



**U.S. OFFICE OF SPECIAL COUNSEL**

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**Administratively Uncontrollable Overtime  
Case Summary**

**Florence, John; OSC File No. DI-13-4124**

**Customs and Border Protection, Office of Border Patrol, Office of Training and Development, Glynco, Georgia**

At the time of his disclosure, John Florence was the branch chief of the Tactics Branch in the Field Operations Academy (FOA) Use of Force Section. Mr. Florence alleged that Border Patrol agents (BPAs) employed at the FOA of the Office of Training and Development (OTD) as instructors and managers claimed AUO on a daily basis but failed to perform duties that qualify for AUO. Mr. Florence's allegations regarding AUO abuse were referred to then-Acting DHS Secretary Rand Beers on September 12, 2013, for an investigation and report. The matter was referred to CBP's Office of Internal Affairs (IA) and was expanded to include a review of AUO use at all OTD training facilities. Thomas S. Winkowski, then-CBP acting commissioner, submitted a report based on the results of an investigation conducted by IA on January 27, 2014. Mr. Florence provided comments in response to the report on February 6, 2014.

The investigation substantiated Mr. Florence's disclosure that BPAs assigned to OTD as instructors improperly claimed and received AUO pay for performing duties that did not qualify for AUO. The claimed AUO, which consisted of up to two hours of AUO to the regularly scheduled eight-hour work day, was comprised of routine duties which were, according to the report, controllable by the hiring of additional personnel or the rescheduling of duty hours. The report's action plan called for five measures, including: (1) de-authorization of OTD instructors from AUO, (2) compliance by CBP with the findings of an internal AUO eligibility review that was then being conducted by CBP's Office of Human Resources Management to determine which of the 158 positions within CBP would continue to be eligible for AUO and which should be decertified, (3) issuance of a revised AUO directive, (4) cooperation with a department-wide audit of AUO use being conducted by the Government Accountability Office, and (5) the exploration of comprehensive pay reform for BPAs and other job categories earning AUO through legislation.

In his comments, Mr. Florence expressed satisfaction with the IA investigation and applauded the agency's decision to decertify OTD positions from receiving AUO. Mr. Florence summarized his efforts to bring the AUO abuse issue to light within CBP and DHS prior to contacting OSC, including reporting the wrongdoing to his chain of command and filing with the CBP Joint Intake Center (JIC). As a consequence of doing what he believed was his duty to report wrongdoing, Mr. Florence was, according to his comments, subjected to retaliation and a hostile work environment; his long and distinguished federal law enforcement career was placed in jeopardy. Most distressing to

**U.S. Office of Special Counsel**

Page 2

Mr. Florence, he was never contacted by anyone from the JIC or any agency representative or management official regarding his disclosures. In summary, Mr. Florence called for an equitable premium pay package for all CBP employees that will restore low employee morale while deterring future abuse and enhancing border security.