



INVESTIGATIVE REPORT

U.S. Census Bureau

Allegations of Time and
Attendance Fraud and Other
Misconduct by Employees in the
Census Hiring and Employment
Check Office

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Chapter I: Introduction

I. Basis for Investigation

On December 15, 2013, the U.S. Department of Commerce (“Department”) Office of Inspector General (“OIG”) received a hotline complaint alleging that certain U.S. Census Bureau (“Census” or “Bureau”) employees had been fraudulently reporting their time and attendance. Specifically, the complaint alleged that six employees in the Census Hiring and Employment Check (“CHEC”) Office had regularly been recording and receiving pay for time not actually worked since at least 2010. The CHEC Office is responsible for conducting background checks and making suitability determinations for the Census workers who visit the American public’s homes.

The OIG referred the complaint to the Census Bureau and required the Bureau to notify the OIG of the disposition of the complaint. The Bureau informed the OIG that it found “significant misconduct related to the receipt of pay for time not worked on the part of each employee” named in the initial complaint. The Bureau further stated that it expanded its review to include three additional employees and found that those employees also engaged in the same misconduct. The Bureau proposed the removal (*i.e.*, termination) of all nine employees.

Due to the criminal implications of the conduct at issue, the OIG opened an investigation on June 16, 2014 regarding the fraudulent reporting of time and attendance by the subject employees. The OIG’s preliminary analysis not only confirmed significant discrepancies in time and attendance recording by the identified employees, but also indicated that the problem was much broader than a specific group of employees. The OIG therefore expanded the scope of its investigation to include a significant portion of the CHEC Office over a period of time. Further, during the course of our investigation, the OIG uncovered evidence of additional misconduct by certain CHEC employees, including the misuse of official position, whistleblower retaliation, and interfering with the OIG’s investigation.

On October 27, 2014, the OIG presented the case for potential criminal prosecution to the United States Attorney’s Office for the District of Maryland (“USAO”). The USAO informed the OIG that it had declined to prosecute the matter on April 8, 2015.

II. Executive Summary

The Census Hiring and Employment Check Office performs a sensitive task in the federal government, namely processing background checks for prospective Census Bureau employees and contractors, including personnel who walk door-to-door to millions of homes across America. Notwithstanding the importance of the CHEC Office’s mission, the evidence obtained over the course of the OIG’s investigation established that many CHEC employees engaged in pervasive misconduct over several years, including widespread time and attendance abuse, misuse of office, and repeated attempts to retaliate against a perceived whistleblower.

Widespread Time and Attendance Abuse

The OIG used a wide range of analytical tools, including examining comprehensive sets of time and attendance data and comparing time records with email and other evidence, to determine whether 40 current and former CHEC employees engaged in time and attendance abuse, and if so, the extent of that abuse. The OIG's investigation identified a systemic pattern of time and attendance abuse by a significant portion of the CHEC Office since the start of the decade. In particular, the evidence and the OIG's analysis of relevant data show the following:

- From January 1, 2010 to September 20, 2014, the 40 current and former CHEC Office employees whose time and attendance we analyzed had a discrepancy of 19,162 hours (amounting to the equivalent of 2,395 full 8-hour workdays) between their reported work time and their actual work time.¹
- The total time and attendance abuse in the CHEC Office during this four-year period cost taxpayers an estimated \$1.1 million.
- Nineteen of the employees—approximately half of the CHEC Office employees whose time and attendance we analyzed—had discrepancies of more than 400 hours over the four-year span.
- Nine employees improperly claimed—and were paid for—what amounts to more than 100 full work days each (more than 800 hours per employee) that they did not actually work.
- The CHEC employee with the largest discrepancy improperly claimed what amounts to 160 full days (1,277 hours) that he did not actually work.
- In some cases, CHEC employees claimed that they had worked a full day, yet there is affirmative evidence that they had not worked at all.
- In other cases, CHEC employees claimed to telework a full day, yet the evidence establishes they performed little or no work at all.
- At least two CHEC contractor employees inflated the hours that they worked, including one contractor who billed for 361 hours of time not actually worked, which amounted to a loss to the government of \$32,217.11.

¹ In determining whether any discrepancies exist, the OIG generally interpreted the data in the light most favorable to the employees. For instance, we credited employees for working from the moment they swiped their identification badge (“badge”) to enter the building until the moment they swiped their badge to exit the building. In addition, we gave the employees the benefit of the doubt and omitted days when there was no badge swipe data, yet the employee recorded a regular workday in WebTA. This inured to their benefit because, in the event that an employee simply did not show up to work, we still excluded that day from our analysis. We took this approach in order to eliminate days with any legitimate reasons for the absence of badge data, such as off-site trainings, miscoded telework, work travel, and forgotten badges.

Misuse of Office

Over the course of the investigation, we also discovered several relationships between CHEC employees and contractors that raised concerns of misuse of official position and other violations of federal law. The OIG's investigation into these issues centered on a specific CHEC employee, who according to the evidence appears to have used his² official position as a personal hiring vehicle for friends and their families. In particular, the evidence indicates that this employee was involved in the hiring and recommendation of numerous employees and contractors with whom he had a personal relationship. For instance:

- This employee was actively involved in the hiring and supervision of a contractor for the CHEC Office (including sending her resume to a company that provided services to the CHEC Office, interviewing her on behalf of the CHEC Office prior to her hiring as a contractor, serving as her de facto supervisor, and signing off on her timesheets), even though he was involved in a sexual relationship with the contractor throughout the relevant timeframe.
- The employee also engaged in a concerted effort spanning more than a year to help his friend's son obtain a new position at Census. The employee's emails demonstrate that he used his position in the organization to attempt to influence Census managers to hire his friend's son.

Through these and other actions related to the hiring and advancement of friends and their families, the evidence establishes that this employee violated the federal regulation prohibiting the misuse of office for private gain and may have engaged in prohibited personnel practices.

Attempted Whistleblower Retaliation and Other Misconduct Related to the OIG Investigation

Over the course of the OIG's investigation, certain CHEC Office employees attempted to intimidate witnesses and actively endeavored to interfere with our investigation. In particular, the evidence established that several CHEC employees fostered an environment that discouraged CHEC employees from speaking openly and truthfully with the OIG.

For instance, according to the evidence, one employee regularly made a variety of threatening statements loudly in the CHEC Office for all to hear, including that (1) the whistleblower had better "watch out;" (2) he will get even and make the whistleblower pay for reporting to the OIG; (3) the whistleblower will wish he had retired once he figured out who it was; and (4) he was going to sue the whistleblower. Below are some of the specific statements and actions attributed to this employee by numerous first-hand witnesses:

- At a meeting for the entire CHEC Office, this employee said that whoever contacted the OIG was a "coward" and "chickenshit."

² Gender pronouns have been switched for some individuals in this Report to protect their identity.

- This employee repeatedly referred to the whistleblower as a “rat” and a “snitch” in conversations with CHEC employees.
- At an office social event held for a CHEC employee, this employee held a knife in his hand to cut the cake and, while making a stabbing motion with his arm, said something to the effect of “This is for who went to the OIG!”

The OIG also identified multiple instances in which two CHEC employees made false statements or otherwise lacked candor in their OIG interviews. We therefore concluded that these employees violated the federal law prohibiting false statements to federal investigators and DAO 207-10, the Department of Commerce policy requiring employees to fully cooperate with OIG investigations and not withhold information.

In sum, the evidence obtained over the course of the OIG’s investigation establishes that certain CHEC Office employees engaged in a wide variety of misconduct that stretched over several years. Moreover, the evidence shows that some CHEC supervisors either led or participated in the misconduct, while others failed to report these abuses, take material steps to address the misconduct, or take sufficient action to prevent future abuses.

While our investigation focused on evidence of time and attendance abuses and other misconduct related to the CHEC Office work environment, we also observed additional issues that raise other concerns related to the unit’s work. For instance, we obtained evidence that one employee was personally involved in the background check process for applicants with whom he had a personal relationship, which raises conflict-of-interest concerns and at a minimum creates an appearance of partiality. We also discovered a particularly egregious offense by another employee, who allegedly had a sexual interaction with a Census applicant for whom he was involved in the background check, which creates a troubling conflict of interest and undermines the integrity of the background check and suitability process.

Beyond these conflict-of-interest issues, the evidence also establishes that the Bureau has little quality control on the background check work completed by CHEC employees. For example, a CHEC employee conducting a background check may document in the system that he reviewed an applicant’s criminal history or that he verified an applicant’s employment. The CHEC Office has inadequate mechanisms or processes, however, to verify whether the employee actually performed those actions, or rather had completely fabricated the background check activities. Moreover, we found evidence that CHEC employees bypassed one of the CHEC Office’s few internal controls—supervisory review of certain aspects of each case—by sharing the supervisor’s password with subordinates for the subordinates to approve their own work.

In light of the widespread misconduct committed by CHEC employees identified in this Report, the apparent lack of internal controls on the quality of CHEC employees’ work and deliberate bypassing of the unit’s existing controls is disturbing. These failures are particularly troubling in light of the unit’s principal mission—conducting the entire background check and suitability determination for all Census field staff, contractors, and temporary employees, which includes the Decennial Census enumerators that walk door-to-door throughout America.

At the conclusion of the OIG’s investigation, we provided multiple current and former CHEC Office employees an opportunity to review and provide comments on excerpts of a draft

version of this Report containing our badge data analysis methodology and the facts pertaining to that employee. The OIG reviewed and considered all of the responses that we received prior to the finalization of this Report. Numerous employees stated that they had supervisory approval regarding their time and attendance and pointed to the “culture” in the CHEC Office that was established by CHEC management.

Based on the findings in this Report, the OIG makes several recommendations regarding the misconduct and to address the problematic culture in the CHEC Office. For example, we recommend that the Bureau consider taking disciplinary action against CHEC employees as the Bureau deems necessary and appropriate, improving policies and training regarding time and attendance, and revising CHEC policies and procedures to ensure adequate quality control mechanisms are in place.

Census has already taken action on the OIG’s recommendations, as discussed in Chapter 6.

III. Background: Census Hiring and Employment Check Office

The CHEC Office is primarily responsible for processing background checks and making suitability determinations for prospective Census employees and contractors. Approximately 75 current and former employees worked in the CHEC Office during the relevant time period. The CHEC Office also utilizes contractors.

Census applicants receive different types of background checks depending on the specifics of the position advertised and, consequently, the CHEC Office’s role in each of these types of background checks varies. The CHEC Office conducts the entire background check and determines suitability for all field staff, contractors, and temporary employees (e.g., Decennial Census enumerators).³ According to information provided by CHEC management, the CHEC Office initiated 3.8 million background checks for 2010 Decennial Census applicants and cleared 857,000 hires. Moreover, in fiscal years 2013 through 2015, the CHEC Office completed approximately 5,000 to 15,000 background checks and suitability determinations per year.

IV. Investigative Methodology

The OIG conducted more than 60 interviews of current and former Census employees and contractors. The interviews included sworn, recorded interviews of all subjects, numerous current and former CHEC staff (federal employees and contractors), a high-level official in the Office of Security, Census Human Resources officials, and Census Regional Directors and Assistant Regional Directors.

The OIG reviewed the following documents and data: Census time and attendance policies; CHEC policies and procedures; CHEC employee badge data; badge data for all Bureau head-

³ For Census headquarters staff, the CHEC Office conducts the background check, but the Human Resources Division makes the suitability determination. ⁴ See 18 U.S.C. § 641 (Theft of public money, property, or records) (“Whoever . . . steals . . . money, or thing of value of the United States or of any department or agency thereof . . . shall be fined under this title or imprisoned not more than ten years, or both.”).

quarters employees, with individual names anonymized; CHEC contractor badge data; CHEC employee WebTA data; CHEC contractor invoices and timesheets; CHEC employee payroll data; email records; calendars; CHEC sign-in logs; CHEC out lists; logs of employees and contractors who forgot or lost their badge; Virtual Desktop Infrastructure (“VDI”) login records; Electronic Questionnaire for Investigations Processing (“Database 1”) login records; Census Human Resources Information System (“Database 2”) login records; hiring records for certain Census employees; and various other documents deemed relevant to the investigation. We also analyzed publicly available social media, including Facebook activity.

Chapter 2: Time and Attendance Fraud

I. Introduction

This chapter examines allegations of widespread time and attendance fraud in the CHEC Office. As described in detail below, the OIG used a wide range of analytical tools, including examining comprehensive sets of time and attendance data and comparing time records with email and other evidence, to determine whether CHEC employees engaged in time and attendance abuse, and if so, the extent of that abuse.

The OIG's analysis identified a systemic pattern of abuse by many employees in the CHEC Office since the start of the decade. In particular, our analysis of relevant data established that, from January 1, 2010 to September 20, 2014, the current and former CHEC Office employees within the scope of our review had a discrepancy of 19,162 hours (or what amounts to 2,395 full 8-hour work days) between their reported work time and their actual work time. The analysis revealed that nine employees improperly claimed—and were paid for—more than 100 full work days each (more than 800 hours per employee) that they did not actually work, and the CHEC employee with the largest discrepancy improperly claimed 160 full days (1,277 hours) that he did not actually work. The total time and attendance abuse in the CHEC Office during this four-year period cost the United States government an estimated \$1.1 million.

This chapter presents this analysis in greater detail. First, we outline the applicable laws and policies, as well as key time and attendance concepts related to our analysis. Next, we present our analytical methodology and results, including general themes of time and attendance misconduct in the CHEC Office and several case studies of time and attendance abuse by specific CHEC employees.

A. Legal Overview

Theft, False Claims, and False Statements

All federal employees have a duty to accurately record their time and attendance. Employees who improperly record their time and attendance in order to receive pay for time not actually worked are effectively stealing from the federal government, in violation of several criminal statutes, and are subject to criminal penalties.⁴ Similar criminal penalties apply to false statements or claims made by the employee in furtherance of time and attendance abuse or in an attempt to cover up such abuse.⁵ Federal employees may also be civilly liable for knowingly submitting false claims to the government to be paid for time not actually worked.⁶

⁴ See 18 U.S.C. § 641 (Theft of public money, property, or records) (“Whoever . . . steals . . . money, or thing of value of the United States or of any department or agency thereof . . . shall be fined under this title or imprisoned not more than ten years, or both.”).

⁵ See 18 U.S.C. § 287 (False, fictitious or fraudulent claims) (“Whoever makes or presents . . . to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing

Standards of Ethical Conduct for Employees of the Executive Branch

The Standards of Ethical Conduct for Employees of the Executive Branch (“Standards of Ethical Conduct”), 5 C.F.R. § 2635, provide that “[p]ublic service is a public trust” and that each employee of a federal agency “has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain.”⁷ To ensure public confidence in the integrity of the Federal Government, the Standards of Ethical Conduct set forth both general ethical principles to which government employees are required to adhere, as well as regulations governing employee conduct in certain specified circumstances.

Section 101(b)(5) of the Standards of Ethical Conduct provides that “[e]mployees shall put forth honest effort in the performance of their duties.” Section 101(b)(14) sets forth that “[e]mployees shall endeavor to avoid any actions creating the appearance that they are violating the law” or the Standards of Ethical Conduct.⁸

B. Key Concepts Regarding Time and Attendance

CHEC employees’ work schedules are governed by Office of Personnel Management (“OPM”) regulations, Department policies, Census Bureau policies, and the labor agreement entered into by the Bureau and the union (“Labor Agreement”). Below are several important concepts related to CHEC employees’ time and attendance:

- **Basic Work Schedules:** Federal pay periods are every two weeks, such that there are 26 pay periods per year. Federal employees are required to work 80 hours each pay period. The basic workweek for all full-time employees in the Department is 8:30 a.m. to 5:00 p.m., Monday through Friday, including a daily non-compensable lunch period of 30 minutes.⁹

such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.”); 18 U.S.C. § 1001(False statements or entries) (“[W]hoever, in any matter within the jurisdiction of the executive . . . branch of the Government of the United States, knowingly and willfully . . . makes any materially false, fictitious, or fraudulent statement or representation; or . . . makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined . . . [and] imprisoned not more than 5 years.”).

⁶ See 31 U.S.C. § 3729 (False claims) (“In general . . . any person who—(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; (B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; . . . is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, . . . plus 3 times the amount of damages which the Government sustains because of the act of that person.”).

⁷ 5 C.F.R. § 2635.101(a).

⁸ 5 C.F.R. § 2635.101(b)(5) and (14).

