

**ON THE LINE: BORDER SECURITY FROM AN
AGENT AND OFFICER PERSPECTIVE**

HEARING
BEFORE THE
SUBCOMMITTEE ON
BORDER AND
MARITIME SECURITY
OF THE
COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES
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ON THE LINE: BORDER SECURITY FROM AN AGENT AND OFFICER PERSPECTIVE

Tuesday, January 9, 2018

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER AND MARITIME SECURITY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room HVC-210, Capitol Visitor Center, Hon. Martha McSally [Chairwoman of the subcommittee] presiding.

Present: Representatives McSally, Barletta, Hurd, Rutherford, Bacon, Vela, Richmond, Correa, Demings, and Barragán.

Ms. MCSALLY. The Committee on Homeland Security Subcommittee on Border and Maritime Security will come to order.

The subcommittee is meeting today to examine the challenges United States Border Patrol agents and U.S. Customs and Border Protection officers face in carrying out their mission to secure our Nation's border.

Before I begin, I would like to start with a moment of silence for Border Patrol Agent Rogelio Martinez, who was killed in the line of duty last year in Van Horn, Texas.

I now recognize myself for an opening statement.

Agents and officers of U.S. Customs and Border Protection work every single day to secure our Nation, often in rugged terrain, sometimes in very remote areas far away from the amenities of modern life. They are exposed to the blistering heat of the Arizona desert and the brutal cold in places like Havre, Montana.

Working at the Nation's ports of entry, the men and women of CBP are the driving force behind our border security operations. The Nation is fortunate they are willing to endure hardship to make sure the border is secure. Agents are willing to take significant risks on every single shift to ensure that cartels cannot smuggle drugs and dangerous individuals across our border or through our ports of entry with impunity. It is dangerous work, made more dangerous because agents are subject to frequent assaults. Some of them have the potential to kill or cause grave bodily harm.

Just a few weeks ago, an agent in San Diego was patrolling the border on an all-terrain vehicle when he was struck in the chest by a grapefruit-size rock, causing him to lose control of his ATV, which subsequently rolled over on him. Thankfully, the agent has been released from the hospital and will recover. But this type of assault is far from an anomaly. Many other agents have been seriously injured by sizable rocks thrown over the fence.

On the screens to the left and the right, we have put up photographs of some of the gruesome injuries suffered by our brave agents during these rock attacks.

Unfortunately, such assaults are becoming more commonplace, in part because of the increase in the number of criminal aliens attempting to cross the border illegally, who would rather resist arrest than face jail time for parole violations or a felony reentry charge. More should be done to ensure that those who assault agents are held accountable and prosecuted to the fullest extent of the law.

CBP has two key missions: Securing the border and facilitating cross-border commerce that powers the Nation's economic growth. But in order to accomplish those missions, CBP needs enough agents and officers to be able to make arrests, interdict drug loads, screen cargo from countries of concern, and move commerce and passengers through air, land, and seaports of entry.

U.S. Border Patrol agents and CBP officers are, at the end of the day, the most important border security and trade facilitation resources we have. Unfortunately, they are in short supply these days, which has created a National security and economic vulnerability that this Congress must address.

CBP is critically understaffed and remains well below its Congressionally-mandated staffing levels by more than 1,000 CBP officers and 1,900 Border Patrol agents. The manpower shortage is getting worse. We are losing ground every single month, and there is no end in sight, as we continue to lose experienced agents and officers through attrition, without the ability to efficiently hire new ones.

The President has smartly called for the hiring of an additional 5,000 agents, but we have to ensure CBP is set up for success to not only hire those additional agents in a timely fashion, but also to retain them in the future.

The U.S. Border Patrol has not met its mandated hiring numbers since fiscal year 2014, and CBP has been losing officers since early in fiscal year 2016. Several underlying issues are directly responsible for these current staffing loads.

For starters, it takes more than 292 days and 12 distinct steps, on average, to hire a new officer or agent. Very few people can wait somewhere between 6 months to a year for a job. On top of that, CBP officers and agents are required to pass a polygraph examination. However, the pass rates have not kept pace with the demand for more officers and agents.

Earlier this year, the House passed my bill that would allow the commissioner of CBP to waive the polygraph requirement for current State and local law enforcement officers who have already passed a polygraph examination, Federal law enforcement officers who have already passed a stringent background investigation, and veterans with at least 3 consecutive years in the military who have held a security clearance and passed a background check.

