

# REPORT OF INVESTIGATION

<b>SUBJECT</b> [REDACTED] Supervisory Special Agent [REDACTED]		<b>CASE NUMBER</b> 2018-004451  b6 Per FBI and OIG b7c Per FBI and OIG
<b>OFFICE CONDUCTING INVESTIGATION</b> Houston Area Office	<b>DOJ COMPONENT</b> Federal Bureau of Investigation	
<b>DISTRIBUTION</b>  <input checked="" type="checkbox"/> Field Office HAO/DFO <input checked="" type="checkbox"/> AIGINV <input checked="" type="checkbox"/> Component FBI <input type="checkbox"/> USA <input type="checkbox"/> Other	<b>STATUS</b> <input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED <hr/> <b>PREVIOUS REPORT SUBMITTED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO  Date of Previous Report:	

## SYNOPSIS

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The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Federal Bureau of Investigation (FBI) alleging that Supervisory Special Agent [REDACTED] may have committed time and attendance fraud between [REDACTED] and [REDACTED]. Specifically, the FBI identified a discrepancy between the hours worked that [REDACTED] certified in his FBI time and attendance records and what access records showed about [REDACTED] presence at the [REDACTED], which is where his workspace for the FBI was located, and the [REDACTED]. [REDACTED] certified in FBI time and attendance records for the period between [REDACTED] and [REDACTED] that he worked 1161.15 hours; however, access and travel records showed [REDACTED] actual work hours were as follows: 358 hours at the [REDACTED] 120.30 hours at the [REDACTED], and 93 hours for travel. As a result, 589.45 hours, or 50.8% of [REDACTED] hours, were unaccounted for during this time period. The FBI further noted that [REDACTED] did not have a work from home status agreement, did not have a classified computer that would have allowed him to work off-site, and was not assigned an [REDACTED] computer from the [REDACTED] that would have allowed him to work off-site.

This OIG investigation substantiated the allegation that [REDACTED] committed time and attendance fraud.

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<b>DATE</b>   November 1, 2021	<b>SIGNATURE</b> [REDACTED]
[REDACTED] b6 and 7C Per OIG	
<b>PREPARED BY SPECIAL AGENT</b>	<b>SIGNATURE</b> Cloey Chaney Pierce Digitally signed by CLOEY PIERCE Date: 2021.11.01 20:26:30 -05'00'
<b>DATE</b>   November 1, 2021	
Cloey C. Pierce	
<b>APPROVED BY SPECIAL AGENT IN CHARGE</b>	

The OIG's review of [REDACTED] FBI time and attendance records, [REDACTED] access records for [REDACTED] and the [REDACTED] access records for [REDACTED] could only account for approximately 50% of the hours that [REDACTED] certified he worked in his FBI time and attendance records in [REDACTED]  
[REDACTED]

The OIG interviewed one of [REDACTED] who told the OIG that he was unsure how much time [REDACTED] was away from the [REDACTED] and that he was unsure how [REDACTED] could complete his duties if he was away from the [REDACTED] the majority of the time. [REDACTED] added that some [REDACTED] employees commented on [REDACTED] absences to him.

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The OIG also interviewed [REDACTED], who told the OIG that they did not give [REDACTED] permission to be away from the [REDACTED] or the [REDACTED] and that most of his time should have been spent at the [REDACTED]

[REDACTED] retired from the FBI after being contacted by the OIG for an interview [REDACTED], through counsel, thereafter declined the OIG's request to be voluntarily interviewed. The OIG has the authority to compel testimony from current Department employees upon informing them that their statements will not be used to incriminate them in a criminal proceeding. The OIG does not have the authority to compel or subpoena testimony from former Department employees, including those who retire or resign during the course of an OIG investigation.

The U.S. Attorney's Office [REDACTED] declined criminal prosecution of [REDACTED]

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[REDACTED] retired from his position at the FBI effective [REDACTED].

