

FBI Defends Suspension Of Agent

Liaison Called A Violation of Virginia Law

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An FBI agent, suspended for three weeks without pay by FBI Director Clarence M. Kelley for allegedly living out of wedlock with a woman, violated Virginia law and was lucky he was not prosecuted or fired, according to arguments filed in court on behalf of the FBI.

The government said that the agent, Jack T. Colwell, may have violated the Virginia code, which prohibits fornication and lewd and lascivious cohabitation. The crimes are punishable by \$100 and \$500 fines, respectively.

In addition, Colwell may have violated the Department of Justice's Code of Conduct, which prohibits "criminal, dishonest, immoral, infamous or notoriously disgraceful conduct." The FBI punishment for such offenses ranges from an oral reprimand to removal from office, the government contends.

Because Kelley's position is backed up by Virginia law and the FBI's code and schedule of punishment, his decision to censure Colwell was not arbitrary but "lenient", the government said.

Colwell filed a suit against the FBI Oct. 19 in U.S. District Court in Alexandria because as a result of his alleged living arrangements he was suspended from his position at the Washington Field office and was transferred to New York. Kelley sent a letter to Colwell saying he had "engaged in indiscretions which reflect unfavorably on your moral character and which are not in keeping with the high standards expected of employees of the FBI. This conduct on your part is inexcusable and will not be tolerated by me," Kelley said.

Colwell said in his suit that his "conduct is neither immoral under current standards nor disrespectful of the high standard of conduct expected by the FBI . . ."

But the government disagreed:

... "We note that insofar as the public's interest is concerned it seems apparent that the public has a right to expect its FBI agents to adhere to the

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rigorous code of conduct by which they agree to be bound, both on and off duty. This is so especially when dereliction there from results in transgressing state criminal law," the government contends.

U.S. attorneys also argue that Colwell will not be harmed by his transfer to New York, although Colwell alleges that he will.

When Colwell joined the FBI April 11, 1973, at a salary of \$12,775, he signed a statement agreeing to be transferred where and when the FBI desired.

Colwell is seeking back pay for the period during which he was suspended, Sept. 29 through Oct. 20, deletion of any mention of the dispute from his personnel record and permission to stay in the FBI's Washington field office.

Colwell's request for a permanent injunction against his transfer was scheduled to be heard in court yesterday, but both sides agreed to continue the case indefinitely and try to settle it out of court, according to sources close to the case.

Both sides declined to comment.