

## U.S. Customs and Border Protection

### Congressional Testimony on Authorized Uncontrollable Overtime violations

Distinguished members of the Oversight and Government Reform Committee's Subcommittee on National Security, esteemed guest, ladies and gentleman my name is John Florence, it is my honor to testify in front of this panel on the subject of Authorized Uncontrollable Overtime (AUO) abuse.

On August 20, 2012 I received a detailed email message (Exhibit # 1) which was also sent to the Field Operations Academy (FOA) Former Director Kevin Strong, Deputy Director Michael Brown, and Assistant Director Kevin Levan; this email identified serious concerns about AUO abuse by employees and senior managers at the FOA. The allegations were:

- AUO was being scheduled on a regular and reoccurring basis for work that was not uncontrollable and was primarily administrative and managerial in nature.
- AUO Employees shifts were being manipulated from the normal Academy business hours of 0730-1630 to 0700-1500 and then claiming AUO nearly every day from 1500-1700.
- AUO earners would receive 20 hours of AUO pay every two weeks or approximately 25 percent of their annual base salaries.
- Lunch breaks were not being taken to maximize AUO earnings during normal business hours.
- AUO was being claimed for work that should have been completed during their normal work schedule.
- AUO was being earned in violation of policy and was being used to calculate retirement annuities.

I discussed these concerns with Deputy Director Brown and stated I had equal concerns because it appeared these allegations were legitimate. I scheduled several official meetings on this matter with Deputy Director Brown and sent several comprehensive email messages (Exhibit # 2) including my message on September 11, 2012 concerning the blatant AUO violations being practiced at the FOA and continuing authorization of this pay; unfortunately it became apparent that the AUO violations were not receiving due diligence and would continue to be authorized by former Director Strong because he was also significantly benefiting from the AUO pay.

I filed a Joint Intake Center (JIC) investigation (Exhibit # 3) on September 04, 2012 for a comprehensive review by CBP Headquarters investigative components because of my concerns about mismanagement by senior level managers locally. This was even after they received comprehensive AUO guidance on August 14, 2012 from other senior level Border Patrol managers (Exhibit # 4). After I advised Deputy Director Brown that I filed a JIC investigation on the AUO abuses former Director Strong ordered that all AUO concerns and approvals would go through him directly until Assistant Director Kevin Levan reported for duty, Assistant Director Levan was also an AUO earner.

After almost one year and not receiving a response or any indication that anything was being done to stop the AUO violations that was being observed at the FOA and throughout the rest of the OTD training facilities and headquarters assignments, with the exception of headquarters sending out a training mandate on August 27, 2012 for all supervisors/managers to complete on AUO. (Exhibit # 5) However, this effort was ineffective because after this requirement was satisfied the AUO abuses continued as before, this reminded of the failed actions the agency took in response to the 2008 Lynden, WA Office of Special Counsel case DI-08-0663 on AUO abuse. This was causing low morale because many employees were working in the same work areas and in identical positions however the Border Patrol Agents were receiving an additional 25 % of their base pay. Many of the employees and managers that were not receiving any additional pay had serious concerns about equal pay for equal work; this was because they were also working 10-12 hour days but were not receiving additional compensation. After attempting to stop this abuse through my chain of command and through the agencies investigative branches with no success it became apparent that I needed to file outside the agency as a Whistleblower with Office of Special Counsel.

I would like to close by saying that this experience has been the hardest decision in my life concerning reporting the AUO violations and former Director Strong and Deputy Director Brown because they have been friends, colleagues, and mentors of mine for the last 15 years. It goes without saying "to do the right thing sometimes comes with a tremendous price is an understatement". Reporting the AUO violations has taken its toll on my career, personal life, and health. Because of the mental anguish, stress, and retaliatory treatment I have received since reporting the AUO violations to my superiors and due to the medications I was taking after a serious back surgery on February 10, 2013 I had a serious medical incident which caused me to be in an Intensive Care Unit for four days. My chances for survival were very low and I was in a fight for my life. Today I stand before you with my life irrevocably damaged, being permanently disabled, and unsure of my future with the agency.

Committee members I have asked myself this question a number times, would I do it again? Would I report these blatant AUO violations knowing what I do now? The answer is yes and the reason why is that it is my duty to do so, it was the right thing to do, it was completely in violation of CBP's Integrity Policy, and it was serious fraud, waste, and abuse of tax payers' dollars.

I sincerely thank you for your time and allowing me to testify.

John A. Florence

## **U.S. Customs and Border Protection**

**John A. Florence**  
Branch Chief Supervisory Customs and Border Protection Officer  
Field Operation Academy

Mr. Florence's Federal Law Enforcement career began in 1986 with the United States Air Force (USAF) holding the position as a Law Enforcement Specialist based at F.E. Warren, AFB Cheyenne, Wyoming. I served five years in the military including active duty participation in Operation Desert Storm. During his tenure in the Air Force Mr. Florence attained the rank of a Non Commissioned Officer (Sergeant), and was awarded several meritorious service and accommodation awards and was honorable discharged from the USAF in 1990.

Mr. Florence continued his Federal Law Enforcement career excepting a position with the Department of Justice (Federal Bureau of Prisons) assigned to the Metropolitan Correctional Center (MCC San Diego).

In January of 1991 Mr. Florence accepted a position with the former US Customs in San Diego, CA working in several key positions which included numerous Narcotics Enforcement Teams, Joint Tasks Force Assignments, and numerous Special Operation Teams. During his tenure in San Diego Mr. Florence was assigned to narcotics enforcement teams which involved the seizures of tens of thousands of pounds of narcotics and disrupted major narcotics smuggling operations by both seizing assets and arresting major figures in the organizational structure.

Mr. Florence transferred from San Diego to Glynco, GA in 2001 to accept a position as a Physical Techniques Defensive Tactics Instructor. From 2001 until 2005 he instructed defensive tactics and intermediate force device training to all of the Customs and Border Protection Basic trainees. In 2006 he was promoted to GS-14 (Senior Instructor) where he supervised all Instruction of basic tactics instruction for the entire US Customs and Border Protection basic training academy. In 2008 Mr. Florence was promoted to the position of assistant Director of Use of Force training for the US Customs and Border Protection Field Operations Academy. This position included the oversight of Use of Force training in both the basic and advanced training environments.

Mr. Florence accepted a position as Chief Customs and Border Protection Officer Nassau, Bahamas Preclearance in 2009 and was also appointed as the Acting Area Port Director and US Embassy liaison for CBP to the US Embassy Nassau, Bahamas.

Mr. Florence returned to the Field Operations Academy in 2012 accepting a position as an Acting Assistant Director and then being assigned as a Branch Chief. Mr. Florence has served in many key management positions throughout his government career and is a dedicated and distinguished Federal Government employee of 27 years. Mr. Florence has been married to his wife Suzanne Florence for 13 years, and has two stepsons Kevin, and Kurt Olson.