

**Testimony**  
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**Subcommittee on Border and Maritime Security**  
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**INTRODUCTION**

Chairwoman McSally, Ranking Member Vela and members of the Committee, my name is Gary Brasher and I am the Regional President and Associate Broker with Russ Lyon/Sotheby's International Realty in Tubac, Arizona. I am also the President and part owner of several other businesses serving Santa Cruz County including a water company, a grocery store, a communications company providing internet and cable services, and a recreational facility. In short, I am a private businessman who has lived and served in the community for over 34 years.

By way of background, I am a 5<sup>th</sup> generation native Arizonan married to my wife, Tracey, and together we have four children and 6 grandchildren, all of whom live in the Santa Cruz Valley. Prior to my real estate career, I worked for the Federal Bureau of Investigation in both the Denver and Phoenix field offices.

After leaving the Bureau, I moved to the Santa Cruz Valley in 1983 and began my business career. During my 34 years in the Valley I have served as President of the Tubac Chamber of Commerce, President of the Santa Cruz Valley Citizens Council, and am currently serving as Vice-Chair of the Green Valley Chamber of Commerce, a position I have held for the last 7 years. I was appointed by the Governor and am serving as co-Chair of the Arizona Mexico Commission Real Estate Committee for 12 years, as well as serving on the Groundwater Users Advisory Board for Santa Cruz County for the last 6 years. I was also on Congresswoman Gifford's Checkpoint Study group that was established years ago to work with the Border Patrol (BP) on the very issues I am testifying on today.

I share this background only to highlight several things: My family's roots run deep in Arizona, the state I love. My history in the Santa Cruz Valley has been in large part formed by community service, working with partners on both sides of the border to generate trade and good working relationships. Finally, I want to underscore that I'm certainly in favor of strong law enforcement.

Over the years my partners and I have invested significantly in building homes, developing lots, and serving a variety of community needs through our businesses. Having a safe, pro-business/tourism environment is critical to our communities in the Santa Cruz Valley. Towards that end, I'm grateful for the opportunity to share this testimony with this distinguished Committee.

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Having lived, worked and been involved in the community for over 3 decades I have had the opportunity to observe the “defense-in-depth” strategy promoted by the Border Patrol leadership on a first hand basis. I want to say at the outset that I recognize the BP has a very difficult job and one that includes many risk factors. In short, they have a tough job! I know I speak for our entire region when I say that we collectively appreciate what the BP does and, for the most part, the manner in which they do it.

That said however, there are a number of areas where I know the BP strategies have had significant negative impacts on the communities they serve. Perhaps these strategies simply have unintended consequences. However, unintended or not, the consequences of the defense-in-depth strategy to those of us who live and work in the region is significant.

### **DEFENSE-IN-DEPTH** **THE CHECKPOINT STRATEGY**

The Arizona Tucson Sector has approximately 261 linear miles of border with Mexico which the BP has indicated cannot be secured. Their response to the purported impossibility of defending this 261 mile line is the “defense-in-depth” strategy. I have spoken to BP personnel on many occasions and this strategy has been communicated to me using the following “football” analogy.

The defense-in-depth checkpoint strategy is a three-tier defense strategy. Using their football analogy this strategy involves BP placing resources: (a) at the border (front defensive line), (b) near the border patrolling the area in mobile units (linebackers), and (c) at permanent or mobile checkpoints (defensive backs). BP leadership has indicated this approach gives them the best opportunity for success.

To respond to this analogy and from my personal experience as a defensive back for the 1976 Big Eight Champion Colorado Buffalo football team, the defense-in-depth strategy is like asking your defensive backs to stand in one location with their arms stretched out and hope the offense will run right into them. When I asked my former coach and former head coach for the Minnesota Vikings for his thoughts regarding this strategy, he said, “An NFL coach would not last a week in the league implementing an approach like this.”

