging your schedule to front-load your day can lighten your load tremendously.

After a while, you'll get used to tackling complex matters when you're at your best rather than at the end of your shift when your brain has been taxed again and again. You can also use this strategy to help your loved ones at home as well. If you're constantly coming home unable to lift a muscle, you can concentrate on getting tasks out of the way as early as you can for better results.

### Resting Your Brain

Sleep has become a controversial topic in recent years, largely due to the number of distractions we face on a regular basis. Chances are, if you knew how to sleep for eight hours a night, you would have already made it happen. But giving up on a quality night's rest means opening yourself up to impatience, irritation, and even extreme anger. To curb stress, you need to keep working on your routine until you get it right.

Along with eating right and exercising throughout the day, law enforcers need to go to bed at the same time in a dark, quiet space. Even if you aren't actively sleeping during this time, you can at least work on giving your body some relief. Your loved ones can probably already tell you that you're easier to be around after you've had some rest.

### Seek Out More Support

The truth is that federal law enforcement officers face an incredible amount of criticism and scrutiny in their jobs. The distrust of the public and even from outside officials can be enough to make anyone crack. If you're holding all of that fear inside, you'll eventually start to see it emerge in other, less healthy ways. In addition to discussing matters with your superiors, it may be time to find someone trusted to confide in – be that a family member, friend, or professional.

This may be a difficult step for a number of reasons. When confiding in those you know, not only can it be hard for outsiders to put themselves in your shoes, but it's also going to be hard for you to step out of the defense mode that's defined you for many years. However, if your family and friends really care about you, they'll make an effort to at least try to understand the pressure you feel if you first make the effort to come out of your shell. If this is not an option for you – or even if it is – speaking to someone professionally trained to help, can be extremely useful.

### Enrich Your Outside Life

When you neglect your own hobbies and interests for your family or profession, you ultimately chip away at your identity little by little. Making time for yourself isn't selfish, it's a way you can retain your efficacy both on and off the job. If your spouse or superiors try to tell you otherwise, you need to emphasize that it's more important to maintain your sanity than it is to overschedule yourself.

### Adjust Your Insurance

In a society that advocates lawsuits as a means to financial compensation, federal law enforcers need a solid insurance policy that can help cover potential allegations they may face while on the job. This tactic gives you the risk management you are likely to need if you are served with an official complaint.

Starr Wright USA provides [Professional Liability Insurance](#) to federal employees that may help alleviate the costs of attorney fees and liability. Additionally, their policies for federal law enforcement officers include coverage for instances of the lawful use of a firearm while off duty. While even the best policy can't eliminate all the stress you may feel, it can be a light in the dark during particularly trying times.

Unfortunately, most federal employees vastly underestimate the emotional and financial devastation of a single claim. Lawsuits can drag on for months, wreaking havoc on a federal law enforcer's finances, family and emotional well-being. Starr Wright is here to be the provider you need in those difficult times

Article sponsored by Starr Wright USA.

*Starr Wright USA, a marketing name for Starr Wright Insurance Agency, Inc. and its affiliate(s) is an insurance agency specializing in insurance solutions for federal employees and federal contractors. For more information, visit [WrightUSA.com](http://WrightUSA.com). Starr Wright USA is a division of Starr Insurance Companies, which is a marketing name for the operating insurance and travel assistance companies and subsidiaries of Starr International Company, Inc. and for the investment business of C.V. Starr & Co., Inc.*

### Sources



## Healthy habits for a happy heart

You can help avoid future heart problems by making healthy changes today. And the same habits that help keep your heart strong also reduce your risk for other diseases — another good reason to take these health tips to heart.

### Know your numbers

Get regular screenings with your doctor to keep tabs on your blood pressure and body mass index (BMI). Blood pressure over 120/80 and BMI of 25 or higher are both linked to increased risk for heart disease and stroke.\*

### Stand up for your health

The more you sit, the higher your risk for heart problems. Try standing when you'd normally sit, like when you're watching TV—or setting a reminder on your phone to get up and move once an hour.

### Get the facts on fats

Some fats are healthier than others. Unsaturated fats like olive oil and avocado are the healthiest choices. Limit saturated fats found in things like butter and cheese — and avoid trans fats altogether.

