

Testimony of Brandon Judd
On Behalf of the National Border Patrol Council
Before the U.S. House of Representatives Committee on Homeland Security
Subcommittee on Border and Maritime Security
“Bang for the Border Security Buck: What do we get for \$33 billion?”
March 15, 2018

Chairwoman McSally, Ranking Member Vela, and distinguished Members of the Subcommittee, I would like to thank you for inviting me to testify before you today in order to communicate how the Administration’s request to Congress for enhanced border security measures and increased resources will dramatically improve border security efforts and greatly help our nation’s Border Patrol Agents to do our jobs.

My name is Brandon Judd and I currently serve as the President of the National Border Patrol Council, where I represent approximately 16,000 Border Patrol field agents and support staff. I have 20 years of experience as a Border Patrol Agent and a thorough understanding of the policies affecting border security.

Lessons Learned from the Past

I’d like to begin by explaining how we got to where we are today and why legislation drafted by the Subcommittee and priorities proposed by the Trump Administration, including within the Border Security Improvement Plan (BSIP), are desperately needed by the men and women of the Border Patrol to make up for the mistakes of the past.

In the mid-1980s, the United States faced its first major illegal immigration crisis. The Border Patrol had 4,000 agents who were charged with patrolling the roughly 2,000 miles of our international land border with Mexico. Other than barbed wire fences owned by ranchers, there were no vehicle or pedestrian barriers to impede illegal border crossers. The Border Patrol was overwhelmed and Congress chose to deal with the influx of illegal aliens entering the U.S. by passing the Immigration Reform and Control Act (IRCA) of 1986. The Act promised to secure the border and ensure the United States was never put in the same situation again.

While promises were made, promises were not kept and simply put: the Act failed.

It failed in large part because the U.S. government put the cart before the horse. Without first securing the border, the federal government legalized several million persons who willfully violated U.S. law. By so doing, we broadcasted a clear message to the world that our laws could be made void if enough people enter the country illegally. The message was heard worldwide and illegal immigration exploded.

After the IRCA of 1986, illegal border crossings in high numbers took place almost exclusively in San Diego, California and El Paso, Texas. The Border Patrol thought if it could control these two corridors, they would be able to control illegal immigration and narcotics smuggling. They threw the vast majority of their resources at these areas but left other areas like the El Centro, California; the Yuma, Arizona; and the Tucson, Arizona Border Patrol Sectors wide open. At the time, the prevailing thought was that

the terrain, infrastructure and population density did not exist on either side of the border in these regions to allow smuggling organizations to move their operations to the inhospitable and barren desert areas of Arizona and California.

The prevailing thought was wrong. For more than 10 years, the Tucson Border Patrol Sector was overrun because we did not have the foresight to realize smuggling is big business and that the cartels are extremely flexible and adaptable. In essence, we created the problem in Tucson by securing only select portions of the border while leaving others, to the east and west, wide open. To this day, the citizens and ranchers of Arizona are still paying for our mistakes.

Unlike today, in the 1980s and 90s, ISIS didn't exist, criminal cartels didn't control every facet of illegal activity on the border, and transnational gangs weren't prevalent in the U.S. Today, however, this is our reality, and if we refuse to learn from failed border security policies and operations of the past, we will never secure the border. We must take a proactive approach and it must start with the proper mix of infrastructure, personnel, and technology and it must be holistic.

I applaud both this Subcommittee and the Trump Administration for the comprehensive policies and initiatives that each have put forth. Going forward, it is crucial we acknowledge that if we only build parts of the wall and try to simply shutdown down just the Rio Grande Valley (RGV), for example, without also addressing Laredo, Del Rio, and Big Bend, we will create the same types of holes in our defenses that we created in Arizona years ago. We cannot repeat the mistakes of the past.

Physical Barriers, Including Walls in Strategic Locations, Must be Built Along the Border

While there has been no shortage of debate and controversy over our physical defenses and the proposed border wall, in my opinion serving in the Border Patrol for the past 20 years, including in two of the busiest sectors in the history of the Border Patrol, a wall in strategic locations is pivotal to securing our border.

When I first arrived in the El Centro Sector in the late 1990s and later in the Tucson Sector in the early 2000s, we had next to nothing by way of infrastructure and I can confidently say that for every illegal border crosser that I apprehended, three got away. The building of physical barriers and large fences – an effort that received bipartisan support in years past – allowed agents to dictate where illegal crossings took place, and doubled how effective we were able to be in apprehending illegal border crossers.

As an agent who has extensive experience working with and without border barriers, and as the person elected to represent rank-and-file Border Patrol Agents nationwide, I can personally attest to how effective physical barriers are. A wall in strategic locations will ultimately lead to far greater effectiveness and allow us to direct our very limited manpower resources to areas without barriers and where illegal crossings are more likely to take place.

I applaud the Subcommittee for proposing and pushing for historic investments in tactical infrastructure, including physical barriers. I implore the Subcommittee, as well as CBP, to follow through with these proposed investments and actually build the wall in strategic locations. While repairing, replacing and constructing new tactical infrastructure, including a wall along our Southwest Border is critical to achieving true border security, physical barriers make up only one part of the border security solution.