In the initial portions of this testimony, I will discuss the ramifications of the defense-in-depth strategy from my personal observations, as well as from listening to the experiences of others who live and work in the communities south of the checkpoint. In my final portion, I will address some of the current approaches which the BP is undertaking with positive results. If expanded, I believe these approaches and strategies will better secure our border by placing more resources at the border.

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### **RAMIFICATIONS OF THE DEFENSE-IN-DEPTH STRATEGY** **STAGING, FLANKING AND RE-LOADING**

The defense-in-depth strategy is essentially a moving or relocation of the border to a checkpoint 25 miles north of the actual border with Mexico. This new “line of scrimmage” increases the area the Tucson Sector BP must defend from the 261 linear miles of actual border with Mexico to over 6,500 square miles. You can clearly see the challenge this creates by expanding or moving the “line of scrimmage.” For every mile of movement north, it exponentially increases the affected area. **(25 miles to the checkpoint x 261 miles of Border = 6,525 square miles of territory to secure).**

When checkpoints are established such a great distance from the actual border, it creates a “no-man’s land” between the real border and the checkpoint. In other words, those involved in illegal activities making it across the real border are now in the U.S. with relative freedom and time to “stage” their next move, which is taking the illegal contraband and/or drugs around the checkpoints. By flanking the checkpoints they are able to move their contraband to points further north. Unfortunately this “no-man’s” land is where we live and work and our children go to school.

If you look at **Exhibit A** in your packet you will clearly see there are a number of paths around the Interstate-19 (I-19) checkpoint, along with many more that are not so obvious. The clear routes around the checkpoint are the railroad tracks, the Santa Cruz River, the powerline and the El Paso Natural Gas line. These routes all provide an opportunity for those involved in illegal activities to move north and stay off the major transportation corridor, I-19.

The less obvious routes used to circumvent the checkpoint are the numerous back roads, ranch roads, paths and trails through the Coronado National Forest and surrounding Bureau of Land Management and private lands. The “flanking” activity takes place in the communities between the border and checkpoint – the “no-man’s land” that I referred to earlier.

Unfortunately the areas used to flank the checkpoint are also the very communities, developments and subdivisions where our residents live and work. In these areas, because of the flanking activity, we have experienced too many instances of shootings, high-speed chases and school lockdowns. Sadly, this is an intentional outcome of the checkpoint strategy.

Several years ago, Chief Gilbert, Sector Chief for the Tucson Sector, indicated at a public meeting that part of the strategy of the checkpoints was to “force” those involved in illegal activities into the surrounding areas where they would be easier to catch.

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In fact, GAO (2005) confirmed the BP strategy of pushing illegal activity around the checkpoint.

“The Border Patrol uses interior traffic checkpoints as a third layer of defense and deterrence against potential terrorists and their weapons, contraband smugglers, and persons who have entered the country illegally.

According to Border Patrol, permanent and tactical checkpoints are part of an integrated, multilayered enforcement strategy intended to achieve two key law enforcement objectives:

- (1) to increase the likelihood of detection and apprehension of illegal entrants of all types and thereby to deter other potential illegal entrants from attempting to enter the country, who might otherwise believe that successfully crossing the border would mean that there were no further barriers to them and
- (2) to deter illegal entrants from transiting through permanent checkpoints on major roadways, through fear of detection and thereby to cause them to use less traveled secondary roads on which the Border Patrol is able to stop all or almost all vehicles making illegal entrants more visible and easier to detect and apprehend.” (pp. 15-16)

**These “secondary roads” and other areas are where we live and work! This places civilians in the direct path of smugglers and the law enforcement agencies pursuing them!**

I have to say, I have never experienced a law enforcement strategy which purposely puts people involved in illegal activity in direct contact with law abiding citizens and actually calls such an action “a cogent strategy.”

I can testify firsthand to the consequences of the flanking activity by drug cartels using these secondary roads and trails to move their contraband.

