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**Administratively Uncontrollable Overtime
Case Summary**

Anonymous; OSC File No. DI-14-1100

**Immigration and Customs Enforcement, Enforcement and Removal Operations,
Chattanooga, Tennessee**

The whistleblower disclosed that employees of ICE's Enforcement and Removal Operations (ERO) in Chattanooga, Tennessee improperly received Administratively Uncontrollable Overtime (AUO) for performing duties that do not qualify for AUO under the governing laws and regulations. See 5 C.F.R. § 150.151-154. In addition, the whistleblower disclosed that two supervisory ERO employees continually falsified their time and attendance records by claiming hours they did not actually work to justify the receipt of AUO. On January 24, 2014, OSC referred these allegations to Secretary of Homeland Security Jeh Charles Johnson to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). On November 6, 2014, OSC requested a supplemental report to address, among other things, whether any individual misconduct was identified or investigated.

Secretary Johnson tasked the Department of Homeland Security, Office of Inspector General and ICE's Office of Professional Responsibility with conducting the investigations into the whistleblower's allegations and designated ICE Deputy Director Daniel H. Ragsdale the authority to review and sign the reports submitted to OSC. Deputy Director Ragsdale submitted the initial agency report on October 10, 2014, and the supplemental agency report on December 15, 2014. Pursuant to 5 U.S.C. §1213(e)(J), the whistleblower provided comments to the agency reports.

The agency investigation substantiated the allegation that ERO employees claim AUO but fail to perform duties that qualify for AUO, finding that 58% of the justifications for AUO reviewed were insufficient. However, the report states that the administrative requirements of the ERO, which may fail to meet the regulatory criteria for receipt of AUO, are mission critical and often time-sensitive. The investigation failed to substantiate the allegation that ERO employees are claiming AUO but fail to work additional hours. In the supplemental report, the agency states that the investigation did not reveal evidence demonstrating that employees engaged in intentional misconduct related to AUO use. Rather, it is stated that the AUO practices that were inconsistent with the regulatory criteria stem from misunderstanding and lack of adequate training. The agency initiated a variety of measures to ensure AUO is properly administered, including issuing new guidance and training to explain proper AUO practices, review all positions authorized for AUO to confirm they meet the regulatory criteria, and create an updated form for recording AUO hours.

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The whistleblower commented that the agency investigation and report placed far greater emphasis on the correct usage and classification of AUO than on the specific misconduct of individuals. The whistleblower identified many ways the investigation into fraud and individual misconduct was flawed, and concluded that the agency simply did not have the desire to substantiate these allegations. Rather, the whistleblower believes the agency is using the broken AUO system as a cover and excuse for intentional abuse.