The OIG has completed its investigation and all criminal and administrative actions are complete. The OIG is providing this report to the FBI for its information.

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).

## DETAILS OF INVESTIGATION

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### Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Federal Bureau of Investigation (FBI) alleging that Supervisory Special Agent [REDACTED] may have committed time and attendance fraud between [REDACTED] and [REDACTED]. Specifically, the FBI identified a discrepancy between the hours worked that [REDACTED] certified in his FBI time and attendance records and what access records showed about [REDACTED] presence at the [REDACTED], which is where his workspace for the FBI was located, and the [REDACTED]. [REDACTED] certified in his time and attendance records for the period between [REDACTED] and [REDACTED] that he worked 1161.15 hours; however, access and travel records showed [REDACTED] actual work hours were as follows: 358 hours at the [REDACTED], 120.30 hours at the [REDACTED], and 93 hours for travel. As a result, 589.45 hours, or 50.8% of [REDACTED] hours, were unaccounted for during this time period. The FBI further noted that [REDACTED] did not have a work from home status agreement, did not have a classified computer that would have allowed him to work off-site, and was not assigned an [REDACTED] computer from the [REDACTED] that would have allowed him to work off-site.

### Investigative Process

The OIG's investigative efforts consisted of the following:

Interviews of the following FBI personnel:

[REDACTED]

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Review of the following FBI and [REDACTED] records:

- Time and attendance records for [REDACTED]
- FBI classified and unclassified e-mails for [REDACTED]
- Phone records for [REDACTED]
- Government travel card records for [REDACTED]
- [REDACTED] access records for the [REDACTED] and [REDACTED]

### [REDACTED] Committed Time and Attendance Fraud

The information provided to the OIG alleged that between [REDACTED] and [REDACTED], in [REDACTED] FBI and [REDACTED] entry and exit logs, when compared to his FBI time and attendance records, only accounted for approximately 50% of his official time.

Title 18 United States Code § 641, states:

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or  
Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—  
Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

FBI Standards of Conduct, Offense Code 2.2 (False/Misleading Information - Fiscal Matters) states employees are in violation for,

Knowingly providing false or misleading information in a fiscal-related document; or signing or attesting to the truthfulness of the information provided in a fiscal-related document in reckless disregard of the accuracy or completeness of the pertinent information contained therein.

The OIG requested and received from the FBI [REDACTED] entry and exit logs for the [REDACTED] and the [REDACTED], as well as [REDACTED] FBI time and attendance records from [REDACTED]. During the course of this investigation, the OIG was notified by [REDACTED] that the [REDACTED] entry and exit logs for [REDACTED] that the FBI had provided the DOJ OIG were provided to the FBI following the FBI's Inspection Division's request for entry and exit logs for [REDACTED] as part as an "Administrative Inquiry." [REDACTED] entry and exit logs were certified by the [REDACTED] as accurate in [REDACTED].

The OIG's review consisted of reviewing [REDACTED] entries and exits for the [REDACTED]. The OIG also reviewed [REDACTED] vehicle entries and exits that showed when [REDACTED] entered and exited the [REDACTED] building where [REDACTED] was provided workspace. This data was compared to [REDACTED] certified hours in [REDACTED] FBI time and attendance records for the corresponding days.

The OIG's review of [REDACTED] FBI time and attendance records, the [REDACTED] access records for [REDACTED] and the [REDACTED] access records for [REDACTED] could only account for approximately 50% of the hours that [REDACTED] certified he worked in his time and attendance records from [REDACTED]. Specifically, from [REDACTED] through [REDACTED], [REDACTED] claimed in his time and attendance records that he worked 1958 hours, but access records reflected only 1026.25 hours in the office. For [REDACTED] claimed in his time and attendance records that he worked 2146 hours, but access records reflected only 1031.25 hours in the office. For [REDACTED] claimed in his time and attendance records that he worked 2109 hours, but access records reflected only 938.75 hours in the office. Finally, in [REDACTED] claimed in his time and attendance records that he worked 191 hours, but access records reflected only 84 hours in the office.

