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**Administratively Uncontrollable Overtime
Case Summary**

Rebstock, Tre; OSC File No. DI-13-1556

Immigration and Customs Enforcement, Houston Field Office, Houston, Texas

Tre Rebstock, an Immigration Enforcement agent (IEA) alleged the misuse of AUO in ICE's Houston Field Office. Mr. Rebstock disclosed that IEAs and deportation officers in ICE's Houston District Office are frequently and routinely required to work beyond their normal duty hours and instructed by their supervisors to certify this time as AUO rather than as overtime pay. According to Mr. Rebstock, the use of AUO in these situations was improper because the work being performed after the normal duty hours was almost always administrative rather than time-sensitive, investigatory, or compelling.

Mr. Rebstock's allegations regarding AUO misuse were referred to former DHS Secretary Janet Napolitano on May 10, 2013, for an investigation and report. The ICE Office of Professional Responsibility conducted an investigation and, on July 17, 2013, determined that the allegation that Houston Field Office management improperly and pervasively used AUO to deny employees overtime pay was unsubstantiated. On September 11, 2013, OPR Assistant Director Timothy M. Moynihan submitted a report based on the results of the investigation conducted by OPR. On January 27, 2014, ICE Deputy Director Daniel H. Ragsdale submitted a supplemental report in response to OSC concerns that the OPR investigation had not addressed the question of whether justifications provided by Houston Field Office employees for the use of AUO were adequate. In his comments, Mr. Rebstock identified contradictions between the regulations governing the use of AUO and Houston Field Office management's administration of AUO. He also cited an example of Houston Field Office management's attempts to conceal the misuse of AUO by instructing IEA's to use specific wording in justifying their overtime. For example, Mr. Rebstock and other IEAs were told to use the word "casework" rather than "paperwork" in justifying the extension of their workday. Management, according to Mr. Rebstock, felt that an extended day to address "casework" would be more defensible in an AUO audit than extending the day to address "paperwork." Mr. Rebstock also expressed skepticism regarding the corrective actions proposed in the report; he specifically questioned whether administration and enforcement of AUO would extend beyond employees to managers.

While the agency reports failed to substantiate Mr. Rebstock's allegation that management improperly forced employees to use AUO rather than regular overtime, the investigation did find that the justifications provided by Houston Field Office employees to justify the use of AUO were inconsistent with the purpose of AUO. The report attributed this problem to a lack of consistency on the part of Houston Field Office management, in conjunction with the absence of ICE policy and guidance regarding

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AUO. In the supplemental report, the agency outlined a corrective action plan to address the problems cited in the reports. This corrective action plan established a framework to notify, train, supervise, and enforce AUO. On August 27, 2014, OSC received confirmation that the action items set forth in the plan have been executed.