- I have had individuals, who were shot by rival gangs as they moved drugs north through my neighborhood, show up at my front door seeking medical attention.
- I have found a dead body in this area -- that of an individual who was shot in a deal that apparently went bad while trying to “stage up” before moving drugs around the checkpoint.
- When our daughters were growing up, I frequently experienced that knot you get in your stomach as a parent when your children are coming home late at night, alone in their vehicles. That’s because I learned that late night is when many of the cartels come alive and start their flanking activities. For me, it got to the point where I told our daughters that I would meet them, no matter the time, off the freeway interchange near our residence and have them follow me home to insure their safety.

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Areas north of the checkpoint are also placed at risk because of the defense-in-depth checkpoint strategy. These are the areas where the “re-loading” takes place, the process by which the smugglers “re-connect” with their rides to continue their travel north of the checkpoint once they have successfully flanked it.

Being the Vice-Chair of the Green Valley Chamber for over 7 years has given me a new appreciation for and insight into the tremendous challenges faced by our neighbors north of the checkpoint. Businesses and homeowners in these northern areas have reported “high speed chases” in their neighborhoods when BP tries to interdict the flanking and re-loading activity.

I know of one hotel owner in Green Valley whose property borders a wash that has become a major pick-up point north of the checkpoint. He reports a loss of business because his clients state they don’t want to stay in an area so near to drug activity.

In another instance, a high speed chase resulted in the pursued vehicle steering off the road to avoid arrest and eventually driving right into the bedroom wall of a home. Had the vehicle crashed into this home a foot or so differently, it would have surely hit the residents who were in their bedroom asleep at the time.

These personal stories and experiences are told by others in the community and are also documented in several in-depth examinations of the effectiveness and impacts of the BP’s defense-in-depth checkpoint strategy, a strategy that calls for moving or re-locating the border 25 or so miles from the actual border by using fixed checkpoints like the one on I-19

Residents of the communities affected feel this strategy underestimates the intelligence of the enemy we are fighting. The assumption that these criminals will not circumvent fixed checkpoints and traverse through our neighborhoods, ranches, communities and public lands is not based in reality.

### **GOVERNMENT STUDIES QUESTION CHECKPOINT EFFECTIVENESS**

GAO continues to report concerns over Border Patrol’s lack of sufficient data resulting in its inability to examine the effectiveness of its defense-in-depth checkpoint strategy (GAO, 2009; GAO, 2012).

In 2009, GAO reported that Border Patrol was proceeding with checkpoint construction without adequate information on the effectiveness of checkpoints and its adverse impacts on the public safety and quality of life for Southern Arizonans. GAO found that there were “information gaps and reporting issues” because of insufficient data. Thus, the agency was unable to compare the cost effectiveness of checkpoints to other strategies. Further, it reported that Border Patrol had misrepresented its checkpoint performance.

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Again in 2012, GAO reported that because of data limitations the Border Patrol was unable to compare the effectiveness of how resources are deployed among sectors. Each sector collects and reports the data differently thus precluding comparison. Policy makers and Border Patrol leadership are unable to effectively assess the effectiveness of tactics such as checkpoints and yet Border Patrol continues to call checkpoints critical to their defense-in-depth strategy.

In spite of concerns for the comparability of the data among strategies or sectors, GAO (2009) reported specific data for the I-19 checkpoint.

- “94% of all apprehensions of illegal immigrants in the vicinity of the I-19 checkpoint occurred in the areas surrounding the checkpoint, while only 6% took place at the checkpoint itself.”

**These statistics make it clear the checkpoint is driving criminal activities into the area surrounding the checkpoint.**

### **IMPACTS ON REAL ESTATE VALUES AND BUSINESS**

In September 2014, the Udall Center for Studies in Public Policy at the University of Arizona, working on behalf of the National Center for Border Security and Immigration, published its study on the impacts of the I-19 checkpoint on the surrounding communities. They found the I-19 checkpoint is having a significant impact on the property values of the community surrounding the I-19 facility.