⁹ Office of the Sec’y, U.S. Dep’t of Commerce, *Hours of Duty & Work Schedules*, http://hr.commerce.gov/Practitioners/CompensationAndLeave/DEV01_006627 (last visited Sept. 1, 2015) (*Duty Hours*). Pursuant to Census policy, any workday of five hours or more includes a 30-minute non-compensable lunch period. See Census Human Resources Division Intranet, *Lunch and Break Periods* (accessed Apr. 30, 2015). An employee may not work through the lunch period in order to extend paid time or to otherwise modify his or her established schedule. *Id.* In other

- **Alternative Work Schedules:** Department employees may utilize several variations to the basic workweek, called Alternative Work Schedules (“AWS”). AWS options available at Census include: (i) “flexible schedule,” in which an employee must be present during core hours for a 5-day, 40-hour workweek, but can deviate from a specified arrival time; and (ii) “compressed schedule,” in which an employee must complete the 80-hour basic work requirement in less than 10 workdays, such as a “5-4/9 Schedule” (employees work 80 hours over nine days and have the tenth day off) and the “4/10 Schedule” (employees work 40 hours per week over four days during the regular workweek with one day of the regular workweek off).¹⁰
- **Breaks:** Department employees may take a paid 15-minute break in both midmorning and midafternoon. Break periods may not be combined together, used to extend the lunch period, or taken at the start or end of a workday.¹¹
- **Telework:** Census employees may be eligible to telework at an approved alternate workspace, on a regularly scheduled day and/or intermittently. While teleworking, Census employees can remotely access the Bureau’s computer network by logging in through its Virtual Desktop Infrastructure (“VDI”). The Census telework application provides that “the applicant agrees not to conduct personal business while in an official duty status at the alternate workplace (e.g., caring for dependents or making home repairs).”¹²
- **Recording Time and Attendance:** The Bureau uses a web-based time and attendance system called WebTA. Employees can access WebTA online to input the amount of time worked per day, the type of work (in-office or telework), and any leave taken. In order to get paid, an employee must enter into WebTA the hours for each workday for the two-week pay period and then validate the time. When the employee validates those hours, a screen pops up stating “I certify that the time worked and leave taken as recorded on this form is true and correct to the best of my knowledge,” and the employee must click “Affirm” to validate. After the employee affirms the hours worked, the relevant supervisor must certify those hours as accurate. In doing so, the supervisor receives a notice, stating “Your signature certifies that all reported time was worked and approved according to law and regulation,” and the supervisor must either “Certify” or “Reject/Decertify” the employee’s time.
- **Signing In and Out:** The CHEC Office has a longstanding policy that employees must sign a log when they enter the office at the beginning of the day and leave at the end. The

words, a standard 8-hour workday is 8½ hours from beginning to end, with 30 minutes for lunch. An employee cannot shorten the workday by not taking lunch and leaving 30 minutes early. *Id.*

¹⁰ *Lunch and Break Periods*; Labor Agreement between the U.S. Census Bureau and Local 2782, American Federation of Government Employees, AFL-CIO, § 17.2-17.4.

¹¹ U.S. Office of Personnel Mgmt., *Pay & Leave: Work Schedules*, <https://www.opm.gov/policy-data-oversight/pay-leave/work-schedules/fact-sheets/lunch-or-other-meal-periods/> (last visited Sept. 1, 2015); *Lunch and Break Periods; Duty Hours*; Labor Agreement § 17.7.

¹² U.S. Census Bureau Telework Application.

log, called Form CD-465, Alternative Work Schedule Attendance Log, instructs employees to enter the time they arrive and depart, and sign next to each one.

- Out List: During the relevant time period, a CHEC employee circulated an email each morning listing which employees were out, teleworking, arriving late, or leaving early.
- Badging at Census Bureau Headquarters: Aside from irregular activities such as travel and training, all CHEC employees work at Census headquarters. The Bureau stations guards at each entrance and requires its employees to swipe their official U.S. government identification badge on turnstiles in order to enter or exit the building. The Bureau's security system, called Lenel OnGuard Access Control system, records the time of each badge swipe. If an employee does not have a registered badge, the turnstile will not open unless a guard overrides the system and allows the employee to enter or exit.

II. Analysis

A. Methodology

As noted above, the OIG initiated this investigation in June 2014. In doing so, the OIG obtained a CHEC Office staff list as of July 1, 2014 and began gathering relevant data concerning a significant portion of those employees' time and attendance. Over the course of the investigation, the OIG discovered evidence of time and attendance abuse by certain former CHEC employees and added those former employees to our analysis, bringing the total pool of employees whose time and attendance records the OIG analyzed to 40.

The OIG obtained and analyzed CHEC employee entry/exit badge data from January 1, 2010 through September 20, 2014—over four years of records—for these 40 current and former employees.¹³ We loaded the badge records in a statistical analysis platform and calculated the exact amount of time that each employee physically spent in the Census facility each day.¹⁴ We then acquired the 40 employees' daily time and attendance WebTA data and compared the employees' time and attendance records with their badge records to determine whether there were discrepancies between time reported and time actually worked in the Census building.

Our analysis accounted for any time that an employee logged in WebTA as leave (e.g., sick or annual) and telework, and therefore considered only the hours that the employees claimed they had worked in the office. Additionally, in accordance with governing regulations and policy, we

¹³ During that time, the 40 employees had 136,111 unique entry and exit badge swipes—i.e., records of the employees entering or exiting the Census facility.

¹⁴ In limited instances, employees did not swipe their badges upon exiting or entering the building in the middle of the day. These missing swipes could either decrease the discrepancy (in the case of a missing exit swipe) or increase the discrepancy (in the case of a missing entrance swipe) for a particular day, but the missing swipes do not materially alter the aggregate results of our analysis.

accounted for the mandatory 30-minute uncompensated lunch for any workday over five hours, as well as two 15-minute breaks.¹⁵

In determining whether any discrepancies exist, the OIG generally interpreted the data in the light most favorable to the employees. For instance, we credited employees for working from the moment they swiped their badge to enter the building until the moment they swiped their badge to exit the building, despite the fact that it takes time to walk to and from the CHEC Office and employees may not start working immediately upon arrival in their offices. Similarly, we credited all of the time that the employees spent in the Census building, including lunches and other breaks taken in the building, as work hours. The Census building has several amenities, such as dining options, a gym, library, and credit union. Therefore, an employee could have taken a one-hour lunch in the building cafeteria, enjoyed several breaks in the building, worked out at the gym, and then left the building for one hour to run personal errands, and our analysis would have credited all of that time as working hours, except for the one-hour trip out of the building to run errands.

In addition, we gave the employees the benefit of the doubt and omitted days when there was no badge swipe data, yet the employee recorded a regular workday in WebTA.¹⁶ This inured to their benefit because, in the event that an employee simply did not show up to work, we still excluded that day from our analysis. We took this approach in order to eliminate days with any legitimate reasons for the absence of badge data, such as off-site trainings, miscoded telework, work travel, and forgotten badges. In total, this excluded 983 days for a total of 7,866 hours from our analysis.¹⁷

In conducting our analysis of the Bureau's badge data, we took various steps to confirm the reliability and accuracy of that data, including (1) as noted above, relying only on days with both an initial entry and final exit badge swipe, (2) confirming the accuracy of the Bureau's Lenel OnGuard Access Control system time stamp, including statements from a Lenel engineer that he has "never" seen a case where the time stamps were not accurate, (3) analyzing changes in the CHEC Office's time and attendance following the initiation of the OIG investigation; as employees changed their behavior once aware of the investigation, the badge data captured the change, (4) analyzing entry/exit swipes for the entire Census headquarters office, (5) comparing a large sample of badge data against employee emails, (6) validating badge data against sign-in

¹⁵ For example, we considered an 8-hour workday as requiring 8½ hours beginning to end. Then, within each day, we factored in a 30-minute lunch plus two 15-minute breaks. Although combining lunch and break periods is technically prohibited, we adopted a conservative approach and excluded one hour out of the building within the workday, whether it was a single one-hour absence or several smaller ones. In sum, for an 8-hour workday, 8½ hours is required from the beginning to the end, 7½ hours of which the employee is required to be in the building.

¹⁶ We also eliminated days without an initial entrance record or without a final exit record. For these days, the badge data was incomplete because it was either missing a beginning or an end time and therefore did not allow a comparison to the hours the employee recorded in WebTA. Possible explanations for missing entrance or exit badge data may be an employee following another employee through a turnstile, a guard allowing an employee through if the employee forgot his badge, or a system malfunction. In any event, these days were excluded from our analysis, consistent with our methodology based only on reliable data.

¹⁷ In addition, we removed the entire month of June 2010 from the analysis because of issues with the raw Census badge data identified during internal quality control.

logs, and (7) interviewing CHEC employees about potential discrepancies, including obtaining admissions from many of the subject employees that they regularly did not work their full tour of duty in the office. Given all of the evidence and validating criteria, we concluded that the badge data is accurate and reliable. For a detailed discussion of our methodology and the reliability and accuracy of the badge data, see Appendix A.

B. Results

As noted above, the OIG's analysis identified a persistent pattern of abuse by numerous current and former employees in the CHEC Office since 2010. We calculated that, from January 1, 2010 to September 20, 2014, the 40 CHEC Office employees whose time and attendance the OIG analyzed had a total discrepancy between the time for which they were paid and their actual work time of 19,162 hours (or what amounts to 2,395 full 8-hour work days). As reflected in Table I below, our analysis indicated that a broad swath of these CHEC employees engaged in time and attendance abuse. Nineteen of the employees—approximately half of the CHEC Office employees whose time and attendance we analyzed—had discrepancies of more than 400 hours over the four-year span. Although the abuse was widespread, several of the 40 employees had more significant discrepancies. In particular, nine employees each claimed over 800 hours more than they worked, amounting to at least 100 full workdays apiece that they did not actually work. The employee with the highest volume of improper hours claimed 1,277 hours that he did not actually work, which translates to 160 workdays. Seven employees averaged more than a one-hour per day discrepancy over the course of four years. Of particular note, certain CHEC supervisors account for some of the largest discrepancies.

We estimated that the total cost to the federal government from these abuses amounted to nearly \$1.1 million over a four-year period. To calculate loss, we used earning statements by pay period from Census that included wages, benefits paid by the government on the employees' behalf (e.g., pension benefits and matching retirement contributions), and cash awards. We then matched each employee's earnings by pay period with the number of hours claimed but not worked during the same period and calculated the total cost of the over-charged hours.

Table I: Estimated Overcharged Hours by 40 Current and Former CHEC Office Employees

Employee #	Overcharged Hours	Estimated Total Cost to Government
1	1277	\$64,599.52
2	1002	\$72,544.52
3	901	\$53,562.88
4	890	\$85,173.17
5	812	\$39,754.91
6	603	\$12,374.48
7	347	\$15,961.15
8	279	\$5,418.34
9	296	\$26,980.13
10	1054	\$57,007.76
11	1034	\$39,979.08
12	928	\$27,011.05
13	846	\$36,428.49
14	688	\$17,707.87
15	647	\$37,872.91
16	641	\$20,703.21
17	582	\$42,327.47
18	478	\$74,488.75
19	453	\$34,093.52
20	443	\$13,734.60
21	412	\$20,197.01
22	400	\$20,682.01
23	379	\$8,904.73
24	353	\$44,771.29
25	336	\$37,411.07
26	323	\$25,380.25
27	299	\$15,647.38
28	289	\$29,832.83
29	274	\$10,939.85
30	266	\$21,540.37
31	254	\$18,850.04
32	243	\$7,900.17
33	212	\$16,255.41
34	205	\$5,995.54
35	186	\$9,099.37
36	165	\$8,928.57
37	147	\$4,776.97
38	85	\$141.99
39	85	\$8,326.63
40	48	\$420.10
Total	19,162	\$1,093,725.41

In arriving at these conclusions, we note that this analysis may be simultaneously over-inclusive and under-inclusive. For example, it is possible that some CHEC employees may have performed work outside of the office before entering or after exiting the Census building that was not properly coded as telework, which therefore may have appeared as unworked hours in our analysis. Similarly, there may have been work-related activities before entering or after exiting the Census building that were appropriate to count as work time, such as off-site training, that appeared as improper hours.

On balance, however, the evidence indicates that those instances are infrequent and outweighed by potentially fraudulent hours that were excluded from our findings. As noted above, our analysis interpreted the data in the light most favorable to the employees, such as excluding all full-day absences and crediting employees for every second in the building as time worked. In addition, our analysis gave full credit for all hours claimed as telework, even though the OIG obtained substantial evidence of telework fraud in the CHEC Office, which is presented below. More importantly, the evidence for those who claimed to telework before and/or after their regular work hours does not support the sheer volume of hours they were absent from the Census building.

Further, the badge analysis does not include dozens of CHEC employees who worked in the CHEC Office during the relevant time period but were not included in our 40 employees. Nor does it include dozens of CHEC contractors, despite evidence of contractor time and attendance abuse, as described below. In sum, the evidence indicates that the overall financial loss to the federal government due to the CHEC Office's time and attendance abuse from January 2010 through September 2014 is likely to be significantly higher than \$1.1 million.

C. Recurrent Types of Time and Attendance Abuse

In addition to the badge data analysis, for several of the employees, we also examined email records and other sets of data, such as log-in records for the Census's remote network (VDI) and other work-related systems. Our analysis and the relevant evidence illuminated several categories of abuse, which are described below.

1. Alternative Work Schedule Abuse

During the period we examined, much of the CHEC Office worked on an AWS compressed schedule. As noted above, the AWS compressed schedule provided these CHEC employees with regular days off during the workweek; employees working on a "5-4/9 Schedule" work 80 hours for nine days and have the tenth day off, and employees on the "4/10 Schedule" work 40 hours per week over four days with one day of the regular workweek off. According to Department policy, AWS is a benefit that allows "more flexibility in your schedule and/or the opportunity to get an extra day for personal errands and activities."¹⁸

¹⁸ Office of the Sec'y, U.S. Dep't of Commerce, *Alternative Work Schedules (AWS)*, http://hr.commerce.gov/Employees/Leave/DEV01_005923 (last visited Sept. 1, 2015).

The evidence establishes that numerous CHEC employees abused the benefit of these compressed schedules and received days off without putting in the required hours on the other days. In the most egregious cases, the employees did not even average an 8-hour workday, let alone the 9-hour day their compressed schedule required to receive the tenth day off.

2. Regularly Coming in Late and Leaving Early

The evidence shows that many CHEC employees regularly came in significantly late or left significantly early. Numerous CHEC employees had many days with multi-hour discrepancies, meaning that they were paid for several hours of work more than their actual time in the Census building. We cross-referenced many of these examples identified in the badge analysis to emails, the CHEC out list, and, if available, sign-in logs, to confirm whether the employee arrived late or left early. Many CHEC employees rarely took leave in these instances. We also found numerous examples of CHEC employees taking leave, but not nearly enough to cover their late arrivals or early departures. Below are two examples.

- On January █, 2014, Employee 11 entered the Census building at 7:20 a.m. and exited at 10:37 a.m. This employee, who was on the 4/10 Schedule and did not perform any work outside of the office, recorded in WebTA 3 hours of leave and 7 hours worked, despite being in the Census building only 3¼ hours.
- On January █, 2014, Employee 1 entered the Census building at 11:04 a.m. and exited at 4:31 p.m. This employee, who was on the 5-4/9 Schedule and did not perform any work outside of the office, recorded that he worked 7 hours in WebTA and took 2 hours of leave. Factoring in the mandatory 30-minute lunch, he worked for only 5 hours and was absent for 4 hours of his required 9-hour workday. Further, Employee 1 had close to a 2-hour absence during the middle of the day, resulting in him only being in the building approximately 3½ hours on a day he claimed to work 7 hours.

3. Full-Day Absences

As explained above, our aggregate badge data analysis excluded days that had no badge data. Nevertheless, we examined a sampling of days recorded as regular work by CHEC employees with no corresponding badge data. Many were explained by legitimate justifications such as travel, training, or apparently miscoded telework. For some days, we could not determine whether the employee actually worked. For others, however, we found affirmative evidence that the employee had not worked at all on a day that was recorded as a full workday. Below are several examples.

- Employee 2's emails establish that he was across the country on vacation on █ 2013. There is no badge data indicating that he entered the Census building that day, and he was also listed as "out" on the CHEC out list. Nevertheless, Employee 2 reported that he worked 8 hours and was paid accordingly.
- On December █, 2012, Employee 6, who was not authorized to telework at all, sent emails stating he was not going to be in the office and had no badge data indicating that he was in the Census building for that day, yet recorded a 9-hour workday.

- On January █, 2014 and January █, 2014, Employees 13 and 11, respectively, were listed as “out” on the CHEC out list and there was no badge data indicating that they entered the building, yet both employees recorded 10-hour workdays. On those days, neither appears on the log kept by Census Security of employees who forgot their badge. Employees 11 and 13 did not telework or otherwise work outside of the office.
- On November █, 2013, Employee 5 recorded a 9-hour telework day when he was listed as “out” on the CHEC out list. Employee 5 did not login to VDI at all that day, which is contrary to the evidence of his general telework practices. Even more telling, Employee 5 did not send any emails that day and did not respond to numerous emails that were sent to him.

4. Contractor Time Fraud

Although the discussion above focuses on the time and attendance abuse by CHEC employees, we also found evidence that CHEC contractors fraudulently inflated the hours they worked. CHEC contractors were not authorized to do any work other than at the Census building; therefore, there is no justifiable explanation for a discrepancy between the timesheets and a contractor’s time in the Census building. Nevertheless, the OIG’s comparison of a sample of three contractors’ timesheets to their corresponding badge data showed significant discrepancies in two of the contractors’ time (Contractors 1 and 2).¹⁹

The OIG compared Contractor 2’s timesheets to her actual time in the Census building,²⁰ which revealed that Contractor 2 billed for 361 hours of time not actually worked during her █-month tenure as a CHEC contractor. In total, those 361 hours amounted to a loss to the government of \$32,217.11.²¹

For both of these contractors, either Employee 4 or Employee 9 signed as the approving supervisor for each of the contractors’ inaccurate timesheets at issue. Moreover, emails indicate that Employee 4 was generally aware of these contractors’ schedules. For example, Employee 4 received an email on the morning of November █, 2013, informing him that “[Contractor 2] will be late. Over slept.” The badge data confirms that Contractor 2 was late on that day. Contractor 2 entered the building at 8:45 a.m., yet reported on her timesheet that she started work at 7:00 a.m. Employee 4 told the OIG that he was not responsible for ensuring the accuracy of the contractors’ time, despite the fact that he approved their timesheets and multiple witnesses reported that he served as the contractors’ de facto supervisor.

