



National Border Patrol Council

**Testimony of Brandon Judd
President of the National Border Patrol Council
Before the Senate Homeland Security and Government Affairs Committee
March 22, 2017**

Chairman Johnson and Ranking Member McCaskill, thank you for allowing me to testify before this Committee today. My name is Brandon Judd and I am pleased to testify today from my personal experience as a veteran Border Patrol Agent and on behalf of all rank-and-file Border Patrol Agents whom, as the President of the National Border Patrol Council (“NBPC”), I was elected to represent.

Personal History and Experience

Although I currently serve as the NBPC President, I am first-and-foremost a Border Patrol Agent with 19 and a half years of experience.

As a Border Patrol Agent, I’ve worked under three different administrations: Clinton, Bush and Obama. President Trump’s Administration is now my fourth. I spent the majority of my career in the Tucson Border Patrol Sector, which is the busiest sector in the history of the Border Patrol. As an Agent in the field, I’ve served as a Canine Handler, Field Interdiction Team Leader, Field Training Officer and Intel Agent.

Background

As you know, the Administration proposed the hiring of 5,000 additional Border Patrol Agents as well as making major investments in border infrastructure. This is welcome news and is a step in the right direction to securing the border.

The Congressionally mandated floor for manpower at Border Patrol is 21,370 Agents. We are currently 1,743 Agents below this floor. To put this figure in perspective, 1,743 Agents is about the size of the St. Louis Police Department and slightly smaller than the Milwaukee Police Department. This lack of manpower is already impacting our operations and the smuggling cartels are exploiting the fact we do not have full coverage.

According to CBP’s own figures, in order to bring Border Patrol back up to the Congressionally mandated floor, add 5,000 new Agents and account for our historical 6 percent rate of attrition, the Border patrol will need to hire over 2,700 Agents every year for the next 5 years. Last year we hired, trained and deployed 485 new Agents so you see the cause for my concern this morning.

Although the news of hiring new agents and infrastructure is welcome, we have to take a realistic approach in understanding the hiring and retention challenges Border Patrol has faced over the last 20 years.

Challenges Going Forward

It is one thing to mandate the hiring of Border Patrol Agents, it is another thing to actually do it. Not only is the Federal Government facing a huge problem with the hiring of new Agents, it is facing the larger problem of retaining those they have already hired. There are three main reasons the hiring and retaining of Border Patrol Agents is going to be difficult.

1. Pay Parity
2. Morale
3. Improper administration of the polygraph examination

Pay Parity

Border Patrol Agents are the only Federal Law Enforcement Agency I am aware of that suffered a pay cut over the past several decades. We took this pay cut due to the widely publicized illegal use of Administratively Uncontrollable Overtime (“AUO”) by management. In 2014, Agents had their AUO cut from 25 percent to 20 percent with further cuts that were coming because of its illegal use and because of sequestration.

To address this issue and to try to keep as much pay as possible, this Committee passed the Border Patrol Agent Pay Reform Act (P.L. 113-277) two years ago. This legislation was authored by Senators Tester and McCain and I cannot thank them enough for all their hard work to get this legislation enacted. Well and truly we are eternally grateful for their efforts.

However, through the legislative process, CBP and the Border Patrol refused to support the legislation unless Border Patrol Agents were exempted from the Fair Labor Standards Act (FLSA). Making Border Patrol Agents FLSA exempt cost your average Agent \$5,000 yearly.

ICE Agents on the other hand are not FLSA exempt and this lack of pay parity with a sister agency within DHS is going to be problem. Although Border Patrol is slated to hire an additional 5,000 agents, ICE is also gearing up to hire an additional 10,000 officers. In the last two years Border Patrol has lost 500 Agents to ICE. When ICE starts hiring in earnest, the Border Patrol will lose several thousand Border Patrol Agents overnight if we do not take corrective action. As Congress considers making additional investments in border security, I strongly urge you to consider restoring pay parity with ICE.

Morale

As previously stated, I’ve worked under the past three administrations and I’ve never seen the morale lower than it has been over the past four years. Please understand I do not mean that as a political statement, it is simply a fact. The men and women that I represent felt under resourced and underappreciated.

Over the past 10 years, the Department of Homeland Security has consistently been ranked as one of the worst places to work in the Federal Government and the Border Patrol during this time has been at or near the bottom of DHS. Two examples of the dysfunction are captured in two questions on the most recent Federal Employee View Point Survey, a survey mandated by Congress that all Federal Agencies must administer. When asked if Border Patrol Agents believed their agency was successful in completing its mission, only 39 percent of the

respondents answered in the affirmative. Government-wide this answer was 74 percent. When asked if Border Patrol Agents believed their organization's senior leadership maintain high standards of honesty and integrity, only 32 percent of Agents responded in the affirmative. The government wide average was 52 percent.

Furthermore, the survey paints a harrowingly bleak picture of the Border Patrol as an agency. In almost every survey question, the Border Patrol was ranked lower than CBP, who was ranked lower than DHS, who was ranked lower than the rest of the Federal Government. The results of the survey are manifesting themselves in our current and historical attrition rate.

A lot of the recent attrition issues are being placed on operations, and while partly true, it ignores the whole picture. If tackled alone, operations will only yield part of the solution as evidenced during both the George W. Bush and Bill Clinton Administrations. During this time operations were sound and for the most part Border Patrol Agents were allowed to do our jobs, but we still had an extremely high rate of attrition.

This trend obviously must stop, but unless all aspects of the problem are addressed, history shows the trend will continue.

Improper Administration of the Polygraph

It is well documented that the Border Patrol has a polygraph problem. My understanding is that the latest numbers have us failing approximately 70 percent of the applicants. This failure rate is almost three times higher than other federal agencies and unfortunately CBP has been treating prospective job applicants as if they were criminal suspects. We have had police officers who have passed a polygraph for their agency, fail our polygraph. We have had military veterans with impeccable service fail our polygraph. We have even had former Border Patrol Agents who left for other law enforcement agencies fail our polygraph upon trying to return.

Senator Flake of Arizona is currently trying to fix the issues through legislation and I want to thank him for taking an interest in this issue. However, I am left wondering why it takes legislation to fix a problem? Where is the accountability at CBP? I raise this because I want the Committee to know that this is not a new revelation. We, the NBPC, have been raising this issue with CBP for years.

Closing

Being a Border Patrol Agent is an incredibly difficult job. Operationally, we work in some of the most challenging environments imaginable. I have worked in 120 degree heat in Arizona and the dunes of California and 20 degrees below zero in Montana.

The job is physically hard on your body given the terrain we operate in and a career of shift work takes a toll on your family. Sadly, of the 48 Agents who I graduated with from the academy, only 21 are still with the Border Patrol.

All of that being said, I love being a Border Patrol Agent. The work I do is important and I feel lucky beyond words that I have been afforded the opportunity to contribute to its mission.

Although I am sometimes critical of my agency, it is because I believe that we can and must do better.

I want to thank the Committee for having this important hearing and I am happy to answer any questions that you might have about border security, manpower, or concerns we have with the Administration's proposed wall.