Want to show your heart  
some more love?

\*American Heart Association



Visit [kp.org/heart](http://kp.org/heart) and follow us @kpthrive.

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Undergraduate applicants must be age 22 or older to be eligible



## UPCOMING EVENTS

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**Supreme Court Rules in Favor of Federal Retiree, Protecting Entire Federal Community (*Dawson v. Steager*)**



On February 20, the U.S. Supreme Court (the Court) issued a unanimous 9-0 decision in the *Dawson v. Steager* case, reversing West Virginia's discriminatory taxation of former U.S. Marshal James Dawson's federal annuity.

West Virginia tax law allows state law-enforcement retirees to exempt from state taxation all benefits received from four West Virginia retirement plans, while denying the same generous treatment for Dawson's Federal Employees Retirement System (FERS) annuity earned through similar work as a federal law-enforcement officer. The Court held that West Virginia law unlawfully discriminates against Dawson as prohibited by the doctrine of intergovernmental tax immunity codified in 4 U.S.C. § 111. The Court found that a state is in violation of the law when it treats its own retired state employees differently than it does retired federal employees and there is "no significant

differences between the two classes" (as held in *Davis v. Michigan*) to justify the differential treatment.

The Court's decision to overturn West Virginia's inequitable state tax law will protect federal retirees from discriminatory tax treatment by state governments and sends an unambiguous message to all state governments that unfair tax treatment of federal annuitants is not permitted.



## YOUR FEDERAL BENEFITS EXPLAINED

Sandra K. Harmon, President, Harmon and Associates

### **PUBLIC SERVICE LOAN FORGIVENESS PROGRAM (PSLFP)**

This is a George W. Bush era program; but due to the fact that participants had to complete 10 years of Public Service after date of enactment, the program was first available in 2018.

The Public Service Loan Forgiveness Program forgives loans for students who made 10 years of loan payments while they worked in public service jobs. Without this program many federal employees would have been paying off their student loans for 20 to 25 years.

#### **What is the PSLF Program?**

The PSLF Program was created to give incentive to individuals to find full-time long-term work in public service jobs. If an individual works in a certain public service job and has made 120 qualifying monthly payments on their Direct Loan, they may qualify for forgiveness of the remaining amount on their loan.

The full-time positions that qualify include any federal, state or local government agency, entity, or organization. Also qualifying would be a full-time position with a non-profit that has been designated as tax-exempt by the IRS under Section 501(c)(3) of the Internal Revenue Code. The types of employment or services performed within the organization do not matter in order to receive a PSLF. They do, however, matter if the non-profit is a private entity, but is NOT a tax-exempt organization

under Section 501(c)(3). In this case, the services must include one of the following:

- Emergency management
- Military services
- School library or other school services
- Public interest law services
- Early childhood education
- Public service for the elderly and individuals with disability

#### **Are there other affordable payment options available?**

Yes. The federal government offers a number of income-driven repayment options that limit monthly payments to between 10 and 20 percent of “discretionary income.” The federal government determines “discretionary income” as anything you earn that is above 150 percent of the poverty line, which would translate to an annual salary of about \$18,000 for a single adult. So, if you earn \$25,000 a year, your monthly payments would be limited to somewhere between \$700 and \$1,400 per year, or about \$58 and \$116 per month.

These plans are not as generous as Public Service Loan Forgiveness because payments must be made for between 20 and 25 years — instead of 10 years under Public Service Loan Forgiveness. Also, any forgiven balance under income-driven repayment options is subject to income taxes, whereas balances forgiven through Public Service Loan Forgiveness are not taxed.



## DON'T MISS A BEAT

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### **FEDagent WEEKLY E-REPORT**

FEDagent® ([www.FEDagent.com](http://www.FEDagent.com)) is a free weekly E-Report providing up-to-date news for 1811 Special Agents and other federal employees engaged in the mission of federal law enforcement and homeland security.

Each week readers will find the following unfiltered, unbiased features in an easy-to-read, straightforward format:

**Top News** – Get the significant news stories pertaining to federal law enforcement and homeland security.

**The Takedown** – Learn about the a recent, significant bust made by federal law enforcement. Topics range from border and national security to fugitives and drugs.