¹⁹ In determining which contractor timesheets to review, the OIG selected several contractors with close personal connections to Employee 4, a CHEC Office manager who we determined misused his official position in the hiring and supervision of these contractors, and another CHEC employee. See Chapter 3.

²⁰ The OIG performed this full analysis for Contractor 2 as a test case. As noted above, we also found significant discrepancies in a sampling of Contractor 1’s timesheets; however, Contractor 1 worked as a CHEC contractor for a shorter period of time, and the Bureau paid a lower hourly rate for her services.

²¹ Contractor 2 is no longer employed as a CHEC contractor.

5. Telework Abuse

Although our badge data analysis does not account for potentially fraudulent telework, our investigation uncovered evidence of telework abuse. We found evidence that CHEC employees consistently abused the telework privilege by claiming to telework on days when the evidence established they performed little or no work at all. Several examples include:

- Our extensive review of Employee 3's emails revealed that he regularly utilized his telework day as a day for personal errands and medical appointments. Employee 3 would write emails to his supervisor, Employee ■ in which he stated where he was going and what non-work activities he was doing. Nevertheless, he did not take leave on these days and claimed to telework a full day. Moreover, we found no evidence of work being done (e.g., emails, VDI, and other database logins) on many telework days.
- Employee 5 recorded that he worked a 9-hour telework day when he was on the CHEC out list, and there is no evidence whatsoever of any work being done that day.
- In an email to Employee 2 on his scheduled telework day, another CHEC employee wrote to her at 2:26 p.m. regarding a work-related issue: "I know you've logged off—this is just so I make a note of it for Monday :)" Employee 2 did not respond to this email and did not send any work-related emails after 1:53 p.m. that day.²² Employee 2 recorded a regular 8-hour telework day in WebTA.

6. Lack of Supervisory Oversight

When the OIG questioned supervisors about their subordinates' apparent time and attendance abuse, most supervisors—including those who have their own attendance discrepancies—disclaimed any knowledge. However, the evidence shows that the time and attendance abuse in the CHEC Office was widespread. The OIG has substantiated that numerous CHEC employees fraudulently claiming a significant amount of time, many on an almost daily basis. There are numerous examples of employees with multi-hour absences, often with emails to their supervisor saying they will be out, with the supervisor still certifying a timesheet showing a full day worked. There are also emails to supervisors on telework days showing an employee taking care of personal matters rather than working. The OIG finds it unlikely that supervisors did not know, and even if they did not, they should have known.

One supervisor, Employee 4, claimed that it is not his responsibility to know when his employees work or to have any oversight regarding the accuracy of their time and attendance. According to the General Accountability Office's guidance on maintaining effective control over employee time and attendance, however, "the supervisor has primary responsibility for authorizing and approving T&A transactions. Supervisors . . . should be aware of the work time and absence of employees for whom they are responsible."²³ Further, when a supervisor

²² Employee 2 sent one personal email at 2:28 p.m.

²³ U.S. General Accounting Office, GAO-03-352G, *Maintaining Effective Control over Employee Time and Attendance Reporting* 5, www.gao.gov/new.items/d03352g.pdf (Jan. 2003).

certifies an employee's timesheet, the screen in WebTA states "Your signature certifies that all reported time was worked and approved according to law and regulation."

In noting these principles, we recognize that it is not practical to expect supervisors to keep track of every minute of every employee's time. There is inevitably a certain level of trust and good faith placed in employees to work when they are supposed to work and to properly account for their time. However, in this case, the time and attendance abuse was widespread and significant, and reflects a lack of proper supervision.

Moreover, the evidence suggests that certain current and former supervisors not only knew about the widespread time and attendance abuse in the CHEC Office, but also fostered a culture that encouraged and approved of such abuse. In their responses to the draft factual findings, numerous current and former CHEC Office employees stated that their supervisors allowed them to leave early if they completed their work, allowed them to work through lunch and breaks and leave early, did not require that they take leave except for longer vacations, and frequently provided them administrative leave. One employee, for example, told the OIG that Employee ■ made statements "all the time" that this subordinate employee could take "mental days" for himself, just "get out" of the office when he wants without taking leave, take "really long lunch breaks," and "use sick leave if you are not really sick."

7. Failure to Adhere to Time and Attendance Policies and Conduct Effective Training

The widespread time and attendance abuse in the CHEC Office violated numerous Department and Census policies. Many witnesses stated that they never received training until after the OIG complaint, when the Bureau took measures to improve its policies and training. While that neither explains why many CHEC employees believed it was acceptable to work less than a full workday when the rules against that are clear (and they must affirm that their time records are accurate every pay period), nor why some CHEC employees' time and attendance is markedly worse than others, the Bureau could have done a better job of establishing an effective training program to implement its time and attendance policies.

We found other problems with how the CHEC Office handled time and attendance. Employees would regularly validate, and occasionally supervisors certify, timesheets long in advance. For example, if a pay period covered January 1 to 15, many CHEC timesheets would be filled out and validated on January 2. Employee ■ told the OIG that the Bureau's administration office instructed them to do so at the end of the month. Employee ■'s supervisor confirmed that the "end of the month is the only time we do that." However, the OIG found numerous examples of this at all times of the month—beginning, middle and end—when Employee ■ and other employees validated time at the beginning of a pay period. Another CHEC supervisor acknowledged that some employees would do this and said "I don't really know why people would do that. They weren't instructed to do it."

We also found that Employee 4 gave out his WebTA password to subordinates. Employee 4 denied doing so, but his emails show him sending his WebTA password to other employees. When shown one of these emails, Employee 4 stated "I never told them to do anything with my password." However, the employee who received the password recalled at least one occasion when Employee 4 asked him to login to WebTA as Employee 4 and certify employee time. Moreover, we conclude that there is no plausible explanation for sending an employee a

WebTA password other than for that employee to login to do something with it. Supervisors providing passwords to subordinates to certify time defeats the purpose of supervisor certification and creates a false record of the certification, since the audit trail in WebTA will show that the supervisor certified the time when in fact he did not.

D. Findings Regarding Specific CHEC Employees

In addition to our aggregate badge data analysis described above, the OIG also took a deeper look at many CHEC employees’ time and attendance on an individual basis. In particular, we examined the original nine employees who were served with Proposals to Remove (Employees 1-9), as well as an additional group of current and former CHEC employees (Employees 10-17) whose attendance discrepancies appeared particularly significant—namely, our badge analysis indicated that these employees claimed more than 500 hours each that they did not work.²⁴

I. Employee I

Overcharged Hours	Estimated Total Cost to Government
1,277	\$64,599

According to the badge analysis, Employee I has the largest time and attendance discrepancy in the CHEC Office.²⁵ During the time period reviewed, Employee I was on a compressed AWS schedule (5-4/9) and was supposed to work nine hours per day for eight days, eight hours for one day and then take one day off. In addition to coming in late and leaving early, Employee I was also regularly absent for extended periods of time during the day, frequently leaving the building for well more than the allowed one hour for lunch and breaks. In fact, he had the most frequent long, mid-day absences in the CHEC Office of the employees whose time we analyzed.

In his OIG interview, Employee I stated that he did not do any work from home. Consistent with his own statements, all of Employee I’s supervisors stated to the OIG that he is not, and never has been, authorized to telework. Moreover, the OIG’s review of Employee I’s emails and remote login records did not reveal any work performed out of the office. Therefore, there is no evidence of work outside of the Census building that could explain the 1,277-hour discrepancy between his badge data and the time he claimed to have worked in WebTA.

Employee I also stated to the OIG that he did not work a full 9-hour workday. According to Employee I, one of his former supervisors allowed him to leave early on a daily basis to pick up

²⁴ Although we limited our individualized analysis to 17 current and former CHEC employees, we recommend in Chapter 6 of this Report that the Bureau consider what administrative action, if any, is warranted against any CHEC employee who fraudulently reported his time and not limit its consideration to these 17 employees.

²⁵ In addition to the time Employee I was not in the Census building, the OIG has significant concerns regarding what he was doing while in the building. Our extensive email review revealed that Employee I sent an extraordinary amount of personal emails each day; the magnitude and frequency of his emails was so great that it calls into question how much work Employee I was actually doing. Moreover, his emails were inappropriate, including numerous sexually graphic emails. See *Smith v. Department of Energy*, 2012 MSPB LEXIS 3511 (June 2012) (upholding 30-day suspension for sending numerous personal and inappropriate emails from government email account), rev. denied, 121 M.S.P.R. 78 (2014).

a family member. Employee 1 further stated that his practice of working shorter days continued with other supervisors—though they may not have explicitly authorized him to work shorter days than he was required to, the status quo continued. When asked why he was on a compressed schedule instead of an 8-hour schedule if he could not work the required 9 hours, Employee 1 stated “I needed to keep . . . my off day to handle other things.” And as to why he did not just come in earlier in the morning, he stated that “I had other things going on. I don’t quite remember why I didn’t come in earlier.” Employee 1 stated that he did not feel that he was stealing any time from the government. He told the OIG that he believes it to be an act of “human compassion” that his supervisors allowed him to work less hours than required to help care for his family member.

The former supervisor who purportedly allowed Employee 1 to leave early on a daily basis told the OIG that he never authorized or allowed Employee 1 to regularly leave early. Likewise, none of Employee 1’s other supervisors told the OIG that they authorized or approved of him leaving early on a regular basis. There is therefore no evidence to support Employee 1’s statement that he received supervisor approval for leaving early to pick up his family member. In addition, as noted above, Employee 1 also had significant time discrepancies in the middle of the day, absences that do not appear to relate to picking up a family member at all.

Even crediting Employee 1’s explanation of needing to leave early to pick up his family member, we find that his explanation does not excuse his time and attendance abuse. Federal workers have certain benefits to help manage their personal lives, including flexible schedules, annual leave, sick leave, and, if necessary, leave without pay. Instead of utilizing these benefits or adjusting his work schedule to accommodate his familial issues, Employee 1 neglected to work his daily scheduled hours and received pay for time not actually worked.

2. Employee 2

Overcharged Hours	Estimated Total Cost to Government
1,002	\$72,544

Employee 2 was on a regular 8-hour work schedule. Consistent with our badge data analysis, Employee 2 stated in his OIG interview that he was generally in the Census building for 7 to 7½ hours from the beginning to end of a workday as opposed to the required 8½ hours (factoring in the mandatory 30-minute lunch). Employee 2 also told the OIG that he usually recorded 8 hours in WebTA, even when he came in late or left early.

Employee 2 stated that the “badge data doesn’t represent my work” because he would write emails on the train during his commute. In addition to emails, Employee 2 stated that he also made phone calls infrequently and worked on documents frequently on the train. Employee 2 told the OIG that he was never authorized to count his commute time as work or to work a shorter day, but stated that his WebTA was approved and that his supervisor knew he was working on the train.

The OIG reviewed Employee 2’s emails from January 1, 2013 through February 4, 2014. During this time period, Employee 2 did not send any emails before entering or after exiting the Census building on the vast majority of workdays. Further, Employee 2’s supervisor told the

OIG that, while he was aware Employee 2 worked on the train, it was not on a routine basis, and he never authorized this on a regular basis. The supervisor's best estimate was that he gave Employee 2 work to do out of the office once a week.

In sum, we find that, although Employee 2 appears to have performed some work out of the office, the evidence does not support the 1,002-hour discrepancy. Employee 2 appears to have sent a limited number of emails while outside of the Census building, and his supervisor did not corroborate that Employee 2 did work on a regular basis outside of the office.

3. Employee 3

Overcharged Hours	Estimated Total Cost to Government
901	\$53,563

During the time period reviewed, Employee 3 was on a compressed AWS schedule (5-4/9) and therefore was supposed to work nine hours per day for eight days, eight hours for one day and then take one day off. In his OIG interview, Employee 3 stated that he was often not in the Census building for his full workday.²⁶ However, he told the OIG that he was "always" working from home and, in fact, worked more than was required.

Employee 3 told the OIG that his work at home primarily consisted of initiating new Census job applicants in Database 1 and answering phone calls from applicants with questions about Database 1 "from the time I woke up until the time I went to bed." To initiate new applicants in Database 1, Employee 3 stated that he must first pull information from Database 2 and then login to Database 1. Regarding the phone calls, Employee 3 told the OIG that he does not give applicants his home phone number; they get it from their caller ID when he calls them from home, and then they call him back in the evening and weekends. When an applicant calls him at home, Employee 3 stated he "absolutely" has to login to Database 2 to look them up. Employee 3 told the OIG that "you can check my [Database 2] records" to verify the work he performed out of the office.

In addition, Employee 3 told the OIG that he [REDACTED] his supervisor, Employee [REDACTED], and "had approval" regarding his work schedule and activities. When the OIG asked Employee [REDACTED] about Employee 3's work outside the office, he said that Employee 3 teleworks from home at night regularly, and that his telework duties consist of working in Database 1 and handling Database 1 help desk calls.

The OIG's analysis of Employee 3's login and email records failed to verify the amount of work he claimed to have completed out of the office. The OIG obtained Employee 3's Database 1 and Database 2 login records and compared them to his badge data. During the more than four-year period reviewed, we found only five instances in which he logged in to these databases after 5:00 p.m. and an additional three instances after his badge data indicates he left

²⁶ Employee 3 also told the OIG that "honestly, I barely took lunch. I never took 15 minute breaks." However, we do not find this statement credible. The badge analysis shows that on most days Employee 3 took lunch and/or breaks outside of the building, including numerous instances in excess of one hour.

the Census building that day. We did not find any instances of Employee 3 logging in from home in the morning before work. In addition, over this more than four-year period, we found two instances of weekend logins, one instance of logging in on an AWS day off, and one instance of logging in while on leave. Further, the only way to access Database 2 from out of the Census building is through the Bureau's VDI, and the OIG's review of Employee 3's VDI login records showed that he rarely logged in from home on non-telework days.

As for the purported phone calls, there is no evidence that Employee 3 spoke with job applicants for anywhere close to the amount of time needed to explain the discrepancy between his time in the Census building and the time he claims to have worked in WebTA. Based on the evidence and Employee 3's statements about how applicants called his home telephone number—getting his home number from their caller ID and calling him back at home—we do not find that explanation credible. The evidence establishes that the Database 1 help phone number was not forwarded to Employee 3's home after hours. Further, Employee 3 would not have an applicant's phone number at home unless he logged in to Database 2 to obtain it (and, as noted above, there are an extremely limited number of examples where Employee 3 logged in to Database 2 in the evenings or weekends). Likewise, as noted above, Employee 3 told the OIG that, when applicants call with questions, he must login to Database 2 to look them up, but, as described above, there is little evidence of this happening. Moreover, the OIG afforded Employee 3 an opportunity to provide phone records evidencing these purported work-related telephone calls from his home phone, and he did not provide any such documentation.

The OIG also reviewed all of Employee 3's emails from July 1, 2013 through February 4, 2014. Employee 3 did not send any emails while outside of the Census building on non-telework days during this entire time period. Employee 3 also told the OIG that he does not send emails from home on regular work days.

As noted above, Employee 3's supervisor, Employee ■, stated that Employee 3 teleworks from home at night regularly, and that his telework duties consist of working in Database 1 and handling Database 1 help desk calls. We do not find this explanation of Employee 3's out-of-office work credible. At the outset, we note that the evidence establishes that Employees 3 and ■ are ■, they are both subjects of this investigation, and they both have a vested interest in attempting to justify Employee 3's time and attendance discrepancies. In sum, our review of the evidence found that Employee 3's login and email records do not support his claims that he "always" worked from home.

Next, we found that Employee 3 engaged in telework fraud. Multiple witnesses who worked with Employee 3 reported that Employee 3 did not do his work on his telework days. According to these witnesses, he would not initiate cases in Database 1 and those cases would either have to wait until the next day or get initiated by someone else. Database 1 calls were not forwarded to his home phone; rather, messages were left on his work voicemail. In addition to these statements from CHEC employees, the OIG compared Database 1 and Database 2 records to Employee 3's telework days and found numerous days without any logins, despite that being one of his core job responsibilities. We also found emails that further confirm that he was not working on several days that he claimed to be teleworking, such as the following examples that show him using his telework day for personal activities:

- August █, 2013: Employee 3 wrote to Employee █ “Morning . . . talked to Dentist, apt only going to take 20 mins so no need to get anyone to cover. I will go and come back and check to make sure everything in [Database 1] ok!!!” Employee █ replied “Have a good one :).” In his OIG interview, Employee 3 stated that the drive from his home to the dentist in █ is 1 to 1½ hours each way and that he would take sick leave on these days. On this day, however, Employee 3 recorded 9 hours of telework in WebTA with no leave taken. He sent no emails after 10:43 a.m., and he did not login to VDI, Database 1, or Database 2 all day.
- August █, 2013: Employee 3 sent no emails after 9:47 a.m. until 7:22 p.m. At 2:25 p.m., Employee █ wrote Employee 3 “Hey u call me . . .” A read-receipt generated from Employee 3’s email account shows that Employee 3 did not read that email (or other emails from Employee █) until 7:07 p.m. Employee 3 logged into Database 1 for one minute at 7:20 p.m. At 7:22 p.m., Employee 3 wrote Employee █ “. . . going to bed!!! Just got back from taxes!!! Talk to you tomorrow.” Employee 3 did not login to VDI or Database 2 all day. Employee 3 recorded 9 hours of telework in WebTA with no leave taken.
- September 26, 2013: Employee 3 emailed a relative “I’m teleworking this morning and then heading to █ to fix a █!” Employee 3 recorded 9 hours of telework in WebTA with no leave taken.

