

Testimony of Brandon Judd

On Behalf of the

National Border Patrol Council

January 28th, 2014

Senator Tester and Ranking Member Portman, members of the Committee, on behalf of the 16,500 rank and file Border Patrol Agents whom I represent, I would like to thank you for having this hearing to explore reforming the Administrative Uncontrollable Overtime (AUO) system.

My name is Brandon Judd and I am the President of the National Border Patrol Council. I have been a Border Patrol Agent for a little over 16 years. I am currently assigned in Maine but I have worked the majority of my career in some of the busiest Border Patrol sectors, including the El Centro, California sector, and the Tucson, Arizona sector.

The Special Counsel's report confirmed what the line agents have known for a long time. When AUO was first instituted in the 1970s, there were fewer than 4,000 Border Patrol Agents. Most Agents worked alone or in small groups with little or no supervision. AUO made sense 40 years ago because if an Agent was tracking smugglers or illegal aliens after their shift was over, the Agent could simply keep working. Because those hours were unscheduled, the extra hours worked were covered under AUO.

Today, the Border Patrol has over 21,000 agents. It is a 24-hour a day operation on all of our borders. In order to maximize manpower in the field, the Border Patrol utilizes a three shift rotation, with each shift lasting eight hours. The challenge is how to handle shift changes because it is common for an Agent's patrol area to be over an hour away from the Border Patrol station.

For example, an Agent's shift may be done but the oncoming relief is still an hour away. After a handover is made with an oncoming agent, the off-going agent still has to drive an hour back to the Border Patrol station to turn in all equipment. So while a shift may be 8 hours, the agent has to work an extra two hours per day to ensure border integrity. Those two hours have been traditionally covered under AUO, even though they are routine and foreseeable.

From my perspective, a reform of the Border Patrol pay system to address the problem is long overdue. What worked forty years ago doesn't work for today's operational needs and threats. Today, gone are the mom and pop smuggling organizations, replaced by multi-national cartels that smuggle both drugs and illegal aliens into our country. These cartels are well-organized, well-funded, heavily armed, and often extremely violent. They also have extensive intelligence and surveillance networks. With each tunnel coming into the United States that is discovered by

law enforcement, the American public is made aware of just how well-funded and organized these cartels are.

The real question is where do we go from here? How do we reform the AUO system while ensuring manpower on the border? Last month, Chairman Tester and Senator McCain introduced legislation, Senate Bill 1691, to reform AUO and there is companion legislation in the House introduced by Congressman Chaffetz. On this point I want to be clear – Border Patrol Agents completely support this legislation. It is long overdue.

The primary reason the Agents support the legislation is that it guarantees the manpower we need in the field to accomplish our mission. I learned early in my career that manpower and agent safety are linked. The more manpower we have, the better equipped we are at handling criminal cartels, aliens, and anyone who wants to do us harm. This bill provides the equivalent of 20 percent more manpower, or 5,000 trained agents at the border. The legislation gives us the capacity we need to do our job.

I would also like to address the cost savings that would be achieved by the legislation. This legislation will save the taxpayers over \$1 billion over the next ten years. Moving to this new system will be a pay cut from what Border Patrol Agents have traditionally earned. However, we believe ensuring proper manpower, long term stability and safety is worth a pay reduction.

We heard last month from Deputy Chief Vitiello of the Office of Border Patrol that the proposed legislation gives the Agency the flexibility to schedule agents where and when needed. We also heard from the Special Counsel last month about how the current AUO system has been abused for financial gain at taxpayers' expense since at least 2008. We heard from DHS' Chief Human Resource Officer that no immediate solution is possible absent legislation. And finally, just earlier this month, in the Joint Explanatory Statement of the FY14 Omnibus Appropriations Bill, Congressional leadership has directed Customs and Border Protection to work with us to develop a sensible Pay Reform.

Let me be clear – we see no sound reason why any agency or department would not support a bill that will curb abuse, allow for scheduling flexibility, and save taxpayers' money. I testified a month ago that this bill gives the Agency and our country more security and safety at our nation's borders while saving over \$1 billion in the next ten years. That remains true today. We welcome any support and collaboration from the Department of Homeland Security and the Office of Customs and Border Protection. The time to take action is now. We owe it to the American public and taxpayers, and to the Agents at the borders.

In conclusion, I want to thank the Committee for the opportunity to testify in front of you. I want to leave you with the firm notion that the 16,500 Border Patrol agents support Senate Bill 1691 and its House companion. The Border Patrol is overdue a system that fits current threats and operational needs that is also cost effective and ensures manpower and agent safety.