These small changes will provide CBP with immediate relief so they are able to quickly yet judiciously hire officers and agents from a pool of qualified applicants that already maintain the public's trust and put their lives on the line for our security and safety on a daily basis.

The challenges for our agents and officers are significant, which is why I have called this hearing today. I think it will benefit the Members of the subcommittee to receive first-hand testimony from the line agents on the ground.

I want to hear your perspectives of what it will take to secure our border, listen to your first-hand views on the hiring, retention, and mobility challenges that have plagued CBP for the last few years, and, finally, discuss some solutions for the troubling and increasing trend of assaults on our agents.

[The statement of Chairwoman McSally follows:]

STATEMENT OF CHAIRWOMAN MARTHA MCSALLY

JANUARY 9, 2018

Before I begin, I would like to start with a moment of silence for Border Patrol Agent Rogelio Martinez, who was killed under mysterious circumstances last year in Van Horn, Texas.

Agents and officers of U.S. Customs and Border Protection work every single day to secure our Nation, often in rugged terrain, sometimes in very remote areas far away from the amenities of modern life. They are exposed to the blistering heat of the Arizona desert, and the brutal cold in places like Havre, Montana.

Working at checkpoints and ports of entry, the men and women of CBP are the driving force behind our border security operations. The Nation is fortunate that they are willing to endure hardship to make sure the border is secure.

Agents willingly take significant risks on every single shift to ensure that cartels cannot smuggle drugs and dangerous individuals across the border, or through our ports of entry with impunity.

It is dangerous work. Made more dangerous because agents are subject to frequent assaults—some of them have the potential to kill or cause grave bodily harm.

Just a few weeks ago, an agent in San Diego was patrolling the border on an all-terrain vehicle was struck in the chest by a grapefruit-sized rock causing him to lose control of his ATV, which subsequently rolled over on the agent.

Thankfully, the agent is ok, but this type of assault is far from an anomaly. Many other agents have been seriously injured by sizeable rocks thrown over the fence.

Up on the screens to the left and right we have put up photographs of some of the gruesome injuries suffered by our brave agents during rocking attacks.

Unfortunately, such assaults are becoming more commonplace in part because of the increase in the number of criminal aliens attempting to cross the border illegally who would rather resist arrest than face jail time for parole violations, or a felony reentry charge. More should be done to ensure that those who assault agents are held accountable and prosecuted to the fullest extent of the law.

CBP has two key missions—securing the border and facilitating cross-border commerce that powers the Nation's economic growth.

But in order to accomplish those missions, CBP needs enough agents and officers to be able to make arrests, interdict drug loads, screen cargo from countries of concern and move commerce and passengers through air, land, and sea ports of entry.

U.S. Border Patrol agents and CBP officers are, at the end of the day, the most important border security and trade facilitation resource we have.

Unfortunately, they are in short supply these days, which has created a National security and economic vulnerability that this Congress must address. CBP is critically understaffed and remains well below its Congressionally-mandated staffing levels by more than 1,000 CBP officers and 1,900 Border Patrol agents.

The manpower shortage is getting worse.

We are losing ground every single month, and there is no end in sight as we continue to lose experienced agents and officers through attrition, without the ability to efficiently hire new ones.

The President has smartly called for the hiring of an additional 5,000 agents, but we have to ensure that CBP is set up for success to not only hire those additional agents in a timely fashion but also retain them in the future.

The U.S Border Patrol has not met its mandated hiring numbers since fiscal year 2014, and CBP has been losing officers since early in fiscal year 2016.

Several underlying issues are directly responsible for our current staffing woes.

For starters, it takes more than 292 days and 12 distinct steps, on average, to hire a new officer or agent. Very few people can wait somewhere between 6 months to a year for a job.

On top of that, CBP officers and agents are required to pass a polygraph examination, however the pass rates have not kept pace with the demand for more officers and agents.

Earlier this year the House passed my bill that would allow the commissioner of CBP to waive the polygraph requirement for current State and local law enforcement officers who have already passed a polygraph examination, Federal law enforcement officers who have already passed a stringent background investigation, and veterans with at least three consecutive years in the military who have held a security clearance and passed a background check.