“I’m teleworking this morning and then heading to █ to fix a █!”

- Email from Employee 3 on a day that he recorded 9 hours of telework in WebTA

For all the reasons outlined above, the OIG does not find Employee 3’s explanations of regularly working from home credible. Moreover, we find that his emails and database login records, along with testimony from other CHEC employees, establish that Employee 3 claimed to telework on numerous days in which he did little or no work at all.

4. Employee 4

Overcharged Hours	Estimated Total Cost to Government
890	\$85,173

Employee 4 was on a █ schedule (█) and was therefore supposed to work █. In his OIG interview, Employee 4 admitted that he was not in the Census building for his full workday. He claimed that he was constantly working from home, and, in fact, worked more than was required.

In his OIG interview, Employee 4 initially stated that most of his work outside of the office consisted of emails. The OIG reviewed all of Employee 4’s emails from July 1, 2013 through February 4, 2014, and established that Employee 4 did not send any emails while outside of the

Census building on the vast majority of workdays. The evidence showed that, although he occasionally sent a short email or two before or after work, the emails in those instances would typically consist of one or two sentences that were sent seconds or a few minutes apart—not evidence of working any significant period of time.

After the OIG informed Employee 4 in his interview that the evidence did not support him spending a significant amount of time sending emails outside of the office, he provided a different explanation. Employee 4 then stated that he has telephone calls with the [REDACTED] in the evenings. The OIG then interviewed every [REDACTED] and [REDACTED] across the county; however, none reported ever having a conversation with Employee 4 outside of regular work hours when he was not in the office during this time period.²⁷

Employee 4 also claimed that he worked on documents outside of the office, specifically that he wrote presentations by hand. When the OIG asked his supervisor about Employee 4's handwritten presentations, the supervisor stated that Employee 4 works on presentations "infrequently" and that he could not identify what Employee 4 would be doing outside of the office to explain the discrepancy between his badge data and the time he claimed to have worked in WebTA. Likewise, a [REDACTED] employee who Employee 4 claimed he would give handwritten presentations to that he had worked on from home stated that "it might have happened here and there," but that it "probably [did] not" happen with any frequency. This employee told the OIG that Employee 4 may have given him a handwritten document that Employee 4 stated he worked on from home "here and there a couple times."

Numerous emails, confirmed by the badge swipe data, evidence Employee 4 coming to work significantly late or leaving significantly early.²⁸ A few examples include:

- August [REDACTED], 2013: Employee 4 wrote to his supervisor "I have Comcast coming to the house @ 4 today . . . can I leave today @ 3:15 to meet them?" Employee 4 badged in at 8:27 a.m. and badged out at 3:03 p.m. Employee 4 sent one short email after leaving the office. He recorded 9 hours in WebTA (i.e., 9½ hour-workday), reflecting a 3-hour discrepancy.
- September [REDACTED], 2013: Employee 4 wrote to his supervisor "I will be in right after my 9:00 doctors appt. today!" Employee 4 entered the building at 10:28 a.m. and exited at 4:39 p.m. Employee 4 sent one short email in the morning before entering the Census building and one email of several words in the evening. He recorded 9 hours worked in WebTA (i.e., 9½ hour-workday), reflecting a 3 1/2-hour discrepancy.
- January [REDACTED] 2014: Employee 4 wrote an email to a [REDACTED] at 3:21 p.m. saying that he was leaving for the day. Employee 4 badged out at 3:31 p.m. and had badged in at 9:06

²⁷ As noted in Chapter 4, in light of the statements from the regional office staff, we concluded that Employee 4's statement to the OIG was false and reflected a lack of candor.

²⁸ [REDACTED]

a.m. Employee 4 sent one email of a few sentences before entering the building in the morning and one email of several words after leaving in the afternoon. He claimed that he worked 9 hours in WebTA (i.e., 9½ hour-workday), reflecting a 3 1/2-hour discrepancy.

Last, the evidence shows that Employee 4 frequently certified his own time in WebTA. Employee timesheets must be certified by a supervisor in WebTA, a process designed to ensure a second-level check of the employee’s time. Employee 4 confirmed to the OIG that he understood it was inappropriate for an employee to certify his own time. Although Employee 4 denied having any recollection of certifying his own time in his OIG interview, we do not find his denial credible.²⁹ According to WebTA records, Employee 4’s account certified Employee 4’s timesheets on 64 occasions during the four-year period reviewed (approximately 60% of the pay periods). Moreover, Employee 4’s supervisor told the OIG that Employee 4 certified his own time and that it was “absolutely . . . clear” that he was doing so for years.³⁰

In sum, we find that, although Employee 4 appears to have performed some work outside of the office, the evidence does not support the 890-hour discrepancy. In his OIG interview, Employee 4’s explanations evolved and were contradictory when we presented him with evidence indicating that he did not regularly work out of the office for significant periods of time. For all the reasons outlined above, the OIG does not find these explanations credible.

5. *Employee 5*

Overcharged Hours	Estimated Total Cost to Government
812	\$39,754

During the relevant time period, Employee 5 was on a compressed AWS schedule (5-4/9) and was therefore supposed to work nine hours per day for eight days, eight hours for one day and then take one day off. Employee 5 told the OIG that he would sometimes not work a full workday, but justified working shorter than his required workday by stating that he had to pick up a family member. According to Employee 5, “I had a [sic] understanding with my supervisor . . . at the time, who understood the situation I was going through.” In addition to work performed at home on his regular telework day, Employee 5 told the OIG that he would review documents, prepare written materials, and take phone calls from home, but could not provide the frequency this occurred.

Employee 5’s supervisor told the OIG that he could not think of any work Employee 5 would perform out of the office on a regular basis. Further, the supervisor with whom Employee 5 stated he had an “understanding” regarding his leaving early denied giving Employee 5 permission to do so, and Employee 5’s supervisor since then reported that he did not know of or approve Employee 5’s early departures. Even Employee 5 told the OIG that this purported

²⁹ As discussed in Chapter 4, we also found that this statement lacked candor.

³⁰ According to Department policy, Employee 4’s supervisor should not have allowed Employee 4 to certify his own time.

understanding did not carry over to subsequent supervisors, despite Employee 5 continuing to work shorter days than required. When asked why he did not switch off the 5-4/9 Schedule to an 8-hour workday if he had to leave early to pick up a family member and could not work nine hours, Employee 5 stated “because it was easier for me to stay on the [5-4/9 Schedule] . . . because I needed the Fridays to handle personal appointments.”

The OIG reviewed relevant sign-in logs³¹ and identified two distinct patterns in Employee 5’s entries. On some occasions, his signing in and out was within several minutes of his entrance and exit from the building according to his badge swipes. However, in these instances, he often recorded that he had worked more hours in WebTA than his log entries reflect. Other times, Employee 5 entered times on the sign-in logs inconsistent with when the badge data indicates he actually entered or exited the building, particularly when he signed out. Employee 5 was often the last one to leave from his group and, with some regularity, would sign out indicating a time approximately 30 minutes to one hour later than when he actually left the building; this tended to occur when he was the last employee to sign out. When asked in his OIG interview what time he puts on sign-in logs, Employee 5 initially stated “I put the time that I’m actually in the building.” After the OIG presented him with evidence of inconsistencies to the badge data, he later provided a different explanation, stating that sometimes he adds time on if he anticipates working later from home or if a supervisor told him he could leave early. Given the evidence and his evolving explanation, we do not find this explanation credible.

In addition to Employee 5 regularly working shorter days than required, we found many examples of particularly large time discrepancies. On numerous days, emails, and CHEC out lists indicate Employee 5 would be late or leave early, yet he still recorded a regular 9-hour day. Moreover, on November █, 2013, Employee 5 reported that he teleworked 9 hours in WebTA. He was listed as “out” on the CHEC out list, did not login to VDI (contrary to his general telework practices), and did not write any emails all day, even though numerous emails requiring a response were sent to him.

We also found that Employee 5 collected a significant amount of pay for overtime not actually worked. Particularly in 2010 during the Decennial Census, the evidence establishes that Employee 5 regularly claimed several hours of overtime in excess of the time he actually worked.

6. Employee 6

Overcharged Hours	Estimated Total Cost to Government
603	\$12,374

Employee 6’s schedule during the relevant time period varied, but was mostly a compressed AWS schedule (5-4/9).³² Employee 6 did not telework and was not authorized to do any work

³¹ As described in Chapter 4, note 61, the OIG was provided with CHEC sign-in logs for only a limited number of CHEC employees and for a limited time period.

³² Employee 6 continued to have significant time discrepancies even after receiving his Proposal to Remove, whereas the other subjects modified their behavior.

out of the office. In his OIG interview, Employee 6 stated that he did not always work a full day. Employee 6 further told the OIG that on some days he would not take a lunch and leave early, and that, while he now knows that is impermissible, he “never actually read rules” and “no one ever told me I wasn’t allowed to.” According to Employee 6, “[i]f I did not take leave it was because I forgot. It wasn’t like I’m stealing time. . . . It was not intentional.”

Employee 6 told the OIG that “I’ve never gotten a single complaint about my time until the [Proposal to Remove] from the [B]ureau. . . . No one ever told me I was in the wrong.” However, one of Employee 6’s supervisors told the OIG that he had spoken with Employee 6 several times when Employee 6 came in late but still recorded a full workday in WebTA.

The OIG reviewed relevant sign-in logs and Employee 6’s entries were generally within minutes of his entrance and exit from the building according to the badge data. However, the time from his log entries does not match the time he reported that he worked in WebTA. He often recorded in WebTA that he worked an hour (or more) longer than the time that both his badge data and sign-in logs confirm he actually worked.

In addition to Employee 6 regularly working shorter days, we found numerous examples of particularly large discrepancies, including at least one full-day absence. For instance, on December █ 2012, Employee 6 wrote emails stating that he was not going to be in that day. As noted above, Employee 6 did not telework and was not authorized to do so, and there were no badge swipes for that day, yet he recorded a regular 9-hour workday. Further, numerous emails and CHEC out lists indicated he would be late or leaving early, yet he still recorded a regular 9-hour day.

In his response to the draft factual findings, Employee 6 stated that he was █ and █ when he started working as a █ in the CHEC Office. Employee 6 informed the OIG that his supervisors never required him to take leave when he left early and that is “just how it was” in the CHEC Office. According to Employee 6, his supervisors “kn[e]w where I [was]. Kn[e]w what I [was] doing.”³³

7. Employees 7-9

Employee	Overcharged Hours	Estimated Total Cost to Government
7	347	\$15,961
8	279	\$5,418
9	296	\$26,980

In the interest of brevity, we grouped Employees 7-9 together because, among the nine CHEC employees served with a Proposal to Remove, there is a distinct decrease in overcharged hours after Employee 6. In addition, Employees 7-9 each have mitigating factors, such as working

³³ Employee 6 did not provide this information in his initial OIG interview. He stated that he was not fully candid in his OIG interview because he felt pressured and implicitly threatened by Employee █ to not be forthcoming in response to any questions by OIG investigators regarding Employee █ and the culture in the CHEC Office. See Chapter 4 for a more detailed discussion of Employee █’s interference with the OIG’s investigation.

more time than what the employee recorded in WebTA with some regularity. Nevertheless, each of these employees has discrepancies according to our badge analysis. The Bureau may want to conduct a thorough review in assessing what disciplinary action, if any, is warranted against these employees.

Employee 7 was candid in his OIG interview and stated that he likely was out of the building longer than the allowable break periods. According to our analysis, Employee 7's attendance, from the beginning to the end of the day without factoring in mid-day breaks, is one of the most accurate in the CHEC Office. Moreover, unlike most of the other subjects, Employee 7 spent more time in the office than what he recorded in WebTA on many days and worked outside of the office with some regularity. No witnesses interviewed expressed any concerns about Employee 7's time and attendance.

Employee 8 told the OIG that he was not always in the office a full workday. According to Employee 8, his "[REDACTED]" was working in the CHEC Office and that "being [REDACTED], I just kind of did what everybody else did." He stated in his OIG interview that he believed that he could leave early if he completed the work and that this was the "culture" in the CHEC Office. Consistent with his statements, the evidence establishes that Employee 8's supervisor and many other CHEC employees in his branch have significant time discrepancies.

Employee 9 stated to the OIG that he was not always in the office a full workday. Like Employee 7, Employee 9 also has many days in which he actually spent more time in the office than what was recorded in WebTA. The evidence also indicates that he worked outside of the office with some regularity in the evenings and on his days off.

8. Employees 10-17

Employee	Overcharged Hours	Estimated Total Cost to Government
10	1054	\$57,007
11	1034	\$39,979
12	928	\$27,011
13	846	\$36,428
14	688	\$17,707
15	647	\$37,873
16	641	\$20,703
17	582	\$42,327

The badge data analysis for Employees 10-17 revealed significant time and attendance discrepancies, on par with Employees 1-6. Most of these employees told the OIG that they did not always work their full workday. Aside from Employees 12 and 17,³⁴ these employees and their supervisors stated that they did not regularly work from home on non-telework days. Most were not authorized to work from home at all.

³⁴ In considering what administrative action, if any, is warranted against these employees, the Bureau may want to consider and evaluate the work that Employees 12 and 17 claim to have performed outside of the office.

As in the more detailed discussions of Employees 1-6 above, many of these employees worked an AWS compressed schedule, but did not actually work the required hours in order to receive a day off once a week or once every other week. There are likewise numerous examples, corroborated by emails, the CHEC out list, and sign-in logs, of these employees coming in significantly late or leaving significantly early, yet still recording a regular, full workday in WebTA. In addition, the evidence establishes that in June and July of 2011, Employee 11 regularly claimed and received pay for several hours of overtime in excess of the time he actually worked.

E. Subject Review and Comments

At the conclusion of the OIG's investigation, we provided Employees 1-17 an opportunity to review and provide comments on excerpts of a draft version of this Report containing our badge analysis methodology and the facts pertaining to that employee. Of the 17 subject employees, 16 participated in this process, either directly or through counsel.³⁵ After reviewing the draft excerpts, three employees informed the OIG that they did not have any comments, and a fourth employee did not provide any comments despite several reminders. Four employees, through counsel, stated that they do not intend on submitting a written rebuttal to the findings and that they committed no wrongdoing. The remainder of the employees submitted written responses through their union representative. The OIG reviewed and considered all of the responses that we received prior to the finalization of this Report. Due to privacy concerns arising from the detailed, personal nature of the employees' comments, the OIG is not including their full responses in this Report. We are providing all of the responses to Census for their consideration in determining what administrative action, if any, is warranted against these employees. Although we do not include the employees' full responses, we will address them in summary form. In addition, we have incorporated certain subject comments into the relevant discussion of that theme or employee.

Several subjects provided information in their comments similar to statements from their OIG interviews that are already discussed in this Report. Moreover, certain information in the subjects' responses is extraneous to the OIG's findings, such as the employees' employment history at the Bureau and their work achievements. While the Bureau may want to consider these factors in its disciplinary determinations, they are not relevant to our analysis.

The subject comments contain two principal themes regarding time and attendance. First, numerous subjects stated that they had supervisory approval regarding their time and attendance and pointed to the "culture" in the CHEC Office that was established by CHEC management. According to these employees, CHEC Office supervisors allowed them to leave early if they completed their work assignments, allowed them to work through lunch and breaks and leave early, did not require that they take leave except for longer vacations, and

³⁵ Employee 14 is no longer employed by Census. When initially contacted by telephone, he expressed an interest in reviewing the draft report. However, he subsequently did not respond to multiple voicemails that OIG investigators left on his cellular telephone to attempt to arrange the review.

frequently provided them administrative leave.³⁶ These employees stated that they were never out of the Census building without supervisory approval. Further, these employees described a culture in the CHEC Office that focused on production—as long as the work was completed, time and attendance was not a concern.

Second, numerous subjects reported that they did not receive any time and attendance training until the summer of 2014, after the OIG initiated this investigation. According to these employees, if they had received proper training, they would have better understood the rules about time and attendance and acted accordingly.

Regarding these subject responses, the OIG notes that every time these employees validated their timesheets in WebTA, they had to affirmatively “certify that the time worked and leave taken as recorded on this form is true and correct to the best of my knowledge.” In addition, time and attendance policies were available on the Census intranet, the Department’s intranet and internet sites, and OPM’s website. We also note that some CHEC employees’ time and attendance is more accurate than others, despite them working for the same CHEC Office supervisors and receiving the same time and attendance training (or lack thereof). Nevertheless, these subjects’ comments regarding alleged supervisory approval and a lack of training are potentially mitigating factors that the Bureau should evaluate in determining what administrative action, if any, is warranted against these employees.