Personnel Shortages and Retention Problems Must be Solved Before Recruitment Push

Regardless of the amount of funding being appropriated to CBP for tactical infrastructure or emerging technologies being deployed on the border, the fact remains that the most crucial asset that the Border Patrol has are its agents. The men and women of the Border Patrol are some of the finest law enforcement professionals in the world but unfortunately we're losing agents faster than we can hire them. Just this past November, the Government Accountability Office (GAO) reported that according to CBP, "from fiscal year 2013 to fiscal year 2016, Border Patrol hired an average of 523 agents per year while experiencing a loss of an average of 904 agents per year." With agent attrition rates far outpacing hiring year in and year out, the Border Patrol has found itself with a critical shortage of agents in the field.

Congress has previously mandated that the Border Patrol maintain a minimum staffing number of 21,370 agent positions. However, due to the steady pace of attrition, the Border Patrol currently has only approximately 19,300 agents. This is roughly 2,000 agents short of where Congress has said the agency's staffing level needs to be and is simply unacceptable. In large part, agents are leaving the Border Patrol for other federal law enforcement jobs. Based on information provided by CBP leadership itself, GAO's November 2017 report summarizes the key reasons why agents are leaving the Border Patrol for other agencies and states that, "Border Patrol agents are deployed to less desirable duty locations, and Border Patrol agents generally receive lower compensation."

This pay disparity issue dates back to December 2014 when former President Obama signed into law the Border Patrol Agent Pay Reform Act (BPAPRA). This legislation overhauled the overtime system that agents had used for over 40 years. While initial drafts of the legislation were revenue neutral, during the legislative process, the Obama Administration pushed Congress to cut roughly \$100 million per year over 10 years from agents' salaries. As a result, rank-and-file Border Patrol Agents took a significant pay cut of roughly \$5,500 per agent per year. It is of note that the same high-level managers who were tasked with working with Congress on the BPAPRA took no pay cut. While NBPC ultimately supported the final bill because the Obama Administration had already begun limiting agent pay through other administrative means, we believe that this pay cut has seriously exacerbated attrition rates across the Border Patrol and hope that Congress can help remedy this problem.

I want to thank the Subcommittee for your ongoing efforts to solve the personnel problems plaguing the Border Patrol. Specifically, I commend the Subcommittee for including key personnel related provisions such as retention incentive language, and the Anti-Border Corruption Reauthorization Act in H.R. 4760, Securing America's Future Act. I also want to commend the Subcommittee for authorizing the hiring of 5,000 additional agents in the Securing America's Future Act, putting the minimum agent position number at 26,370. This legislative language mirrors the Administration's plan to hire 5,000 agents as outlined in both Executive Order 13767 and CBP's BSIP. The NBPC fully supports the plan to hire 5,000 additional agents and thanks the Subcommittee and the Administration for this much needed hiring surge.

While new recruitment efforts are certainly necessary and crucial going forward, I am deeply concerned that CBP leadership is continuing to ignore our persistent agent retention problems and the detrimental impacts to budgeting, morale and border security that stem from these sustained attrition rates. As the Subcommittee is aware, in November of last year, CBP awarded Accenture Federal Services a contract

to recruit and hire additional CBP personnel, including 5,000 Border Patrol Agents. CBP has obligated over \$42 million for the first year of the contract and the total value of the 5-year contract could reach as high as approximately \$297 million.

With news of this contract award, I am deeply concerned that the agency is once again putting the cart before the horse and spending hundreds of millions of dollars without addressing CBP's underlying personnel issues. We must fix our retention problems first. Then we can address recruitment issues once the agency stops hemorrhaging agents. If we don't address why agents are leaving the agency, then we will forever be stuck in a cycle in which the agency, and thereby taxpayers, loses tens of millions of dollars every year and never actually solves the root problem.

Based on only the limited information available regarding this contract, I am afraid that this contract award is at best a gross waste of taxpayer dollars and worse yet, likely mismanagement at the highest levels of CBP. I urge the Subcommittee to continue its oversight of this contract award and related decision-making by CBP to ensure that some light is shed on these matters.

Conclusion

As I stated above, I implore the Subcommittee, as well as CBP, to follow through with the proposed investments contained within the Securing America's Future Act and the BSIP. This means building a wall in strategic locations and putting more boots on the ground. However, I urge the Subcommittee to remain vigilant with its oversight of the agency as CBP prepares to spend upwards of \$30 billion in proposed funding. If the \$300 million Accenture recruitment contract is any indication of future CBP decision-making, I remain seriously concerned about how CBP leadership will choose to spend approximately 100 times more in taxpayer funding.

Lastly, I implore both sides of the aisle to quit politicizing border security and illegal border entries, and work with the men and women of the Border Patrol to invest in and ensure we have the infrastructure, personnel resources and technology we need. By so doing, I have no doubt in my mind that Border Patrol Agents will once and for all secure the border.