**Case Law Update** – Find comprehensive summaries of recent court decisions written by an attorney in clear, jargon-free language. Topics include the never-ending developments in search and seizure law, federal sentencing guidelines, and the law of governmental immunity.

*FEDagent is published by the law firm (and WIFLE partner/sponsor) Shaw Bransford & Roth P.C. FEDagent.com has been online since 2002 and is proud to be known as the first and only electronic report exclusively serving the federal law enforcement community.*

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### **Police officer Zinab Kitonyi, an Excelsior student, stresses the importance of doing something helpful during active shooter**



“We don’t get to pick and choose when bad things happen. Doing something in a situation matters,” said police officer Zinab Kitonyi, after a workplace training class on how to respond to an active shooter event.

Kitonyi, known as “Zee,” a student in the Associate in Science in Administrative and Management Studies, came to Excelsior College in September during National Preparedness Month to train employees on Civilian Response to Active Shooter Events (CRASE). For the past five years, he has been a trainer for the Training and Policy Unit in the Albany (New York) Police Department.



Kitonyi's typical day is teaching other officers, from academy-level recruits to seasoned officers, about counterterrorism.

For Kitonyi, active shooter response planning and training is important. The Sandy Hook shooting in 2012 drove the police industry to start training officers. Now the police teach everybody. The CRASE class provides strategies, guidance, and a proven plan for surviving an active shooter event. The goal is to provide those attending the course with the knowledge and empowerment to act immediately and in a deliberate manner during a stressful event.

The takeaway he hopes anyone attending the CRASE training walks away with is the importance of taking action. "We are not helpless. What we do matters," said Kitonyi. "Doing something in a situation matters. Doing nothing can work against us."



Kitonyi spent 13 years in the U.S. Army after graduating high school and was deployed in counterterrorism operations in Iraq in 2004 and 2005. Since then, he has spent 15 years in the Albany Police Department. He explained he was motivated to go to Excelsior College since he could apply training from the military and police department as credit toward his degree. Based on his prior experience, when he started the degree program he had about 50 percent of his credits completed from on-the-job experience. It was a huge factor for him in going to college. He also has support from his wife and family, as well as from his father who is a retired UAlbany teacher. Kitonyi is also motivated by planning for his career after

this own retirement. He wants to teach in the private sector after leaving the police force. Building on his current work, he has a desire to run his own teaching and training business and continue to educate others.

To learn more about WIFLE's partnership with Excelsior, visit: [wifle.excelsior.edu](http://wifle.excelsior.edu) or call 844-843-9296. If you are a veteran or active duty military, call 844-843-9299. Mention you are with WIFLE to ensure you get partnership discounts and other benefits. Expect more. Get More.

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**CAREGIVING: THE FLTCIP  
OFFERS SUPPORT WHEN YOU  
NEED IT MOST**

No matter your stage of life, it's always a good idea to have a long-range health plan in place. One thing to keep in mind is coverage for any potential long term care needs.



**The Federal Long Term  
Care Insurance Program™**

[www.LTCFEDS.com](http://www.LTCFEDS.com)

Long term care is personal care and other related services provided on an extended basis to people who need help with specific everyday activities (called Activities of Daily Living) or who need supervision due to a severe cognitive impairment, such as Alzheimer's Disease. The need for long term care can strike at any time in life due to chronic illness, injury, disability, or the aging process. And most long term care is provided at home and not in facilities. This type of care is expensive, and is generally not covered by traditional types of insurance plans or Medicare.

### Who will provide care?

The need for long term care can be a significant change for someone who is accustomed to independent living. This experience can be overwhelming, not only for you—but for your loved ones too. The demands of caregiving can be stressful, and often take a toll on a caregiver's health and well-being.

A caregiver can be your family member, friend, or neighbor. About 80 percent of care at home is provided by unpaid caregivers.<sup>1</sup> Caregiving responsibilities can include homemaking and hands-on care with daily activities, such as bathing, dressing, or feeding.