Last, the subject comments generally confirm that these employees regularly came in late and left early. While, as explained above, they offer explanations for their behavior, such as a variety of personal and family-related issues, these employees generally do not dispute the OIG’s finding that they frequently worked less than their full tour of duty.

III. Conclusions

The OIG concluded there was sufficient evidence to support findings that numerous current and former CHEC employees violated certain criminal statutes prohibiting fraud and theft, as well as ethical regulations covering the basic obligations of public service.

A. Numerous CHEC Employees Violated 18 U.S.C. §§ 287, 641, and 1001 When They Certified and Affirmed Time in WebTA That They Did Not Work

CHEC employee conduct implicates three criminal statutes—18 U.S.C. § 287 (false claims), 18 U.S.C. § 641 (theft), and 18 U.S.C. § 1001 (false statements). A false claim requires two elements: making or presenting a claim to any agency of the United States, and knowing such claim to be false, fictitious, or fraudulent.³⁷ Theft requires that the money was stolen or converted for use by another, that the money belonged to the United States, and that the money was

³⁶ If the employees had recorded this purported administrative leave accordingly in WebTA, it would not have been treated as time worked in our badge analysis. Employees were given full credit for all time coded as leave.

³⁷ *United States v. Ewing*, 957 F.2d 115, 119 (4th Cir. 1992) (citing 18 U.S.C. § 287).

stolen knowingly with the intent to deprive the owner of the use or benefit of the money.³⁸ Similarly, a false statement occurs when a false statement is made knowingly or willfully to a governmental agency as part of an official proceeding, and the false statement was material.³⁹

In light of the analysis above, we found that numerous CHEC employees claimed hours for work they did not perform, and that their entries into WebTA were claims made to the U.S. government. We also found that these employees received payment as a direct result of their claims, thereby converting U.S. government money for their own use. Therefore, the analysis for each of these statutes hinges on whether these employees *knew* that the hours they submitted were, in fact, inaccurate.

First, numerous employees admitted in their OIG interviews that they did not work all of the hours that they recorded as worked in WebTA. In addition, every time these employees validated their own timesheets in WebTA—a routine practice that occurred dozens of times over the several years reviewed—they affirmatively clicked a button to “certify that the time worked and leave taken as recorded on this form is true and correct to the best of my knowledge.” Given their admissions, the sheer amount of inaccurate hours for which the evidence indicates these employees were not present at work nor conducting work outside of the office, and the consistent pattern of claiming inaccurate hours, we concluded that these employees must have known that the information they submitted via WebTA was false.⁴⁰

For these reasons, the OIG concluded that the evidence describe above supports a finding that numerous CHEC employees’ conduct violated 18 U.S.C. §§ 287, 641, and 1001.

B. Numerous CHEC Employees Violated 5 C.F.R. § 2635.101 When They Certified and Affirmed Time in WebTA That They Did Not Work

The OIG also concluded that by committing time and attendance fraud numerous CHEC employees violated the basic obligations of public service, codified at 5 C.F.R. § 2635.101. Section 2635.101(b)(5) requires that government employees perform their duties honestly. Similarly, Section 2635.101(b)(14) requires that an employee attempt to avoid actions that create the appearance of violating the law or ethical standards. Numerous CHEC Office employees engaged in a persistent pattern of knowingly and intentionally submitting fraudulent time for the purpose of receiving tens of thousands of dollars in payment for work they never performed. Such conduct is inapposite to the public trust placed in government officials. These employees’ actions therefore violated 5 C.F.R. § 2635.101(b)(5) and (14).

³⁸ *United States v. Ayesh*, 702 F.3d 163, 169 (4th Cir. 2012) (citing *United States v. Rehak*, 589 F.3d 965, 973 (8th Cir. 2009), *cert. denied*, 130 S. Ct. 2130, 176 L. Ed. 2d 727 (2010)).

³⁹ *United States v. Ismail*, 97 F.3d 50, 61 (4th Cir. 1996) (citing *United States v. Arch Trading Co.*, 987 F.2d 1087, 1095 (4th Cir. 1993)).

⁴⁰ In making this determination, the OIG considered that there may be times when an innocent mistake could result in a disparity between actual hours worked and hours submitted via WebTA. For instance, an employee could commit a typographical error when entering time or forget that he or she was out of the office for an hour or two. However, in the instant matter, the OIG believes it is implausible to attribute such a large, consistent, pattern of errors to simple mistakes.

Chapter 3: Misuse of Official Position and Preferential Treatment

Over the course of the investigation, we obtained evidence suggesting that certain current and former CHEC employees misused their official positions and provided preferential treatment or unfair advantages to employees and contractors. In light of this evidence, the OIG expanded the scope of our investigation to examine these issues within the CHEC Office. The OIG's investigation revealed that Employee 4 violated ethical standards by his involvement in the hiring and recommendation of employees and contractors with whom he had a pre-existing personal relationship.

This chapter presents this analysis in greater detail. First, we outline the applicable laws and policies. Next, we present relevant evidence, including several case studies of instances in which Employee 4 took impermissible actions with respect to the hire or career advancement of contractors and employees with whom Employee 4 had a personal relationship.

I. Legal Overview

Employees of the Census Bureau, like all federal employees, are subject to the Standards of Ethical Conduct for Employees of the Executive Branch, as codified in Title 5 of the Code of Federal Regulations Part 2635, as well as Title 5 of the United States Code. Section 702 of the Standards of Ethical Conduct, 5 C.F.R. § 2635.702, states, in part: “An employee shall not use his public office . . . for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.” In addition to the general prohibitions set forth above, Section 702 sets forth four “specific prohibitions” that “are not intended to be exclusive or to limit the application of this section,” including 702(a), which states:

An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

Regulations and statutes also require federal employees to act impartially and prohibit granting preferential treatment. Section 101(b)(8) of the Standards of Ethical Conduct, 5 C.F.R. § 2635.101(b)(8), provides that “[e]mployees shall act impartially and not give preferential treatment to any private organization or individual.” Likewise, 5 U.S.C. § 2302(b)(6) states that it is a prohibited personnel practice for “[a]ny employee who has authority to take, direct others to take, recommend, or approve any personnel action . . . [to] grant any preference or advantage . . . to any employee or applicant for employment . . . for the purpose of improving or injuring the prospects of any particular person for employment[.]”

In addition, as noted above, federal employees must also avoid actions that even create an appearance that they are violating ethical standards. 5 C.F.R. § 2635.101(b)(14).

II. Findings Regarding Misuse of Official Position and Preferential Treatment in CHEC Office

Our investigation found evidence of numerous relationships that raise concerns about several CHEC employees. Most of this evidence focused around Employee 4, a ██████████ Census employee who is a supervisor and hiring official. The evidence shows that Employee 4 used his official position as a personal hiring vehicle for friends and their families.

Table 2 presents examples of individuals with whom Employee 4 had a pre-existing personal relationship and either hired, recommended for hire, or supervised, including: an individual with whom he was engaged in a sexual relationship, a relative, a friend's relatives, and multiple personal friends.⁴¹ Employee 4 was also actively involved in the hiring of applicants related or personally connected to other CHEC employees and contractors.⁴² Many of these individuals went on to commit significant time and attendance fraud.

Table 2: Examples of Employee 4's Relationships with Employees and Contractors He Hired, Recommended for Hire, or Supervised

Employee/Contractor	Connection to Employee 4	T&A Abuse
Contractor 1	Engaged in sexual relationship	Yes
Contractor 2	Friend's relative	Yes
Contractor 3	Other Census employee's relative	No
Employee 8	Friend's relative	Yes
Employee 12	Family friend	Yes
Employee 14	Friends with Employee 9's relative	Yes
Employee 35	Relative	Yes
Employee 41	Knew multiple CHEC employees, including Employee 4	Outside scope of analysis
Employee 42	Friend's relative	Outside scope of analysis
Employee 43	CHEC contractor's relative	Outside scope of analysis

Employee 4's emails show an apparent disregard for hiring rules and proper personnel procedures and, in some instances, amount to violations of the Standards of Ethical Conduct and may implicate prohibited personnel practices. For example, in an email exchange with an applicant for a job with CHEC who had a personal connection to Employee 4 and other CHEC employees, Employee 4 wrote:

⁴¹ We also found questionable supervisor-supervisee relationships. Employee 35 is related to Employee 4 and Employee 4 stated in his OIG interview that he has known Employee 35 since Employee 35 was a child. Despite this relationship, Employee 4 was Employee 35's supervisor and rating official for years, yet Employee 4 never disclosed this relationship to his supervisor. Similarly, Employee 4 has known Employee 12 since Employee 12 was a child and is friends with his family, yet he hired Employee 12 to work for CHEC and later served as his supervisor. At a minimum, we find that these relationships create the appearance of partiality. See 5 C.F.R. § 2635.101(b)(14).

⁴² For example, Employee 4 hired Employee 14, a close friend of Employee 9's daughter (a ██████████ at Employee 14's wedding) and helped a CHEC contractor's son obtain a position at Census.

All is good with this talk to [Human Resources] and you are at the top. There is one thing . . . there is 2 veterans above everyone so we need to get them out of the way first. I try to call you tomorrow and go over things

The applicant was hired shortly thereafter to work for Employee 4 in the CHEC Office.⁴³

In another example, Employee 4 acted as the hiring official for an applicant connected to Contractor I,⁴⁴ an individual with whom Employee 4 was engaged in a sexual relationship.⁴⁵ A prospective CHEC employee wrote Employee 4, stating: “This is [Employee 8], I’m [Contractor I’s friend’s] daughter. [Contractor I] told me to email you about the census application” The next day, Employee 4 responded “Below is the link you apply to. After you have completed the application email me back and ill let you know if I can get you a job.” Several days later, Employee 4 wrote Employee 8 that “[i]t looks like a go to work here at Census.” Personnel records show that Employee 4 selected Employee 8 for a [REDACTED] position in the CHEC Office the same day as this email.⁴⁶

“All is good with this talk to [Human Resources] and you are at the top. There is one thing . . . there is 2 veterans above everyone so we need to get them out of the way first. I try to call you tomorrow and go over things”

- Email from Employee 4 to a job applicant

Likewise, the evidence established that, while he was at work and on official time, Employee 4 reviewed and commented on applications for Census positions for applicants with whom he had a pre-existing personal relationship. Notably, this included positions in the CHEC Office for which he was the selecting official or otherwise involved in the hiring process. For instance, Employee 4 wrote to one such acquaintance: “I want you to answer and apply for these two . . . jobs . . . [B]efore you hit the button I need to review your answers.” On another occasion, Employee 4 sent an applicant another applicant’s resume to use as a model.⁴⁷ A Census Human Resources official told the OIG that it was inappropriate for Employee 4 to be editing resumes and providing another applicant’s resume as an example.

⁴³ A Census Human Resources official informed the OIG that the two veterans referenced in this email were also hired.

⁴⁴ According to Employees 4 and 8, Employee 8’s father had worked with Contractor I. Employee 4 also personally knew Employee 8’s father.

⁴⁵ The details of Employee 4’s relationship with Contractor I are explained below.

⁴⁶ Employee 4 stated that [REDACTED] are not competitive and are an excepted appointment. While [REDACTED] appointments were exempt from the standard competitive selection examination procedures, this streamlined process does not negate the responsibility for ensuring a fair and open process during the selection of [REDACTED] participants. The excepted service hiring procedures closely parallel those in the competitive service and employees are still required to follow the Standards of Ethical Conduct and the Merit System Principles.

⁴⁷ This conduct also likely violated the Privacy Act, 5 U.S.C. § 552a.

This section of the Report will focus on several of the more noteworthy examples of Employee 4's involvement in the hiring of contractors and employees with whom he had a personal connection.

A. Facts

1. Contractor I: Sexual Relationship

The evidence establishes that Employee 4 was actively involved in multiple stages of Contractor I's hiring and clearance process to work as a CHEC contractor. Specifically, according to emails and Employee 4's statements to the OIG, Employee 4 forwarded Contractor I's application materials to the contracting company, interviewed Contractor I on behalf of the Census Bureau prior to the contracting company hiring her, and communicated with Census' Office of Security regarding her clearance to begin working (e.g., submitting her required forms and checking on the status of her clearance).⁴⁸ According to her resume, Contractor I had no experience in anything related to conducting background checks when she was hired as a CHEC contractor.

The evidence establishes that Employee 4 was engaged in a sexual relationship with Contractor I before she was a contractor for the CHEC Office and that their relationship continued while she worked in the CHEC Office. Employee 4 initially denied the sexual and/or romantic nature of their relationship under oath during his OIG interview. After the OIG showed Employee 4 relevant emails, however, he admitted that he had in fact been involved in a sexual relationship with Contractor I when she was hired and worked as a CHEC contractor.⁴⁹

Employee 4 told the OIG that he was involved in the supervision and oversight of Contractor I, including "sign[ing] off" on her timesheets. According to several witnesses, Employee 4 essentially served as Contractor I's supervisor. Numerous emails also reflect a supervisory relationship between Employee 4 and Contractor I, and that Employee 4 was deeply involved in Contractor I's work for the CHEC Office.

Employee 4 did not disclose his relationship with Contractor I at any time to his supervisor, the relevant contracting officer, or the contracting company. Nor did he seek ethics advice from the Department's ethics officials. In fact, Employee 4 stated in his OIG interview that he was not concerned about the appearance of partiality in connection with his involvement in the hiring and supervision of a contractor with whom he was involved in a sexual relationship.

The relevant contracting officer told the OIG that he would not have approved Contractor I's hire if he had known that she was involved in a sexual relationship with Employee 4. He also stated that he would have raised the issue with the Bureau's contracting office if he had known. Likewise, an official at the contracting company involved in the hiring and management of

⁴⁸ At the time, contractor background checks and clearances were handled by the Office of Security ("OSY"). In 2012, this function was shifted to the CHEC Office and several OSY employees transferred to the CHEC Office.

⁴⁹ As discussed in Chapter 4, we found that Employee 4's initial testimony on the nature of his relationship with Contractor I lacked candor and therefore violated DAO 207-10.

Contractor I stated that it was not appropriate for a contract supervisor to have a sexual relationship with a contractor. According to that official, had he or other management at the contracting company known of the sexual relationship between Employee 4 and Contractor I, Contractor I would have been terminated from employment. When informed about the relationship during his OIG interview, Employee 4's supervisor stated that the relationship was "absolutely not" appropriate.

2. Employee 42: Friend's Son

According to the evidence, including Employee 4's statements to the OIG, emails, and images on social media, Employee 4 has a personal friendship with Employee 42's mother and has known Employee 42 for many years. For example, Employee 4's emails show numerous conversations and social activities with both Employee 42 and his mother. Employee 42's mother also appeared in Employee 4's Facebook cover photograph at the time of the OIG's review.

Emails show that Employee 4 repeatedly assisted Employee 42 with various Census job opportunities over the past several years. For example, Employee 4 wrote in an email that he "helped" Employee 42 get a job at Census when Employee 42 graduated college and "placed" him in a position "just to get his feet in the door." Further, the evidence shows that, after helping Employee 42 get his first job at Census, Employee 4 continued to assist Employee 42 with other Census opportunities.

In one instance, Employee 4's emails demonstrate that he communicated with Human Resources officials on multiple occasions regarding the status of Employee 42's application, even though it was not for a CHEC Office vacancy, Employee 4 had never served as Employee 42's supervisor, and had not directly worked with him in a professional capacity. When asked why he was so involved in Employee 42's application, Employee 4 stated that Employee 42 "could not get in touch with the lady in [Human Resources]. She wasn't returning . . . calls [or] answering . . . emails . . . So I knew the lady personally. . . . I was just calling her to see if she had gotten . . . phone calls or emails because [he] was wondering how, if he had made [the certification list]" for the position.

"[Employee 42] would be a great person to work in [Census Division]. . . . I know him personally, hard worker, great personality, team player..."

-Email from Employee 4 to a hiring manager on behalf of Employee 42. When asked by the OIG, Employee 4 testified that he didn't know Employee 42 personally.

In addition, the evidence shows that Employee 4 took several steps designed to secure a position for Employee 42 in a different Census division, starting in approximately [REDACTED] and continuing into [REDACTED]. In an email to a Human Resources official, Employee 4 wrote that he was "looking to place" Employee 42 in a particular Census division. Moreover, in an email to Employee 42, Employee 4 stated "I'm trying my best to get your name out there and get you were [sic] you need to be . . . just bear with me in making this happen." Over the course of more than a year, Employee 4 emailed recommendations to several managers in the division where Employee 42 sought employment, and was also copied

on several emails where Employee 42 or Human Resources officials invoked Employee 4's name to promote Employee 42's application to the new unit (e.g., "[Employee 4] requested that I forward you my resume"; and "[Employee 4] in [CHEC] is listed as one of his references if you needed some additional background information").

In his OIG interview, Employee 4 initially denied knowing Employee 42 personally, saying he just "knew of him" and could not give an opinion about him to a manager. Employee 4 also denied helping Employee 42 get a job at Census. Notably, Employee 4 continued to deny that he helped Employee 42 secure a position at Census even after being shown an email he sent to a senior manager in the Census division that Employee 42 was seeking a position:

[Employee 42] would be a great person to work in [Census Division]. . . . I know him personally, hard worker, great personality, team player . . . etc. . . . When I worked in [REDACTED] I helped [Employee 42] get into Census after he graduated from college and placed him in [a] job, just to get his feet in the door. . . . if [Census] Division would give him the opportunity, you will not regret it. If you would like to speak to me, please give me a call.