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The challenges for our agents and officers are significant, which is why I have called this hearing today. I think it will benefit the Members of the subcommittee to receive first-hand testimony from the line agents on the ground. I want to hear their perspective on what it will take to secure the border, listen to their first-hand views on hiring, retention, and mobility challenges that have plagued CBP for the last few years, and finally discuss some solutions to the troubling and increasing trend of assaults on agents.

Ms. MCSALLY. The Chair now recognizes the Ranking Member of the subcommittee, the gentleman from Texas, Mr. Vela, for any statement he may have.

Mr. VELA. Thank you, Chairwoman McSally, for holding today's hearing. Thank you also to our witnesses from the National Border Patrol Council and the National Treasury Employees Union who have joined us today.

Given the on-going debate on border security, hearing directly from the unions that represent thousands of Border Patrol agents and Customs and Border Protection officers working on the front lines will be greatly beneficial to this subcommittee.

Over the past several months, the White House and senior administration officials have insisted that building a border wall from coast to coast will keep out illegal drugs, criminal aliens, and other threats. However, CBP and U.S. Coast Guard officials have testified before this subcommittee time and again that the solutions to these threats are broader than simply using physical barriers.

This subcommittee has heard that vast quantities of narcotics are interdicted in the Transit Zone near Central and South America and at our maritime borders. We know that U.S. Coast Guard and CBP Air and Marine Operations need modern assets to keep up with the flow of illegal narcotics in this Transit Zone.

We have heard how drugs are smuggled into the United States in massive cargo containers through our land ports of entry, through the express mail and postal system, through tunnels under fences, and by ultralight aircraft and drones. We know that people are smuggled and trafficked into the United States through legitimate forms of travel, and others come here illegally but overstay.

Data also shows that people on the terrorist watch list are encountered by CBP along our Northern Border significantly more frequently than along our Southern Border. Furthermore, the majority of these individuals present themselves at ports of entry rather than try to sneak into the country.

To address these threats, CBP relies on screening and vetting techniques, technology, infrastructure, and most importantly, its officers and agents. CBP faces serious challenges in recruiting and maintaining a professional work force to accomplish its mission, and these challenges are only getting worse. I have mentioned mul-

tiple times this Congress that CPB's hiring and retention problems pose an unacceptable self-inflicted risk.

Based on its work force staffing model, CBP's Office of Field Operations needs to deploy an additional 2,500 CBP officers to ports of entry in order to meet demand, and it does not include the more than 1,000 vacancies still left unfilled since the last time Congress authorized a staffing increase. This is a known, factual documented need.

I understand that over the holidays, CBP officers assigned to some of the busiest land ports of entry along our Southern Border were working multiple 16-hour shifts to keep up with the flow of travelers and commerce. This situation is bad for the officers and it is bad for border security, as well as legitimate commerce and trade.

Border Patrol agents are under pressure to maintain vigilance and professionalism in the face of cartels and other criminal actors who endanger their safety. Both Republican leadership in Congress and the administration would be wise to address these critical staffing and personnel needs before considering a multi-billion dollar border wall.

At the same time, Border Patrol agents must contend with using outmoded communications technology and deteriorating forward-operating bases in remote regions along our borders. CBP has a duty to treat these men and women fairly, equip and compensate them appropriately.

Manpower is a critical component of border security, and I look forward to hearing from our witnesses today about their experiences, trends, and threats they have seen on the front lines, and what they would like to see CBP do to address and prevent the exploitation of our borders by those who seek to do us harm. All Members support you in your efforts to secure our Nation's borders, while ensuring the flow of legitimate trade and travel that drives our Nation's economy and upholding the ideals that make America great.

Again, I thank the Chairwoman for holding today's hearing, and I thank our witnesses for joining us.

I yield back the balance of my time.

[The statement of Ranking Member Vela follows:]

STATEMENT OF RANKING MEMBER FILEMON VELA

JANUARY 9, 2018

Given the on-going debate on border security, hearing directly from the unions that represent thousands of the Border Patrol agents and Customs and Border Protection officers working on the front lines will be greatly beneficial to the subcommittee. Over the past several months, the White House and senior administration officials have insisted that building a border wall will keep out illegals drugs, criminal aliens, and other threats.

However, CBP and U.S. Coast Guard officials have testified before this subcommittee time and again that the solutions to these threats are broader than simply using physical barriers. This subcommittee has heard that vast quantities of narcotics are interdicted in the transit zone near Central and South America and at our maritime borders.

