

Testimony of Brandon Judd

On Behalf of the

National Border Patrol Council

Chairman Chaffetz and Ranking Member Tierney, on behalf of the 16,500 Border Patrol Agents who are members of the National Border Patrol Council, 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 and I have been a Border Patrol Agent for 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 sectors.

The Special Counsel's latest report simply confirms what line Agents have been saying for years – AUO is an outdated and broken system that needs wholesale reform.

When AUO was first instituted in the 1970s, there were fewer than 4,000 Border Patrol Agents. There was no border fence, remote sensing technology or even an interoperable communications system. 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 the shift was over, the Agent could simply keep working. Those extra hours worked were covered under AUO.

When I entered on duty with the U.S. Border Patrol in 1997, there were still mom and pop smuggling organizations, who peddled their product across our borders. Fast forward to where we are today in 2013. 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, extremely violent, and have an extensive intelligence and surveillance network. 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.

In response to cartel threats and the increase in both human and drug smuggling, Congress set a Border Patrol staffing floor at approximately 21,300 Agents, seven times its initial size. This level of staffing not only ensured more Agents in the field, but also ensured that Border Patrol would be 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.

Therefore, 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. These hours are and have always been covered under AUO, which we know through the Office of Special Counsel is illegal. I'm also aware that the Special Counsel in 2008 informed the government that the "U" in AUO stands for "uncontrollable"—and regular and recurring shift change relief is anything but that. These long-standing problems point out to the need for change. From my perspective, a reform of the Border Patrol pay system is long overdue.

For the most part, when discussions on border security arise, the conversation tends to focus on the Southwest border. In no way do I want to detract from the importance of securing the Southwest Border, but I would be remiss if I didn't mention the ongoing threat of the nearly unguarded Northern border to the safety of the American public. As far as I am aware, all recent threat assessments have pointed to the Northern Border as the most likely point of entry into our country for terrorists. I also need to remind the committee of our recent history. In the early to mid-1990s, San Diego and El Paso were ground zero for both illegal immigration and drug smuggling. In response, the Border Patrol threw all of its resources at those two areas without also strengthening the other areas of the border. The thought process was that no one would attempt to cross through the inhospitable deserts of Arizona. We know from that experience that while San Diego and El Paso experienced a temporary drop in illegal crossing, towns like Nogales and Douglas in Arizona saw their illegal crossings rise to the level of chaos, ultimately requiring a 30 percent increase in border patrol Agents to staff those crossing points.

We now have a similar thought process in that we don't believe illegal smuggling, whether it be drugs or aliens, will ever move to our Northern border because it is cost prohibitive. Like Arizona, the Northern Border is ripe for the exploitation of not only alien and drug trafficking, but also for facilitating the illegal entrances of terrorists and those that would do this country harm. If we selectively limit manpower to current locations with high volumes of illegal crossings, all we have really achieved is shifting the point of illegal entry to a different location.

The real question is where do we go from here? Last week, Chairman Chaffetz introduced legislation, HR 3463. In addition, Senators Tester and McCain introduced a companion bill in the Senate. The legislation would reform Border Patrol Agent pay for the first time in almost 40 years. On this point I want to be clear – Border Patrol Agents completely support this legislation.

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. It was true when I started 16 years ago. It's even more true today, with the domination and spread of sophisticated drug cartels on the border. Having the legislation in

place is the equivalent of hiring 5,000 new border patrol Agents, which increases border security as well as Agents' safety.

Finally, I would 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, stability, and safety is worth a pay reduction.