Employee 4 told the OIG that what he meant in this email was that his recommendation of Employee 42 was based on talking to Employee 42's supervisor, not Employee 4's personal relationship with Employee 42. He further stated that he did not help Employee 42 get into the Census Bureau, but rather Employee 42 "turned in his resume" to Employee 4, who then "handed his resume to" Human Resources.

3. Contractor 2: Employee 42's [REDACTED]

In the [REDACTED], Contractor 2 was a [REDACTED] college graduate seeking employment. Employee 4 told the OIG that Contractor 2 is Employee 42's [REDACTED] (then [REDACTED]) and that Employee 4 also personally knew Contractor 2 at the time. On [REDACTED], Contractor 2 sent the following email to Employee 4 about a potential job at the Census Bureau:

Good Morning!!!! It's [Contractor 2]. I just wanted to say thank you so much for thinking about me, even if things don't end up working out :) Here is my resume as you requested. I sent you two resumes . . . Let me know if I should change anything, or if you need any other informaton [sic] from me at all. Thank you gain [sic] [Employee 4]!!"

Contractor 2's resume did not include any experience in anything related to conducting background checks. To the contrary, her resume indicated that she had [REDACTED] graduated college with a degree in [REDACTED] and that her previous experience generally consisted of working in [REDACTED] restaurants and [REDACTED] stores.

Employee 4 sent Contractor 2's resume to the president of a contracting company that employed contractors for the CHEC Office.⁵⁰ Employee 4 told the OIG that he interviewed Contractor 2 on behalf of Census prior to the contracting company making a hiring decision.

⁵⁰ Employee 4 told the OIG that "this is one of many" prospective contractors he had sent to the president of the contracting company.

Within several days, the contracting company hired Contractor 2 to work in the CHEC Office as a Research Analyst. According to the Labor Category Minimum Skills and Qualifications under the applicable contract, a Research Analyst must have three years of experience in background investigations and suitability determinations; experience reviewing applicant correspondence including court documents, references, fingerprints and rap sheets; and experience reviewing federal hiring forms and law enforcement reports.⁵¹ Census paid the contracting company an hourly rate for her services that ranged from approximately \$80 to \$100 during her tenure as a CHEC contractor.

In his OIG interview, Employee 4 stated that he was involved in the supervision and oversight of Contractor 2 while she worked in the CHEC Office, including signing off on her timesheets. According to several witnesses, Employee 4 essentially served as Contractor 2's supervisor. Numerous emails indicate a supervisory relationship between Employee 4 and Contractor 2, and establish that Employee 4 was intimately involved in Contractor 2's work for the CHEC Office.

According to the evidence, Employee 4 did not disclose the nature of his relationship with Contractor 2 at any time to his supervisor, the CHEC contracting officer, or the contracting company. Nor did he seek ethics advice from the Department's ethics officials at any time.

B. Analysis

1. Employee 4 Violated Section 702 of the Standards of Ethical Conduct by Using His Public Office for Private Gain

The OIG determined that Employee 4 violated Section 702 of the Standards of Ethical Conduct, which prohibits an employee from using his public office for friends' or relatives' private gain. The elements of a Section 702 violation for misuse of public position for private gain are (1) a misuse; (2) of a government position; (3) resulting in private gain.⁵² There is no question that the contractors and employees benefitted from Employee 4's actions and "gained" within the scope of the regulation. The only question, therefore, is whether Employee 4's actions were a misuse of his position.

The evidence establishes that Employee 4 misused his position through several actions. First, Employee 4 sent the prospective contractors' resumes to the contracting company and interviewed them prior to their selection for employment. He took these actions as a CHEC Office supervisor, despite being engaged in a sexual relationship with Contractor 1 and his personal connection to Contractor 2, and both applicants having no relevant experience or

⁵¹ The contract further describes the contracting company recruitment process, which includes pre-screening candidates before an interview is scheduled by "ask[ing] about prior law enforcement and/or adjudication experience, if they have seen rap sheets and what capacity did they work with them." If the candidate passes the initial screening, similar questions are to be asked in an interview. According to its counsel, the contracting company was unable to locate any documents related to the circumstances behind Contractor 2's hire.

⁵² *Miles v. Dep't of Def.*, 2012 MSPB LEXIS 1404 (Mar. 2014) (sustaining removal of government official and noting that it was "axiomatic" that the prohibition against using public office for private gain includes the private gain of others connected with the employee and not simply the employee).

qualifications. Although the decision of whether to hire a contractor ultimately rests with the contracting company, we find that Employee 4's interview was effectively a screening process on behalf of the Bureau that ultimately led to the hiring of these contractor applicants. Employee 4's approval of these hires is particularly troubling given their lack of qualifications for the respective positions. For example, Contractor 2, whose only experience was in [REDACTED], [REDACTED] stores, and [REDACTED] restaurants, was unqualified for the Research Analyst position. In arriving at this conclusion, we note that this position had specific experience requirements—none of which Contractor 2 met—and resulted in Census paying between approximately \$80 to \$100 per hour for her services.

In addition to Employee 4's actions during the hiring of these contractors, the evidence shows that his actions after Contractor 1 and 2 began working in the CHEC Office also amounted to a misuse of his position for private gain. As noted above, the evidence establishes that Employee 4 served as the de facto supervisor for Contractors 1 and 2, including approving their timesheets that claimed inaccurate hours worked (see Chapter 2). The evidence shows that, on a number of occasions, Employee 4 knew, or should have known, that their timesheets overstated their hours and therefore resulted in payment for hours that they did not work. By approving those inaccurate timesheets and not reporting their misconduct to the Bureau, the OIG, or the contracting companies, he misused his position for their gain.

With respect to Employee 42, the evidence shows that Employee 4 engaged in a concerted effort spanning more than a year to help his friend's son obtain a new position and advance his career at the Bureau. Employee 4's emails demonstrate that he used his position in the organization to attempt to influence Census managers to hire Employee 42. In addition, the emails show that Employee 4 allowed Employee 42 and Census' Human Resources personnel to use his name and status in the Bureau to advocate for Employee 42's application and advance his career. Moreover, Employee 4 used his position at Census and his professional relationship with Human Resources personnel to get access to information regarding Employee 42's applications (for example, according to Employee 4, he contacted Human Resources personnel that he "knew ... personally" to inquire about Employee 42 because Employee 42 was not getting a response from Human Resources about his application). In the totality of the circumstances, even though Employee 4 was not the selecting official or otherwise directly involved in the hiring of Employee 42, we concluded that his efforts to secure a new position for Employee 42 constituted a misuse of position within the scope of Section 702.

2. Employee 4 Violated Section 101(b)(8) of the Standards of Ethical Conduct by Giving Preferential Treatment to Prospective Contractors and Employees with Whom He Had a Personal Relationship⁵³

The elements of a Section 101(b)(8) violation are (1) acting partially; and (2) giving preferential treatment; (3) to any private organization or individual. As the third element is clearly met, the

⁵³ Employee 4's conduct with respect to Employee 42 and other federal employees may also amount to a prohibited personnel practice by "grant[ing] any preference or advantage . . . to any employee or applicant for employment . . . for the purpose of improving or injuring the prospects of any particular person for employment." See 5 U.S.C. § 2302(b)(6).

only question is whether Employee 4 acted partially and gave preferential treatment to these contractors and employees. The evidence establishes that Employee 4 did so through many of the same actions that amounted to a misuse of his position in violation of Section 702.

With respect to Contractors 1 and 2, Employee 4 acted partially and gave them preferential treatment by personally sending their applications to the contracting companies. This is a significant benefit as it provided these applicants a substantial advantage given Employee 4's prominent role in the CHEC Office, including effectively approving the hiring of individual contractors. Prospective contractors without a personal connection to Employee 4 did not receive this same treatment.

In addition, beyond the specific case studies presented earlier, the evidence establishes that, on multiple occasions, Employee 4 reviewed and edited on official time the job applications for prospective CHEC (and other Census) employees with whom he had a personal connection. On at least one occasion, he sent a job applicant another candidate's resume as a model. Census job applicants who do not know Employee 4 personally were not privy to this assistance, thereby creating an unfair advantage for those who received this preferential treatment. Employee 4 stated in his OIG interview that it is "[p]robably not" appropriate for him to be reviewing and commenting on a candidate's application for a position at Census, especially in the CHEC Office where he is a hiring official.

3. Employee 4 Violated Section 101(b)(14) of the Standards of Ethical Conduct by Taking Actions that Create an Appearance That They Violate the Law or the Ethical Standards

We also determined that Employee 4 violated Section 101(b)(14) of the Standards of Ethical Conduct with respect to his actions described above. The elements of a Section 101(b)(14) violation are (1) taking any action; (2) that creates the appearance; (3) that it violates the law or the ethical standards. According to the regulation, "[w]hether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts."

In his OIG interview, Employee 4 repeatedly stated that he did not show favoritism for people with whom he had a personal relationship. The regulation hinges, however, not on his subjective belief, but rather the objective appearance of bias. We concluded that no reasonable person with knowledge of the relevant facts (e.g., Employee 4's sexual relationship with Contractor 1, and his personal connections to Employee 42 and Contractor 2) could conclude that Employee 4's actions did not create an appearance that he used his public position for private gain and granted preferential treatment to those with whom he had a personal relationship.

Chapter 4: Misconduct Related to the OIG's Investigation

During the OIG's investigation, certain CHEC Office employees took specific actions apparently designed to intimidate witnesses and actively endeavored to interfere with our investigative efforts. The OIG concluded that certain CHEC employees retaliated against suspected whistleblowers, interfered with witnesses, made false statements, and lacked candor in their OIG interviews. Employees ■ and ■, specifically, took steps to foster an environment that discouraged CHEC employees from speaking openly and truthfully with the OIG. This chapter presents this analysis in greater detail. For each topic, we first outline the applicable laws and policies. Then, we present our findings.

I. Whistleblower Retaliation

A. Legal Overview

Section 7(c) of the Inspector General Act of 1978, as amended, provides that:

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.⁵⁴

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2003 ("No FEAR Act"), 5 U.S.C. § 2302(b), contains a similar provision prohibiting employees with the "authority to take, direct others to take, recommend, or approve any personnel action" from retaliating against employees because of cooperating with or disclosing information to the OIG.

U.S. Department of Commerce Department Administrative Order ("DAO") 207-10 likewise contains a similar anti-retaliation provision that is generally limited to supervisors. Moreover, DAO 207-10 provides an additional prohibition against retaliation that applies to *all* Department employees:

[N]o employee or official shall take or threaten to take any action against any employee as a reprisal for making a protected disclosure, disclosing information to or cooperating with the OIG, or any other authorized recipient of protected disclosures, or for evidencing an intention to do so, unless the disclosure was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.⁵⁵

⁵⁴ Inspector General Act of 1978, Pub. L. No. 95-452, § 7(c), 92 Stat. 1105 (1978).

⁵⁵ DAO 207-10 § 4.04.

B. Facts

According to witness testimony and numerous emails, the evidence establishes that, ever since CHEC Office personnel first learned of the OIG complaint and even more so after nine employees were issued Proposals to Remove, many CHEC employees frequently speculated about the identity of the OIG whistleblower. Virtually every witness told the OIG that this has been a constant topic of discussion in the CHEC Office. Witnesses generally reported that the original nine subjects (Employees 1-9) to varying degrees engaged in an effort to identify the whistleblower.

Numerous CHEC employees and contractors interviewed told the OIG that one employee in particular—Employee █—led the charge to identify the whistleblower and was extremely vocal in attempting to identify, threaten, and retaliate against the OIG whistleblower. According to the evidence, Employee █ regularly made a variety of threatening statements loudly in the CHEC Office for all to hear, including (1) that the whistleblower had better “watch out;” (2) that he will get even and make the whistleblower pay for reporting him to the OIG; (3) that the whistleblower will wish he had retired once he figured out who it was; and (4) that he planned to sue the whistleblower. Below are just some of the statements and conduct attributed to Employee █ by numerous first-hand witnesses:

- At a CHEC all-hands meeting held shortly after the nine employees were issued their Proposals to Remove, Employee █ said to the entire CHEC Office that whoever contacted the OIG was a “coward” and “chickenshit.”
- Employee █ repeatedly referred to the whistleblower as a “rat” and a “snitch” in conversations with CHEC employees.
- At an office social event held for a CHEC employee, Employee █ was cutting the cake. He held a knife in his hand and, while making a stabbing motion with his arm, said something to the effect of “this is for who went to the OIG!”

At an office social event held for a CHEC employee, Employee █ was cutting the cake. Several witnesses stated that he held a knife in his hand and, while making a stabbing motion with his arm, said something to the effect of “this is for who went to the OIG!”

In fact, Employee █ made it clear to the OIG that he believed he knew who the OIG whistleblower was, wanted to get even with him, and was going to “take [the suspected whistleblower] to civil court.” Moreover, after Employee █’s OIG interview, he took steps to discredit and harm the career of the individual he believed to be the whistleblower. In particular, the next business day after Employee █’s OIG interview, Employee █ attempted to drum up negative information about who he believed to be the whistleblower, including

attempting to have a contractor sign a statement that Employee ■ had written about the suspected whistleblower's purported inappropriate conduct.⁵⁶

C. Analysis

I. Employee ■ Retaliated Against a Suspected OIG Whistleblower

The OIG concluded that Employee ■'s conduct violated DAO 207-10, which contains a prohibition against taking or threatening to take any actions against an employee as a reprisal for disclosing information to the OIG. As corroborated by numerous witnesses, Employee ■ repeatedly threatened to take actions against the employee who disclosed information to the OIG regarding his time and attendance. Moreover, his conduct progressed from threats to action after his OIG interview, when he attempted to obtain a signed statement discrediting who he believed to be the OIG whistleblower in an apparent effort to harm the whistleblower's career. The OIG finds that Employee ■ took an "action against [the suspected whistleblower] as a reprisal for . . . disclosing information to . . . the OIG," in violation of DAO 207-10.

Employee ■ is not a supervisor and does not have the "authority to take, direct others to take, recommend, or approve any personnel action" against who he believes to be the whistleblower. As such, his conduct does not fall within the purview of the anti-retaliation provisions of the Inspector General Act or the No FEAR Act. Although his conduct may not fall within the letter of the law, it certainly violates its spirit. He made it known in the CHEC Office that he would find out who the whistleblower was, that he would get even, and that the whistleblower would wish he had retired. He attempted to obtain a signed statement discrediting who he believed to be the OIG whistleblower in an effort to harm that person's career. Though not a supervisor, Employee ■ is close friends with Employee ■ a supervisor in the CHEC Office, who was one of the original nine employees proposed for removal. According to multiple witnesses, Employee ■ is viewed in the CHEC Office as closely connected to Employee ■ creating at least the appearance that Employee ■'s reprisal could be carried out through his close confidant.

Additionally, Employee ■'s conduct likely violated other employment laws and Department policies.⁵⁷ Referring to the OIG whistleblower as a "rat," "snitch," "coward," and "chickenshit" repeatedly in front of the entire CHEC Office is harassment and creates a hostile work environment. Likewise, though perhaps intended as a joke, Employee ■ said "this is for who went to the OIG!" while holding a knife and making a stabbing motion with his arm; this behavior is totally unacceptable and clearly has no place in the federal workplace.

⁵⁶ Due to Employee ■'s attempt to retaliate and interfere with the OIG's investigation, we contacted Census management. The agency took prompt action to address the misconduct by placing Employee ■ on administrative leave.

⁵⁷ See, e.g., 5 U.S.C. § 2301(b)(4) and (9); DAO 202-955, *Allegations of Harassment Prohibited by Federal Law*, http://www.osec.doc.gov/opog/dmp/daos/dao202_955.html (last visited Sept. 1, 2015).

2. CHEC Management Enabled Employee's Retaliatory Conduct

The OIG concluded that, while Employee ■ was primarily responsible for attempting to identify and retaliate against the OIG whistleblower, CHEC management shoulders some responsibility. It is clear from interviews that a toxic environment pervaded the CHEC Office. Supervisors took little action—if any—to stop Employee ■'s misconduct or the widespread speculation and finger-pointing in the CHEC Office regarding the whistleblower. For example, none of the CHEC supervisors present at the meeting when Employee ■ said to the entire CHEC Office that whoever contacted the OIG was a “coward” and a “chickenshit” or at the social event where Employee ■ motioned with a knife publicly admonished Employee ■. Many witnesses blamed the culture and lack of leadership on CHEC management. The OIG finds that a lack of leadership contributed to this culture and allowed Employee ■'s conduct to escalate for more than a year.

Last, it should be noted that the attempts to identify and retaliate against the OIG complainant run counter to the important role that whistleblowers play in identifying and helping prevent fraud, waste, and abuse. The complainant should be applauded, not ostracized and threatened. That person did the right thing, and, in fact, what is required of Department employees pursuant to DAO 207-10, which obligates employees to report to the OIG information indicating the existence of mismanagement, waste of funds, abuse of authority, or a violation of law or regulation. That hotline tip led to the discovery of approximately \$1.1 million paid by the Census Bureau and taxpayers for time not actually worked by members of the CHEC Office, and it indirectly led to the discovery of additional misconduct in the CHEC Office. That person's courageous act deserves praise.