Researchers reported:

“After the checkpoint canopy was installed property values in Tubac/Rio Rico **decreased approximately \$2,769 per three month period or \$11,076 per year**” (p. 31) when compared to the values of properties north of the checkpoint over the same time period.

Given that the checkpoint was operational in 2008 and this report was completed in 2014, you can see the significant effect this annual reduction in Tubac/Rio Rico property values has had and frankly continues to have to this very day.

Tourism is a major economic driver in Arizona. The Arizona Office of Tourism reports that tourism spending generates \$3.6 billion in economic activity annually and employs over 30,000 individuals in southern Arizona alone.

Tubac, a rural community 20 miles from the border and only about 3 miles south of the I-19 checkpoint, has been a major tourist destination due to its abundant historical, cultural, artistic and recreational resources. However, we know of many visitors and potential residents who have cancelled vacations or real estate purchases due to concerns about the permanent checkpoint.

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There are literally hundreds of personal stories about individuals who were thinking about coming to Tubac for everything from a simple dinner to a wedding or convention, yet decided to go elsewhere because they didn't want to experience the "militarized" checkpoint. For them, it's the daunting thought of returning home from Tubac only to be stopped 3 miles north on the major interstate highway at a Department of Homeland Security checkpoint. The driver and others in the car are asked by a uniformed officer if they are U.S. citizens while drug sniffing dogs smell the exterior of the vehicle as it moves along. On the right, suspicious vehicles are dismantled and searched while the driver and occupants watch while they are detained nearby.

As the former president of the Tubac Chamber of Commerce I can attest to the number of phone calls the Chamber has received over the years asking everything from, "Is it safe in Tubac?" to, "Will I need to bring my passport to get back in the United States?"

Some of the concerns expressed by those wishing to visit the area are so subtle. Just recently I came to learn about a young woman who had recently had a small child. The young woman's mother invited her to have lunch with her at the Tubac Golf Resort, located about 2 miles south of the checkpoint.

The daughter joined her for lunch, but was worried sick about what was going to happen when she went back through the checkpoint. She didn't know if she should bring her child's birth certificate or if she was going to have to prove citizenship some other way? I understand stories such as this might be met with skepticism by some, but my point is that the impacts on our community in some cases are tangible and statistical and easy to see, while others are subtle and insidious and not nearly so obvious, but just as harmful to the overall economy of the area.

In addition to the clear negative impacts of the checkpoints on tourism, property values, business and overall commerce in the area, the flanking and circumventing of the checkpoints also impact significantly on our farming and ranching communities as well as our public lands. The defense-in-depth strategy has caused considerable interruption for ranching and farming operations, including:

- Ranch fences are cut
- High-speed chases occur across private land as BP tries to apprehend individuals going around the checkpoints
- Livestock are buzzed by low flying helicopters operated by the BP

Furthermore, many of our National Forest and BLM areas are speckled with signs that read, "Drug smuggling activity in the area. Please use caution." Can you imagine the impact this sign would have on a group who may wish to come to the area to enjoy some of our most treasured natural, open spaces such as Madera Canyon or Patagonia State Park? Or, imagine a Boy or Girl Scout troop who wants to

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come to the area for an outing. What scout leader in their right mind would take a group of young people into an area posted with signs such as this?

I'd like to make a final personal observation on this matter. As just one voice in a crowd of voices on this topic and one who is proud of our country and all for which it stands, I believe one of the greatest threats we face as a nation, if not THE greatest threat, is the accumulating debt the United States incurs each year and the interest being calculated on this debt. With our national debt clock nearing \$18 Trillion and rising at an unprecedented pace, it seems we are way past the time to look carefully at every dollar spent and every resource expended in order to make sure we are getting the greatest gain for our dollars.

I can think of few greater goals than protecting our nation's borders. However, I don't believe any agency is above having to sharpen their pencils and make sure we as a nation are getting the greatest benefit for the money with which they are entrusted.

