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Department of Homeland Security Abuses Overtime Payments

FOR IMMEDIATE RELEASE

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Employees of the Department of Homeland Security (DHS) routinely abuse a form of overtime pay called Administratively Uncontrollable Overtime, or AUO, according to a letter sent yesterday to President Obama from the U.S. Office of Special Counsel (OSC). Improper claims of AUO cost the government up to \$9 million annually at six DHS offices identified by whistleblowers. The total amount of annual AUO abuse throughout DHS is unknown. However, the problem is pervasive, according to OSC's letter.

This type of overtime can be invoked only by certain employees, such as border patrol agents, who must respond to criminal activity even if that means staying on duty beyond normal hours. According to federal regulations, the authority is limited to "irregular" or "occasional" circumstances, such that failure to stay on duty "would constitute negligence." These rules were reinforced in a 2012 memo from the Chief of Customs and Border Protection (CBP). Despite this definition, thousands of DHS employees routinely file for AUO, claiming up to two hours a day, nearly every day, even in headquarters and training assignments where no qualifying circumstances are likely to exist. This abuse is detailed by six whistleblowers whose cases are pending before OSC. OSC is closing one of these six cases with today's letter. OSC required DHS to investigate and report back on the other five cases.

In the case being closed, the office in question is at CBP headquarters in Washington, D.C. Despite the administrative nature of much of the work in a headquarters office, employees claimed two hours of AUO following their assigned shift 89 percent of the time. The CBP report substantiated that this constitutes a violation of federal regulations. The other cases involve CBP offices in Texas and California, a Texas-based Immigration and Customs Enforcement office, the D.C. headquarters of Citizenship and Immigration Services, and a Georgia-based training facility.

"Routine misuse of overtime pay is a gross waste of scarce government funds," stated Special Counsel Carolyn Lerner. "I commend the whistleblowers for coming forward, and encourage the administration and Congress to move quickly to reform this broken system."

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