II. Interfering with the OIG's Investigation

A. Legal Overview

Federal criminal laws make it a felony to obstruct agency proceedings,⁵⁸ destroy records,⁵⁹ or tamper with a witness.⁶⁰ Moreover, according to DAO 207-10, employees must cooperate with OIG investigations. Section 6 of DAO 207-10 provides that:

⁵⁸ 18 U.S.C. § 1505 (“Whoever corruptly . . . influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States. . . . Shall be fined under this title, imprisoned not more than 5 years, or both.”).

⁵⁹ 18 U.S.C. § 1512(c) (“Whoever corruptly—(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or (2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.”).

⁶⁰ 18 U.S.C. § 1512(d) (“Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—(1) attending or testifying in an official proceeding; (2) reporting to a law enforcement officer . . . the commission or possible commission of a Federal offense . . . shall be fined under this title or imprisoned not more than 3 years, or both.”).

Each Department organizational unit, officer, and employee, shall without delay furnish the OIG upon request access to and copies of all records, communications (e.g., emails, voice mails, instant messages), documents, papers, data or other information requested.

...

Department officers and employees shall cooperate fully with any OIG investigation; shall not encumber or delay direct communication between the OIG and any party; shall not withhold information or documentary materials from the OIG.

B. Facts

The facts outlined above regarding Employee ■'s efforts to identify and retaliate against the OIG whistleblower also amounted to interfering with our investigation. In addition, the evidence shows that Employee 4 took actions designed to interfere with our investigation.⁶¹

In light of evidence that witnesses were communicating and potentially coordinating OIG testimony, the OIG expressly informed Employee ■ that talking with other witnesses about the investigation could raise issues of collusion and obstruction in violation of federal laws. He stated that he understood. Despite this, the evidence established that Employee ■ talked to numerous witnesses—including several of his own subordinates—prior to their OIG interviews. The evidence establishes that, after his interview, Employee ■ reached out to several employees, stated that they would probably be contacted by the OIG and that he wanted to speak to them before they spoke with the OIG. Several witnesses also reported that Employee ■ held closed-door meetings with numerous CHEC employees shortly after the time they were contacted by the OIG for an interview.

⁶¹ We also have concerns regarding the apparent disappearance and manipulation of certain CHEC sign-in logs. On February 4, 2014, as part of the OIG's complaint intake and analysis, OIG hotline staff called CHEC leadership to explain the nature of the OIG complaint and ask whether leadership was aware of any time and attendance issues in the CHEC Office. CHEC leadership stated that it was not aware and told the OIG hotline staff that CHEC has sign-in logs that could be compared to employees' WebTA. According to CHEC leadership, Employee ■ was present for this call. Regardless of whether Employee ■ was in the room for this call, numerous emails and witness testimony establish that Employee ■ was aware around this time that there had been an OIG complaint regarding time and attendance. As part of our investigation, the OIG requested all CHEC sign-in logs. In response, most of the subject supervisors produced only sign-in logs from *after* the time they knew of the OIG complaint. For example, the logs Employee ■ produced started February ■, 2014, ■ days after he learned of the complaint. The OIG asked numerous witnesses about the sign-in logs and how they were stored in the ordinary course of business. We heard conflicting reports. Several witnesses said the supervisors, specifically Employee ■ would keep them. Employee ■ stated that the timekeepers stored them. The timekeepers denied this, and no witness other than Employee ■ told the OIG that the timekeepers stored them. In addition, after the subjects reviewed the draft excerpts of this Report, a witness reported to the OIG that in approximately April 2014, Employees ■ and ■ held a meeting with several subordinates and that Employee ■ "forced" them to falsify a number of sign-in logs "guessing" what time they had arrived and departed. The witness stated that Employee ■ said words to the effect that the creation of the documents was to "protect ourselves" and "cover their tracks" because "we need to turn these in to the IG office." According to this employee, Employee ■ stated that this instruction came ■ of the CHEC Office. These allegations are deeply troubling and raise concerns of doctoring evidence.

In addition, witnesses reported that Employee █ held a meeting with several subjects and told them that he “did not throw anybody under the bus” during his OIG interview. Further, in his response to the draft factual findings, one employee told the OIG that he “was pulled into [Employee █’s] office” before his OIG interview and that Employee █ “told me stuff that I shouldn’t . . . say to [the OIG].” According to this employee, Employee █ stated words to the effect of “if they ask questions about me, please do not answer. . . . Keep quiet . . . and [don’t] say a lot.” This employee told the OIG that he “felt threatened” by Employee █ and that by making these statements, Employee █ was implicitly instructing him to lie during his OIG interview. He felt that Employee █ or others in the CHEC Office would “come at [him]” if he were truthful about CHEC Office misconduct. This employee told the OIG that he was not candid in his initial OIG interview because of these perceived threats.

C. Analysis

Though we found insufficient evidence to establish a criminal violation for obstructing the OIG’s investigation or witness tampering, the OIG finds that Employee █ and █’s conduct violated DAO 207-10’s requirement to “cooperate fully with any OIG investigation . . . [and] not encumber or delay direct communication between the OIG and any party.”

With regard to Employee █ the evidence establishes that he made threats against whoever reported misconduct to the OIG and made it widely known in the CHEC Office that he intended to retaliate against anyone who provided information about his time and attendance. We find that this conduct evidences an intent to influence what witnesses may say and prevent them from coming forward in the first place. We therefore concluded that Employee █ attempted to interfere with our investigation by encumbering communications between the OIG and potential witnesses, in violation of DAO 207-10.

We find Employee █’s conduct particularly troubling as a supervisor and █ in the CHEC Office. The evidence shows that Employee █ interfered with our investigation by proactively seeking out potential witnesses and engaging in discussions about the investigation, even after stating in his OIG interview that he understood this conduct could constitute a serious offense. The evidence suggests that he attempted to use his position of authority to influence other employees’ cooperation with and information provided to the OIG. For example, we find that, at best, telling subjects who had yet to be interviewed by the OIG that he “did not throw them under the bus” insinuates that he expected the same in return. At worst, it is a veiled threat that while Employee █ “did not throw them under the bus,” he could if the other subjects provided harmful information to the OIG and failed to protect him.

In addition, Employee █’s actions had the effect of obstructing our investigation. As described above, one employee informed the OIG that Employee █ instructed him not to say anything about Employee █ in his OIG interview, that he felt threatened by this, and that it led him to make false statements in his OIG interview.

III. False Statements and Lack of Candor

The evidence establishes that certain subjects lacked candor in their OIG interviews in an apparent effort to cover up their misconduct.⁶² Employees 3 and 4, in particular, lacked candor in several ways throughout their OIG interviews, which violates DAO 207-10's requirement to "fully cooperate" with OIG investigations and "not withhold information." Several of their statements also implicate federal prohibitions on false statements found in 18 U.S.C. § 1001.⁶³

In this section, we present several case studies of false statements and representations made by Employees 3 and 4 that we found violate DAO 207-10 and 18 U.S.C. § 1001. Next, we include a chart that summarizes several additional instances where Employees 3 and 4 lacked candor in their OIG interviews.

A. Employee 3

1. Facts

As described in Chapter 2, Employee 3 told the OIG that he was "always" working from home in the evening and weekends. According to Employee 3, applicants called him in the evenings "and, honest to God, Saturday mornings, Sunday mornings, my phone would be ringing." Employee 3 stated that, in order to help the applicants who call him at home, he "[a]bsolutely" had to lookup information in Database 2 and that he would login to Database 2 in those instances. When asked the frequency that he was doing this, specifically, "is this daily, is this every night?" Employee 3 responded "Yes, yes." Employee 3 told the OIG that he did not give out his home phone number to applicants. According to Employee 3, they would get his number from their caller ID when he called them. Employee 3 also told the OIG that "I [login to Database 1]" at home in the evening on regular work days.

As detailed in Chapter 2, the OIG obtained Employee 3's Database 1 and Database 2 login records. During the more than four-year period reviewed, we found only five regular workdays in which he logged in to either of the databases after 5 p.m. and two instances of weekend logins. Moreover, the OIG offered Employee 3 the opportunity to provide phone records evidencing these purported work-related telephone calls from his home phone, and he did not provide any such documentation.

⁶² In addition, many witnesses do not appear to have been fully candid in their sworn OIG interviews, perhaps out of a fear of being seen as providing information harmful to others in the CHEC Office. For example, one witness informed the OIG that he was not truthful in his OIG interview due to a perceived threat from Employee ■. Indeed, as discussed previously in this chapter, Employees ■ and ■ fostered an environment that discouraged CHEC employees from speaking openly and truthfully with the OIG.

⁶³ Section 1001 provides: "[W]hoever, in any matter within the jurisdiction of the executive . . . branch of the Government of the United States, knowingly and willfully . . . makes any materially false, fictitious, or fraudulent statement or representation . . . shall be fined under this title, imprisoned not more than 5 years . . . , or both."

2. Analysis

The elements of an 18 U.S.C. § 1001 violation for false statements are a (1) materially (2) false statement made (3) knowingly and willfully. We find that Employee 3's statements that he frequently (i) spoke to applicants in the evenings and on weekends, (ii) logged in to Database 2 from home at night, and (iii) worked in Database 1 from home at night are false. Employee 3 stated that he "absolutely" had to log in to Database 2 when an applicant called with questions, yet the evidence establishes that he logged in to Database 2 and Database 1 in the evening and weekends with extreme rarity. In addition, Employee 3 failed to provide his home phone records when requested.

We also find that the statements are material. A statement is material if "the statement was material to the activities or decisions of the [agency]; that is, it had a natural tendency to influence, or was capable of influencing, the agency's decisions or activities."⁶⁴ OIG investigators told Employee 3 that he was a subject of the OIG's investigation and was being questioned regarding the amount of hours that he had worked and claimed in WebTA. Therefore, his misrepresentations regarding his work activities from home were directly related to the OIG's inquiry and were capable of influencing the OIG's findings. In addition, at the time of his OIG interview, Census had proposed his removal based on a review of his work hours, and Employee 3 was informed that the OIG's findings would be presented to Census. Employee 3's explanation that he was constantly working from home was therefore capable of influencing the Bureau's decision with respect to the removal proceedings it had initiated for his alleged time and attendance abuse.

Last, we find that the false statements were made knowingly and willfully. To be made knowingly and willfully, "[t]he statement must have been made with an intent to deceive, a design to induce belief in the falsity or to mislead."⁶⁵ As noted above, at the time of his interview, Employee 3 was a subject of the OIG's investigation, and Census had proposed his removal. Therefore, Employee 3 stood to benefit—potentially keeping his job—by misleading the OIG regarding his work activities from home. Moreover, the evidence shows that this was not an instance of Employee 3 merely misspeaking during his OIG interview. Employee 3 was questioned by OIG investigators at length about this topic, and he persistently reinforced this narrative, despite multiple opportunities to clarify or correct the record and evidence establishing that he works at home in this fashion with extreme rarity. Last, [REDACTED]

[REDACTED]. This behavior is further indicative of his intent to deceive the OIG and the Bureau regarding his work activities.

In sum, we found that Employee 3's false statements violated 18 U.S.C. § 1001 and DAO 207-10.

⁶⁴ Manual of Model Criminal Jury Instructions for the Ninth Circuit, Ch. 8.73, False Statement to Government Agency.

⁶⁵ United States Dep't of Justice, U.S. Attorneys' Manual, Criminal Resource Manual, § 910, Knowingly and Willfully (quoting *United States v. Lichenstein*, 610 F.2d 1272, 1276-77 (5th Cir.), cert. denied, 447 U.S. 907 (1980)).

B. Employee 4

1. Facts

The OIG identified numerous representations that Employee 4 made during his OIG interview that were not true or otherwise lacked credibility. Below are case-studies of two statements that we found were materially false.

As described in Chapter 2, Employee 4 told the OIG that he constantly worked from home in the mornings and evenings. According to Employee 4, “I have people that call me all the time. Um, our six regional offices, they’re all on different time zones. . . . I would work until 10:00 at night . . . the [REDACTED] from [REDACTED] calling me asking me stuff.” When asked if this was “[o]n a daily basis” Employee 4 stated “Yes.”⁶⁶ However, the OIG interviewed every [REDACTED] and [REDACTED] from all six regional offices, and none recalled any phone conversations with Employee 4 outside of regular business hours when he was not in the office.

In addition, Employee 4 told the OIG that he did not assist Employee 42 in obtaining a job. When asked if he “put in a word for him with anybody,” Employee 4 stated “I got the call from the [manager]. I’m not sure how he got his resume, and he asked me my opinion about [Employee 42], and all I could do was say I know of him. I don’t know [Employee 42] that well. I don’t know him personally.” However, the evidence establishes that Employee 4 sent an email to that same Census manager advocating for a position for Employee 42 (“[Employee 42] would be a great person to work in [Census Division]. . . . I know him personally, hard worker, great personality, team player . . . if [Census] Division would give him the opportunity, you will not regret it.”). Moreover, according to Employee 4’s emails, he was “looking to place” Employee 42 in that Census division and told Employee 42 “I’m trying my best to get your name out there and get you were [sic] you need to be . . . just bear with me in making this happen.” The evidence further establishes that Employee 4 coordinated with Human Resources, sent recommendation emails on Employee 42’s behalf, and was copied on emails naming Employee 4 as a professional reference.

2. Analysis

The OIG finds that Employee 4’s representation that he speaks with the regional offices in the evening “on a daily basis” (or with any regularity) is false. While it is possible that a witness may not recall a particular telephone call, we find it implausible that these calls [could have happened “on a daily basis” when none of the [REDACTED] or [REDACTED] recalled a single conversation outside of regular work hours with Employee 4 when he was not in the office during this time period. We also find that the representation was “material” and made “knowingly and willfully.” The evidence establishes that Employee 4’s false representation was capable of influencing the OIG’s findings and the Bureau’s removal proceedings, and was designed to deceive the OIG and the Bureau. Employee 4 was told that he was a subject of the

⁶⁶ Later in his interview, Employee 4 stated that these calls did “not regularly” occur.

OIG's investigation and that the OIG's findings would be provided to Census. Moreover, the Bureau had already proposed his removal for alleged time and attendance abuse. Employee 4, therefore, stood to benefit by misleading the OIG regarding his work activities from home. Last,

[REDACTED] This behavior is further indicative of his intent to deceive the OIG and the Bureau regarding his work activities.

In addition, the OIG finds that Employee 4's statement that he did not assist Employee 42 in obtaining a position is false. As explained above, Employee 4's emails establish that he made a concerted effort over more than a year to secure a new position for Employee 42 and had previously helped Employee 42 obtain other positions at Census. We also find that the statement is material. The OIG was investigating Employee 4's role in the hiring of employees and contractors with whom he had a pre-existing personal relationship, including Employee 42. Employee 4's statements regarding his efforts to help Employee 42 obtain a position were therefore central to this aspect of the OIG's inquiry and capable of influencing the OIG's review of his conduct.

Last, we find that the false statement was made knowingly and willfully. The evidence shows that this was not an instance of Employee 4 misspeaking during his OIG interview. Employee 4's emails show a concerted effort over more than a year to use his position in the organization to attempt to influence Census managers to hire Employee 42. Given the clear contrast between his statements to the OIG and the plethora of emails contradicting these statements, we found that Employee 4's mischaracterizations were knowledgeable and designed to mislead the OIG regarding the actions he took to assist Employee 42. Additionally, Employee 4 contradicted himself on several occasions in his OIG interview regarding his relationship and actions taken with respect to Employee 42.

In sum, we found that Employee 4's false statements violated 18 U.S.C. § 1001 and DAO 207-10.

C. Summary Chart

In addition to the specific statements analyzed above, the evidence establishes that several other statements made by Employees 3 and 4 in their OIG interviews lacked candor. Below is a summary of a number of such statements that lacked credibility or were otherwise contradicted by the evidence.

Employee 3	
Representation to the OIG	Evidence
"I always took leave when I went to the dentist."	Emails show Employee 3 went to the dentist (as well as engaged in other personal activities) on telework days where he took no leave and claimed that he worked 9 hours.

Employee 4	
Representation to the OIG	Evidence
Employee 4 stated that he did not have a romantic relationship with Contractor I and that they are just friends.	Emails evidence that there was a sexual relationship. Later in his OIG interview, Employee 4 admitted to a sexual relationship.
Employee 4 denied recalling that he certified his own time and attendance.	WebTA records confirm that Employee 4 certified his own time repeatedly during the four-year period reviewed. Employee 4 was the certifying supervisor for his own timesheet on 64 instances, approximately 60% of the pay periods during this time period. Employee 4's supervisor stated that Employee 4 was well aware that he was certifying his own time. Employee 4 offered no explanation as to how the WebTA data shows him repeatedly certifying his own time.
Employee 4 denied recalling giving a subordinate his WebTA password. "I never told them to do anything with my password."	Emails show Employee 4 sending his WebTA password to a subordinate. The subordinate employee told the OIG that Employee 4 asked him to login to WebTA as Employee 4 and certify time.
"I got the call from the . . . manager . . . and he asked me my opinion about [Employee 42], and all I could do was say I know of him. I don't know [Employee 42] that well. I don't know him personally."	The evidence shows that Employee 4 is friends with Employee 42's mother and has known Employee 42 for years. Later in his OIG interview, Employee 4 contradicted himself, stating that "I knew him personally through [his mother]." In addition, Employee 4 sent a recommendation email for Employee 42 stating "I know him personally."