Taking care of a loved one is a time-consuming commitment. Even if a family member or friend can find the time to take care of you, it often comes at a tremendous financial and emotional cost. Caregiving can cost the average caregiver in lost wages and, often times, a caregiver's own health can deteriorate. Caregivers report having difficulty finding time for one's self, managing emotional and physical strain, and balancing work and family responsibilities.<sup>2</sup>

### The FLTCIP can help

Applying for insurance coverage under the Federal Long Term Care Insurance Program (FLTCIP)—designed specifically for the federal family—may be a smart choice for you. The FLTCIP is designed to

reimburse for qualified long term care services and can lessen or eliminate an individual's reliance on a loved one to provide hands-on care. As you assess the FLTCIP's value, consider these important [benefits](#):

-The FLTCIP offers comprehensive insurance coverage for long term care services in a variety of settings—at home or in a facility, such as an assisted living facility, an adult daycare, or a nursing center—and your choice of caregiver.

-If home care is your preference, the stay-at-home benefit includes a range of services that support care in your home, helping you maintain your quality of life in familiar surroundings.

-Informal care provided by friends and family members is covered up to 500 days, as long as they do not live in your home at the time you become eligible for benefits.

-The program's care coordination services offer enrollees and their qualified relatives information about long term care resources, such as local care providers and relevant community programs, as well as valuable support to your family and friends.

### Start planning today

To determine if the FLTCIP is right for you, visit [LTCFEDS.com](http://LTCFEDS.com) to access a suite of online planning tools.

For personalized assistance, call **1-800-LTC-FEDS** (1-800-582-3337) TTY 1-800-843-3557 to speak with a program consultant. They are available to answer any questions you may have and can walk you step-by-step through the plan design and application process.

Note: Certain medical conditions, or combinations of conditions, will prevent some people from being approved for coverage. You need to apply to find out if you qualify for coverage under the FLTCIP.

### More about the FLTCIP

Established by an act of Congress in 2000 and

overseen by the U.S. Office of Personnel Management (OPM), the FLTCIP is designed to meet the specific needs of the Federal family. The long term care insurance under the FLTCIP provides industry-leading benefits and offers flexible options that allow enrollees to tailor coverage to meet their needs.

The FLTCIP is sponsored by the U.S. Office of Personnel Management, insured by John Hancock Life & Health Insurance Company, and administered by Long Term Care Partners, LLC.

1. U.S. Department of Health and Human Services. "Who Will Provide Your Care?," [longtermcare.acl.gov/the-basics](http://longtermcare.acl.gov/the-basics) (accessed February 2018).
2. National Alliance for Caregiving. "Caregiving in the U.S. 2015," [caregiving.org/caregiving2015](http://caregiving.org/caregiving2015) (accessed February 2018).



By June Werdlow Rogers, PhD  
Retired DEA SAC

## WANTED SUPERVISORS, PART I: IS THE FAST TRACK FOR YOU?

*By June Werdlow Rogers, PhD  
Retired SAC (DEA)*

So, you have been working for the federal government for a few years, and mastered all of the knowledge, skills and abilities of your position – now what?

Law enforcement agencies offer so many opportunities from lateral assignment to advancement, it is no wonder that a sense of knowing "I've got this," often accompanies a restlessness of wanting to move on – or move up. While it may be natural to feel like it is time for a change in your career, should it be to a supervisory position? Below are some soul-searching rationales that can help you clarify your answer:

**Show Me the Money** - It is undeniable that earning a higher salary is a factor. According to the Office of Personnel Management (OPM), the difference between GS-13 and GS-14 is a whopping \$13,742 per year! Recognize that with first-line supervision considered among the most complex of positions, the extra money you make will not seem like it's worth it when encountering the inevitable challenges. Seeking promotion primarily for monetary reasons can result in misery, for the supervisor and her subordinates.

**It's my Ticket Back Home** – You may have signed a mobility agreement, but "there's no place like home." When that vacancy announcement lists your hometown, it is tempting to apply for this reason alone. You further reason that knowing the physical geography and possibly other law enforcement officers in the area would be helpful too. While there exist many positives to being promoted to an area you are familiar with, be mindful that once you are on a supervisory track, the possibility of transfers increase substantially. Even if you become a first-line supervisor with no intention of moving up beyond this, you most likely will have to work a tour at your headquarters and then transfer to another post after that.

**Large and in Charge** – Enjoying the honor of being a supervisor feels good, but “it costs to be the boss.” Prestige is a double-edged sword meaning that just as others are looking up to you – subordinates hold a vantage point of your assets and your flaws. Can you maintain the balance of self-confidence without becoming arrogant? Remaining anchored is a maintenance requirement that rests solely with the individual supervisor.