To determine an estimated dollar amount of the fraud committed by [REDACTED] during this period, the OIG first estimated [REDACTED] hourly rate by using an annual salary of \$155,000, which is the [REDACTED] salary for a GS-15 criminal investigator at step [REDACTED] that includes locality pay for [REDACTED] and Law Enforcement Availability Pay (LEAP). [REDACTED] was a GS-15 at steps [REDACTED] from [REDACTED]. The OIG then divided the \$155,000 salary by 2087, the hours in a calendar work year, to estimate an hourly rate of \$74.26 for [REDACTED]. Finally, the OIG multiplied this hourly rate by the number of hours that the OIG found [REDACTED] had not been present at the [REDACTED] or the [REDACTED]. The following is the estimated amount of fraud [REDACTED] committed by year:



During his OIG interview, [REDACTED] told the OIG that [REDACTED] and after learning of [REDACTED] routine absences, [REDACTED] FBI's Inspection Division. When asked if he had questioned [REDACTED] about his time and attendance discrepancies, he told the OIG [REDACTED] was aware of [REDACTED] regarding this matter [REDACTED] added that [REDACTED] permission to be absent from work. He said that during [REDACTED] assignment at [REDACTED], there would have had been very few instances requiring [REDACTED] to be away, and if [REDACTED] was away, he should have documented it in [REDACTED] weekly activity reports. Because [REDACTED] work involved classified information, [REDACTED] said he did not have the ability to complete his work away from the facility.

The OIG also interviewed [REDACTED]. He told the OIG that [REDACTED] could not approximate how much time [REDACTED] was absent from the [REDACTED]. [REDACTED] told the OIG that he did not believe [REDACTED] could have completed his [REDACTED] duties if he was routinely absent from work because of the type of information [REDACTED]. When asked by [REDACTED] about [REDACTED] absences, [REDACTED] had previously mentioned spending time at [REDACTED]. [REDACTED] internally questioned these locations because they did not have a nexus to the [REDACTED]. [REDACTED] recalled some [REDACTED] employees commenting on [REDACTED] absences and complained about him generally.

The OIG interviewed [REDACTED]. [REDACTED] told the OIG that once he was made aware of [REDACTED] routine absences from the [REDACTED], a request to audit [REDACTED] FBI time and attendance records and compare them to his entry and exit logs was made. [REDACTED], the FBI could only account for approximately 50% of [REDACTED] claimed hours. [REDACTED] on the discrepancies and, [REDACTED] was surprised by the data. [REDACTED] told the OIG that [REDACTED] did not provide any explanation why he was absent from the [REDACTED] to the FBI's Inspection Division.

[REDACTED] retired from the FBI after being contacted by the OIG for an interview. [REDACTED], through counsel, subsequently declined the OIG's request to be voluntarily interviewed. The OIG has the authority to compel testimony from current Department employees upon informing them that their statements will not be used to incriminate them in a criminal proceeding. The OIG does not have the authority to compel or subpoena testimony from former Department employees, including those who retire or resign during the course of an OIG investigation.

The U.S. Attorney's Office [REDACTED] declined criminal prosecution of [REDACTED].

[REDACTED] retired from his position at the FBI, effective [REDACTED].

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### OIG's Conclusion

The OIG investigation substantiated the allegation that [REDACTED] committed time and attendance fraud, in violation of 18 U.S.C. § 641 and FBI Offense Code 2.2. The OIG found that [REDACTED] did not badge in or out of the [REDACTED] or the [REDACTED] on numerous days that cumulatively accounted for over 50% of the hours he certified that he had worked over a three-year period [REDACTED]. Due to the nature of [REDACTED] primary responsibilities during that period, he could not have worked remotely for such a substantial period of time.