Chapter 5: Observations Regarding Background Checks and Suitability Determinations

During our investigation, we identified several additional issues that warrant discussion in this Report.

I. Conflicts of Interest

We observed two issues that raise conflict-of-interest concerns. First, as discussed in Chapter 3, we found evidence of a CHEC Office supervisor (Employee 4) misusing his official position and granting preferential treatment by hiring and recommending for hire applicants with whom he had a personal relationship. The evidence suggests that Employee 4 was personally involved in the background check process for some of these applicants. A CHEC Office employee working on the background check or suitability adjudication of an applicant when there is a pre-existing personal connection creates a conflict of interest. At a minimum, this creates an appearance of partiality to the process, and the CHEC employee should have recused himself.

Second, we discovered that Employee ■ engaged in a particularly troubling conflict of interest. The evidence establishes that Employee ■ was on government travel with a group of CHEC employees to process background checks. According to the evidence, Employee ■ met a woman who he was fingerprinting, and, according to a witness, told other people in the CHEC Office that he had engaged in sexual relations with the female applicant. In his OIG interview, Employee ■ denied engaging in sexual relations with the Census Bureau applicant, but stated that he met her for drinks that evening and later tried to find her on Facebook. We find that Employee ■'s conduct is inappropriate regardless of whether or not he ultimately engaged in sexual relations with the applicant. Fraternalizing and seeking out applicants on social media creates the appearance of partiality and undermines the integrity of the background check and suitability process.

II. Lack of Quality Control

Witnesses told the OIG that there is little quality control on the background checks conducted by CHEC Office employees. This is particularly concerning in light of the significant misconduct by numerous CHEC employees that has been discussed in this Report. For example, a CHEC employee conducting a background check may document in the system that he reviewed an applicant's criminal history or that he verified an applicant's employment. There is no way to know whether the CHEC employee actually completed these steps, or whether the employee had completely fabricated the background check activity. CHEC management confirmed in their interviews that there is no "spot check" on the background checks performed by CHEC employees. Given the office culture that facilitated widespread time and attendance abuse and other misconduct identified in this Report, the absence of any internal controls to determine whether CHEC employees were similarly cutting corners on their work is troubling.

Although there is no check on much of the work CHEC employees do, there is a required supervisory evaluation in which supervisors review the case and any notes CHEC employees

put in the CHEC computer system prior to approving. However, we found that certain supervisors skirted their supervisory review duties. A witness reported that supervisors would give out their passwords to the CHEC system and have their subordinates perform both the initial and supervisory reviews to clear the case. We found email evidence confirming that Employee 4 had provided his password to a non-supervisory subordinate to approve cases. Not only is this problematic because there was no real supervisory review, but it also creates a false audit trail on the background check because, according to the CHEC system, Employee 4 reviewed those cases when in fact he did not.

Chapter 6: Recommendations

Based on our investigative findings, the OIG makes the following recommendations to the Census Bureau.

- 1. Consider taking administrative action against CHEC Office employees as the Bureau deems necessary and appropriate, including the recovery of funds paid for time not worked.** The Bureau should review our findings and the underlying data and evidence to determine what administrative action is warranted.
- 2. Consider a change in CHEC Office leadership and personnel.** We found that a significant percentage of CHEC employees committed time and attendance fraud, as well as other misconduct by certain employees. Certain supervisors were some of the more egregious offenders. Moreover, even if leadership did not directly engage in the misconduct, it shoulders some responsibility for the serious misconduct by so many employees. The current leadership and staff's ability to run an effective CHEC Office is suspect.
- 3. Review the Bureau's AWS and telework programs to ensure proper internal controls are in place and functioning correctly.** This Report detailed widespread AWS and telework abuse in the CHEC Office. The Bureau should examine the efficacy of these programs and its ability to effectively monitor employees' participation.
- 4. Consider improving time and attendance policies and training.** Numerous witnesses told the OIG that they were not properly trained on time and attendance matters. While this does not excuse the widespread time and attendance abuse by many CHEC Office employees, it is something that the Bureau can seek to improve in order to foster a better compliance environment. The Bureau should also consider informing employees where to go with time and attendance questions.
- 5. Consider providing comprehensive training regarding the federal rules governing hiring, including the ethics regulations that prohibit using public office for private gain and granting preferential treatment.** Many witnesses reported that family members and friends working at Census is commonplace. While our investigation focused on Employee 4 in this regard, we note that there appears to be a poor understanding of the rules governing hiring.
- 6. Consider providing IT security training to discourage the sharing of passwords.** This Report highlighted several examples of CHEC employees sharing passwords, which should be discouraged.
- 7. Consider revising or developing CHEC Office policies and procedures to ensure adequate quality control mechanisms are in place.** Consider establishing a system whereby work done by CHEC employees conducting background checks is subject to quality control. For example, the CHEC Office could utilize a system similar to the Bureau's main quality control measure for its Field Representatives, re-interview, where a second interview occurs for a sampling of respondents. This would help identify

CHEC employees who may not actually be conducting the appropriate checks and serve as a deterrent. In addition, the Bureau should consider clarifying policies regarding potential conflicts of interest in conducting background checks so that CHEC employees are neither reviewing nor adjudicating applicants with whom they have a personal relationship.

- 8. Consider conducting a review of CHEC Office contracts and procedures.** The Census Bureau should assess the qualifications of the specific contractors hired, examine whether contractors have personal connections to CHEC or other Census employees, and review contractor timesheets for discrepancies. The Bureau should also review the appropriateness and effectiveness of the CHEC Office's use of contractors and procedures for communicating with contractors through approved Contracting Officer's Representatives.

Census leadership has cooperated with the OIG throughout this investigation. As issues arose that, due to their nature could be shared, we informed Census leadership and prompt action was taken. During the closing stages of the investigation, we conducted briefings with Census and provided information uncovered during the investigation as well as our preliminary findings. The Bureau submitted a response to the OIG detailing steps it had taken in response to our findings, which is summarized below.

The Bureau's reply stated that Census had placed a Bureau-wide emphasis on the accuracy of time and attendance recording, which began with direct communication on the subject from the Director and Deputy Director in June and July of 2014, respectively. Census also represented that it had increased education on the recordation of time and attendance, including during new employee orientation sessions and specialized, mandatory training on the WebTA system.

Specifically regarding the CHEC Office, Census stated that it had changed the management structure and designed a quality control process to review background checks and determinations for current and past investigations. The Bureau also retained a senior budget analyst as part of an overall effort to determine if the CHEC Office was staffed properly for its workload. Finally, Census stated that it had retained an auditor to review the contracts of the CHEC Office.

Appendix A: Accuracy and Reliability of the Badge Data

As discussed in Chapter 2, the OIG took various steps to ensure the accuracy and reliability of the badge data.

Eliminating days with no badge swipes or missing an initial entry or final exit swipe

Our first step in ensuring a reliable analysis was to exclude all days without a single badge swipe. This was a conservative approach because, in the event that an employee simply did not show up to work—even if he billed work hours on that day and did not use a telework code—we excluded the record from our analysis. We took that approach in order to eliminate days with any off-site trainings, miscoded telework, forgotten badges, and work travel. In total, this reduced the total number of overcharged days from 3,378 to 2,395 and eliminated 7,866 hours. Additionally, we removed days without an initial entry swipe or a final exit swipe. While employees are required to badge in and out of the building—and watched by security guards to ensure compliance—we did not want to compromise the analysis if an employee followed another employee through the turnstile without the guard noticing or if the badge failed to record.

Lenel OnGuard Access Control System time stamp

According to the Census Bureau official responsible for the time capabilities for all systems at Census, a high-ranking official in the Office of Security (responsible for overseeing the Lenel OnGuard Access Control system), and a vendor that maintains the Lenel software, the badge time stamp is reliable. According to these witnesses, anytime the Lenel system logs a transaction, such as swiping in or out of the Census building, the Lenel time stamp for that transaction is accurate. The Census Bureau's Lenel system obtains time from the Bureau's Network Time Protocol servers that are tied to a national time standard and are accurate within fractions of a second. Moreover, the Lenel employee stated that he has *never* seen a case when the time logs were not accurate.

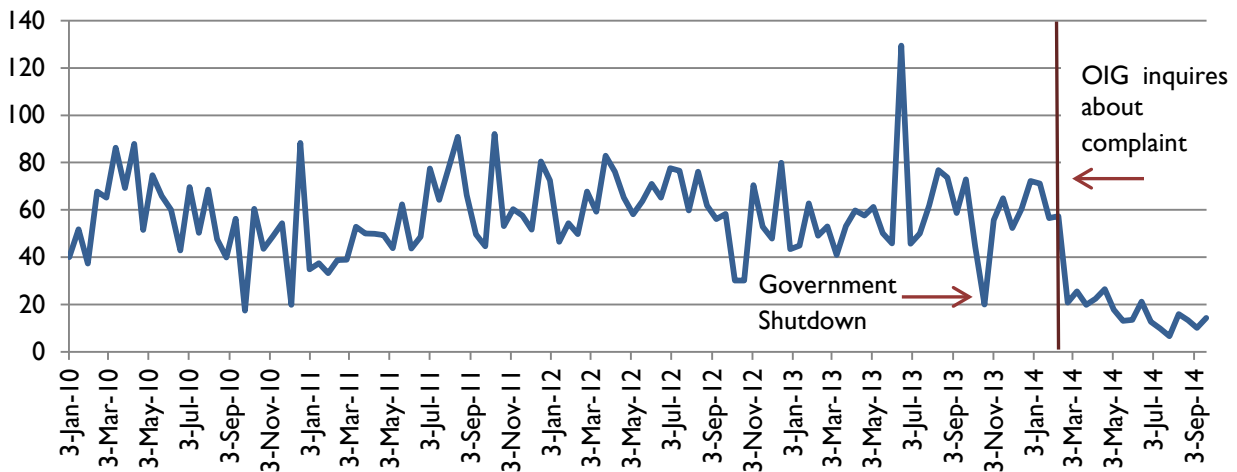
Changes in CHEC employee behavior in response to investigation

On February 4, 2014, OIG staff called CHEC leadership to inquire about a hotline complaint involving CHEC time and attendance abuse. As shown in Figure I, the nine initial subjects drastically changed their work habits after learning about the complaint. Between January 2010 and January 2014, the nine subjects had a discrepancy, on average, of approximately 60 hours per pay period. From February 2014 on, their average fell to under 20 hours per pay period. Additionally, the subjects received Proposals to Remove from Census beginning on April 24, 2014 and continuing over several days. During the two months prior to learning about the OIG complaint, the employee with the largest discrepancy overcharged 53 hours, yet in the two months after receiving a Proposal to Remove, that individual only overcharged by 1.5 hours.

This speaks to the reliability of the badge data; as employees changed their habits, our analysis captured the altered behavior over time. Additionally, there are also CHEC employees who

exhibited ordinary badge usage throughout our entire period of analysis, consistently working during the days that they claimed to be working. In other words, the subjects' atypical badge records are unlikely to be caused by systemic failures of the badge collection system when the system appears to work properly for other CHEC employees.

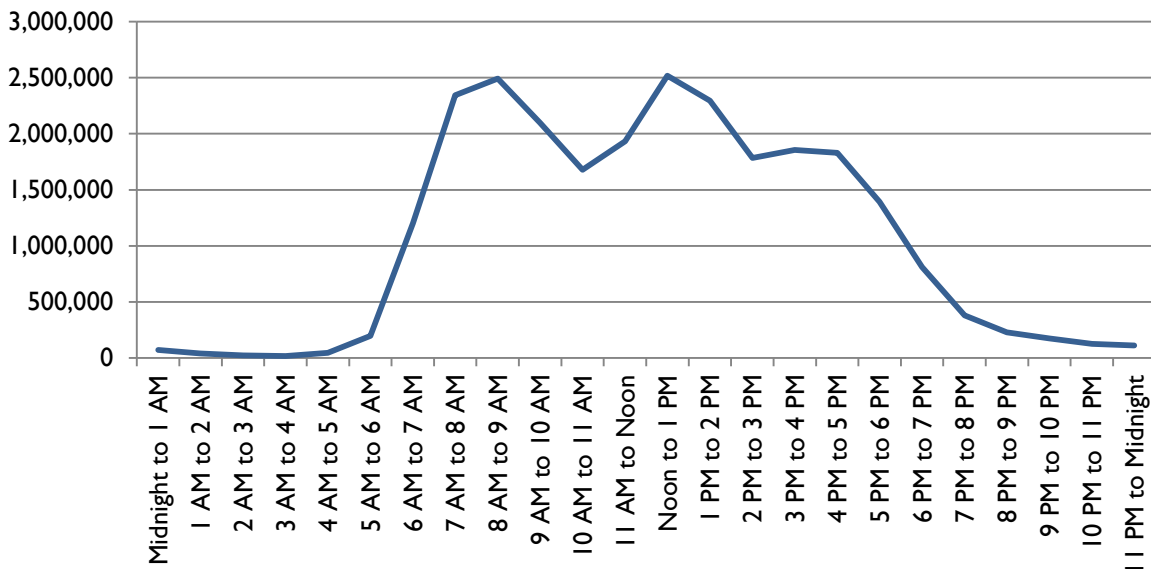
Figure 1: Overcharged hours by pay period for nine subjects



Entire Census headquarters badge data

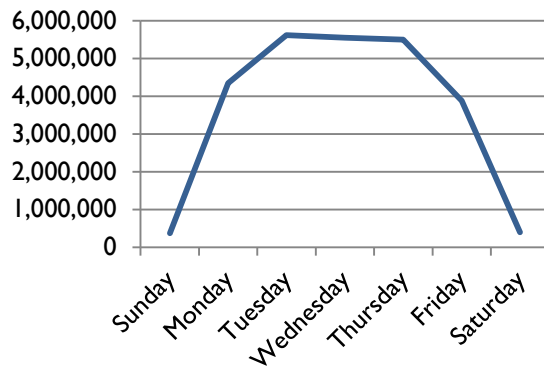
The OIG obtained entry and exit badge records for the entire Census Bureau headquarters from January 1, 2010 through September 30, 2014 with the employee names anonymized, a total of nearly 26 million unique swipes and approximately 15,000 swipes per day. As shown in Figures 2 and 3, the badge data matches our expectations by both day and time of day. Figure 2 shows the frequency of badge entries over the course of a day. Unsurprisingly, entry and exit swipes peak during the morning and evening rush, and far less activity takes place in the early morning and late evening.

Figure 2: Badge swipes by time of day



Additionally, Figure 3 shows badge patterns over the course of a week: employees rarely enter the building on Saturday and Sunday, badge at the highest rate on Tuesday through Thursday, and enter the building less frequently on Mondays and Fridays—common telework, AWS and leave days. On average, there are 22,000 entry and exit swipes on Tuesday, Wednesday, and Thursday; 18,000 on Monday; 16,000 on Friday; and 1,500 on both Saturday and Sunday. The weekday badge swipes have a standard deviation of 5,000 records, and weekend badge swipes have a standard deviation of 350 records. Badge swipes drop considerably during the typical winter holidays and fell to almost nothing during the government shutdown of October 2013, as only emergency employees were allowed into the building. In other words, the overall pattern of badge usage matched with our expectations, bolstering the case that the data are sufficiently reliable for use in our analysis.

Figure 3: Badge swipes by day of week



CHEC employee emails

The OIG reviewed emails for the CHEC employees with the largest badge discrepancies, and, for some of them, did not find a single email sent outside of the hours the badge system indicates they were in the Census building.⁶⁷ On the other hand, these employees sent numerous emails during the time the badge system indicates they were in the building. If the time stamps were flawed, and these employees were not actually late and/or leaving early on an almost daily basis, there would presumably be at least some emails sent outside of the times the badge system recorded them being in the building.

Perhaps even more telling, we found numerous examples of emails validating a particular employee's badge data for that day. Employees often sent emails saying they would be late or leaving early. Further, the CHEC Office circulated an "out list" each morning that listed people who were arriving late, leaving early, teleworking, or out for the day. When the OIG checked the employee's badge data, it was consistent—it would show them being late, leaving early, or not in the building at all. And when the email referenced a specific time the employee would be arriving or departing, the badge data was typically close to that time.

Sign-in logs

We were able to obtain limited CHEC Office sign-in logs from the relevant time period. Generally, the sign-in and sign-out times closely sync to the badge data. Similar to the email analysis, if there were any significant flaws in the badge system time stamps, there would be inconsistencies in the times that employees signed-in and signed-out when compared to the badge data. While not everything matches exactly—because certain employees at times put inaccurate times in the sign-in logs to inflate their time in the office—it matches in the aggregate. Moreover, we reviewed the sign-in logs that we were able to obtain for the CHEC employees with the most accurate time and attendance according to our badge analysis. For these employees, the sign-in logs matched the badge data almost exactly over prolonged periods of time. It would be highly unlikely for the badge system to record time so accurately for some employees, day in and day out, but then not do so for others.

Interviews

Last, virtually every CHEC employee questioned by the OIG about the discrepancy between the hours they claimed they worked in WebTA and the time their badge records showed them in the Census building admitted that they were often not in the building for the entirety of their scheduled workday. CHEC employees provided a variety of explanations regarding work done outside of the office, but their own admissions regarding their time in the Census building further bolsters the reliability of the badge data.

⁶⁷ For the employees where we did find emails outside of the badge hours, they either had a government-issued smartphone or could have logged in to Census' web-based email.