From reading the various GAO reports referenced in this testimony, it appears the BP has not been held to the same standard that any family or business in this country has to face every day. Do the number of personnel, vehicles, technology and other resources being spent at the I-19 Checkpoint justify the results? With only 6% of all interdictions of those who enter the country for an illegal purpose being caught at the checkpoint, speaking as one citizen, I believe it is time to "redeploy" resources and compress our interdiction efforts as close to the border, if not at the border. In a word, I believe it is time to move the "line of scrimmage" back to our border with Mexico.

### **POTENTIALLY PROMISING BP STRATEGIES**

I believe the foregoing begs the question, "What can be done to better secure our border while making the best use of our resources?"

It seems the BP has seen positive results by utilizing a variety of different enforcement tactics at the actual Border. Though skeptics may question claims of success given BP's track-record on data collection, I and others in our communities believe these strategies hold significant promise and can be expanded throughout the Sector. Further to this point, these tactics have the potential for a much less negative impact on our communities than the current three-tier strategy.

Components of these tactics include, but are not limited to, utilizing:

- 1.) Areal drones for observation and communication with enforcement officers on the ground.
- 2.) Vehicle barriers at the border to block likely paths utilized by smugglers with all-terrain vehicles crossing the border.
- 3.) Roving and/or non-permanent checkpoints at pre-determined locations.



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- 4.) Forward Operating Bases (FOBs) – continuing the use of FOBs for those areas of the border that are particularly rough or possess difficult terrain.
- 5.) Enhanced communications-- enabling agencies (Sheriff's Office, ICE, BP and police) to share intelligence AND communicate with one another in the field using the same radio frequency.
- 6.) Enhanced infrared technology at the border including the use of virtual fencing.

**In other words, I urge you to take the resources devoted to the “stationary,” third-tier checkpoint that accounts for only 6% of all apprehensions, and devote them toward building a stronger, more robust, more “mobile” second-tier in which 94% of all apprehensions occur. Eventually, with success and compression of efforts toward creating a defendable single-tier strategy, we can once again stand confident in our ability to secure our borders at the border.**

### SUMMARY

Members of the Committee, thank you for the opportunity to briefly share with you today my thoughts, observations and experiences regarding the defense-in-depth strategy. As I shared at the outset, I am a supporter of the BP. Having a law enforcement background, myself, and coming from a military family (my father retired as Major General) I understand the need for strategy and policy. However, as a private businessman I also understand the need to be open to new ideas, to remain fluid, and to remain aware of your competition or, in this case, our country's enemies, whether they are terrorists trying to enter the United States or those who continue to erode our culture and society with drugs.

We are united in our collective goals to provide a safe environment for ourselves, our families, our employees, and our fellow citizens. We can disagree on policy and approach, but at the end of the day we all want a safer and more secure border and a better America. It is from that perspective that I offer this testimony. Again, thank you for allowing me to appear here today.

#### **Sources:**

J. Jenkins, J. Proudfoot, J. Marquardson, J. Gans, E. Golob, and J. Nunamaker. (September, 2014). Checking on checkpoints: An assessment of U.S. Border Patrol checkpoint operations, performance, and impacts. National Center for Border Security and Immigration (BORDERS): University of Arizona.

U.S. Government Accountability Office (GAO), (July, 2005). Border Patrol: Available data on interior checkpoints suggest differences in sector performance. Report to Congressional Requestors, GAO-05-435.

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U.S. Government Accountability Office (GAO), (August, 2009). Border Patrol: Checkpoints to contribute toward Border Patrol's mission, but more consistent data collection and performance measurement could improve effectiveness. Report to Congressional Requestors, GAO-09-824.

U.S. Government Accountability Office (GAO), (December, 2012). Key elements of new strategic plan not yet in place to inform border security status and resource needs. Report to Congressional Requestors, GAO-13-25.