**I Can Do Better** - Observing marginal supervision was one of the prevailing reasons I decided on a management career. For sure, committing to be the change you want to see is a noble reason for leadership service. But recognize that even as a supervisor, your ability to make changes is limited. Frustrations from resource allocation to motivating employees await. Will you commit to high performance and stewardship in the face of such obstacles? Becoming responsible for the adverse outcomes of an agency and its subordinates is not for everyone.

You will likely find that your answer to the call of leadership probably includes a combined response to the above declarations. Moreover, just as individuals differ, there are endless combinations so you may have other responses. Think about additional reasons you are interested in supervision and make a list. In the end, consider if the foundation of your reasoning is in leading others towards mission accomplishment and positive change.

Next quarter, we will discuss how women in federal law enforcement can prepare to jump onto the fast track.



## **FEDS – IT’S TIME TO COVER YOUR ACTS**

Federal employment lawyers can tell you how often federal employees are held accountable for daily decisions and actions – go ahead, google “federal employment lawyers” then call and ask. WIFLE and other federal leaders often communicate the need for you to get professional liability insurance. Congress even passed a law requiring your agency to reimburse you up to half the cost of this insurance.

Yet we still get calls, every single day, from your coworkers saying, “ I didn’t think this would ever happen to me.” Regardless of how well you think you’re doing your job, you are not immune to allegations of wrongdoing. If you are an active federal agent, you have three areas of professional exposure – administrative, civil and criminal – and if you don’t have FEDS Protection, you may soon be googling federal employment lawyers again. And at \$300 - \$400 per hour, they are way more expensive. For as little as \$145 annually (after agency reimbursement), FEDS Protection provides coverage for your professional exposures:

### **Civil Lawsuits:**

FEDS Protection pays up to 1 or 2 million dollars of indemnity protection in the event you are sued and found liable for a personal capacity lawsuit (commonly referred to as constitutional torts or *Bivens* actions).

- You don't have absolute immunity for personal capacity lawsuits like you do for lawsuits under the Federal Torts Claims Act (FTCA).
- The FEDS policy will appoint an attorney to defend in these personal capacity lawsuits when the Department of Justice (DOJ) exercises its discretion not to defend you in the lawsuit.

FEDS may also appoint coverage counsel to monitor DOJ's defense of you, or if DOJ is on the fence as to whether it will defend, FEDS may hire coverage counsel to convince DOJ to provide the defense.

**Administrative & Disciplinary Matters:**

FEDS Protection pays for legal defense up to \$200,000 for any disciplinary or judicial sanction proceeding; or administrative investigation arising out of any act, error, or omission while rendering a professional service. This includes any administrative investigation – whether it is the Office of the Inspection General (OIG), congressional, or any agency or internal management investigation that could result in a personnel action. The FEDS policy provides an attorney throughout the investigation and in the unfortunate event that there is a disciplinary action imposed. And don't be naïve, the quality of your legal representation matters!

**Criminal Investigations:**

FEDS Protection pays for legal defense up to \$100,000 for criminal proceeding or investigation into any act, error, or omission arising out of the course and scope of employment. Some of the most common criminal investigations involving federal Law Enforcement Officers (LEOs) are due to inaccurate information in an investigative document or court testimony, conflict of interest statutes, release of privacy act or other statutory protected information, or an alleged abuse of authority or position claim.

So, please don't think "this could never happen to me" – because it can, it does, and we have the claims and consultations to prove it! Enrollment takes 5 minutes.

Call 866-955-FEDS or visit [www.fedsprotection.com](http://www.fedsprotection.com) to enroll today.

*"Because federal law enforcement officers are held to the highest standard of honesty and credibility, failing to properly respond to allegations of misconduct can quickly end one's career. With federal agencies now prohibited from settling such matters with "clean record agreements," the costs and stakes of responding to such allegations has never been higher in my 15 years of representing federal employees."*

*-Peter J. Jeffrey, Managing Director, The Jeffrey Law Group, PLLC*

*"I served as a federal prosecutor with the Department of Justice for 14 years and for the past 20 years, I have defended dozens of federal officials and employees who have become the subjects or targets of criminal investigations. The vast majority were honest, upstanding, and dedicated civil servants who committed no crime, but rather were the victims of overzealous investigators and prosecutors."*

*-David Schertler, Managing Partner, Schertler & Onorato, LLP*

*"I have been representing federal employees for over 20 years. The post 9/11 landscape has taken the work and scrutiny of federal law enforcement to a whole new place, making it unlikely anymore to complete a career in law enforcement without having to answer to an allegation of wrongdoing."*

*-Debra L. Roth, Managing Partner, Shaw, Bransford & Roth, P.C.*

*"For more than 20 years at the Justice Department, I was involved in the defense of lawsuits brought personally against federal employees. Almost always, the matter involved a public servant conscientiously and in good faith carrying out the legitimate and authorized business of the United States."*

*-John Euler, Esq., Former Deputy Director, Torts Branch, Civil Division, US Department of Justice*



## **GIGLIO IMPAIRED? – THUS ENDS YOUR FEDERAL LAW ENFORCEMENT**

By Peter J. Jeffrey, Esq., Member, The Jeffrey Law Group, PLLC, *The Federal Employee's Law Firm* ®

As a Federal Law Enforcement Officer (FLEO) you must be especially careful not to engage in any on- or off-duty misconduct that could even slightly damage your credibility. Because of the need for public trust and confidence attendant to your job responsibilities, including testifying at criminal trials, your employer holds you to the highest standard of honesty and credibility. *See Hernandez v. Department of Homeland Security*, 324 F. App'x 908, 911 (Fed. Cir. 2009). Once your credibility is compromised, your ability to testify at trial is damaged. One small misstep at work or off-duty could put your entire career in peril.

In *Giglio v. United States*, the U.S. Supreme Court held that due process requires the disclosure of exculpatory and impeachment evidence when such evidence is material to guilt or punishment.

*Giglio v. United States*, 405 U.S. 150 (1972). When reliability of a given witness may be determinative of guilt or innocence, nondisclosure of evidence affecting credibility justifies a new trial irrespective of good or bad faith of the prosecution. *Giglio*, 405 U.S. at 153-54; *Brady v. Maryland*, 373 U.S. 83, 87 (1963). As a FLEO you have an obligation to inform prosecuting attorneys of potential impeachment information prior to providing a sworn statement or testimony in any investigation or case. (*See United States Attorneys' Manual (USAM) Chapter 9.500-1*). Moreover, upon the prosecuting office's request, your agency has an obligation to turn over information that reflects upon your truthfulness or bias, including in some circumstances, allegations that are unsubstantiated. (*See id. at 9-500.1, ¶ 6*). Therefore, specific instances of your past conduct could be used to attack your credibility or character for truthfulness when testifying at a criminal trial. Any potential impeachment evidence that would render your testimony of marginal value in a case renders you "*Giglio*-impaired."

Further, the U.S. Court of Appeals for the Federal Circuit has held, in part, that the U.S. Attorney's Office (USAO) *Giglio* determination of a FLEO is akin to a third-party licensing situation. *See Trong Q. Nguyen v. Department of Homeland Security*, 737 F.3d 711 (2013). Specifically, in such cases, your agency must take the USAO's action at face value, regardless of whether the USAO's *Giglio* determination is devoid of any objective standard or opportunity to appeal, because the agency lacks authority to contest the USAO's decision. (*See id.*) Further, even if an agency has previously disciplined an employee for the conduct that forms the basis of the USAO's *Giglio* determination, the agency is not precluded from taking new adverse action against the employee based upon the USAO's *Giglio* determination. *See id.*

The practical effect of the holding in *Trong Q. Nguyen v. Department of Homeland Security* is that you must contest any proposed or effectuated discipline, no matter how minor the penalty, if the alleged misconduct could later be used to attack your credibility or character for truthfulness or may be used against you to suggest bias. Otherwise, a Letter of Reprimand may be the basis of the USAO determining that you are *Giglio* impaired, and thus end your federal law enforcement career.

*The information contained in this article is of a general nature and is subject to change; it is not meant to serve as legal advice in any particular situation. For specific legal advice, the authors recommend you consult a licensed attorney who is knowledgeable about the area of law in question.*