We know that U.S. Coast Guard and CBP Air and Marine Operations need modern assets to keep up with the flow of illegal narcotics in this transit zone. We have heard how drugs are smuggled into the United States in massive cargo containers through our land ports of entry, through the express mail and postal system, through tunnels under fences, and by ultralight aircraft and drones.

We know that people are smuggled and trafficked into the United States through legitimate forms of travel, and others come here legally but overstay. Data also shows that people on the terrorist watch list are encountered by CBP along our Northern Border significantly more frequently than along our Southern Border. Furthermore, the majority of these individuals present themselves at ports of entry, rather than try to sneak into the country.

To address these threats, CBP relies on screening and vetting techniques, technology, infrastructure, and—most importantly—its officers and agents. However, CBP faces serious challenges in recruiting and maintaining a professional workforce to accomplish its mission and these challenges are only getting worse. I have mentioned multiple times this Congress that CBP's hiring and retention problems pose an unacceptable self-inflicted risk.

Based on its Workforce Staffing Model, CBP's Office of Field Operations needs to deploy an additional 2,500 of CBP officers to ports of entry in order to meet demand, and this does not include the more than 1,000 vacancies still left unfilled since the last time Congress authorized a staffing increase. This is a known, factual, documented need.

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Ms. MCSALLY. Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JANUARY 9, 2018

Today's hearing is being held in the wake of President Trump's request for \$18 BILLION to build a "big, beautiful wall" along the Southern Border.

Spending billions on a boondoggle border wall to fulfill a campaign promise is a terrible use of American taxpayer money and bad border policy.

The President made his request despite the fact that the Government Accountability Office has concluded U.S. Customs and Border Protection has no metrics to show how a wall contributes to border security, or if it contributes at all.

Cartels have a way of going around, over, under, or through these walls, underscoring that walls are no panacea for our border security challenges.

Meanwhile, apprehensions have continued to decline over time, to the point where each Border Patrol agent is now apprehending an average of just 17 individuals annually.

As the CATO Institute has said, given this fact it is difficult to make the case that more Border Patrol agents should be a priority.

Moreover, it is hard to envision how the administration would be able to hire the additional 5,000 Border Patrol agents the President has requested when they cannot even keep up with current attrition.

Both the Border Patrol and the Office of Field Operations continue to lose personnel, as more officers and agents leave each month than are hired to replace them.

DHS needs to do a better job of retaining the Border Patrol agents and CBP officers it already has by giving them the pay, benefits, and location mobility they deserve.

In particular, the Trump administration has completely overlooked critical staffing shortages at our ports of entry, where CBP officers are often being forced to work 16-hour shifts and take temporary duty assignments to compensate for the lack of officers.

These conditions compromise homeland security, slow legitimate travel and trade that is essential to our economy, and burn out good, hard-working officers.

Why would we spend billions on a wall in the desert while leaving our ports of entry vulnerable to human smugglers and drug traffickers?

Simply put, it makes no sense.

But then, very little about the Trump administration's border security policy does. Still, this latest effort to use DREAMers as a bargaining chip to fulfill President Trump's fantasy of a closed immigration system and an unnecessary border wall is a new low for this administration.

These demands are non-starters for Democrats and only show us that the President is not acting in good faith.

I hope to hear from our witnesses today about what we can do to help better secure America's borders, support the men and women on the front lines, and do so in a way that honors our values as a Nation of immigrants.

Ms. MCSALLY. We are pleased to be joined today by four distinguished witnesses to discuss this important topic.

Mr. Brandon Judd is a Border Patrol agent and the president of the National Border Patrol Council, representing more than 16,500 Border Patrol line agents. He brings with him nearly 20 years of experience as a Border Patrol agent. Mr. Judd is currently a Border Patrol agent assigned in Montana.

Mr. Jon Anfinen has been a Border Patrol agent for 11 years and is currently assigned to the Del Rio Sector in Texas. He spent several years working in the prosecutions unit, including 2 years as a liaison to the U.S. Attorney's Office in Del Rio, Texas, and is certified as an EMT. Agent Anfinen is the local president of the union in Del Rio, Texas, and last year he was elected as a national vice president with the national council.

Ms. Rosemarie Pepperdine began her career with the U.S. Border Patrol El Cajon, California. During her 21-year career, she has apprehended numerous aliens, seized multiple drug cases, as well as worked for multiple agencies on different task forces, and is here from my town, Tucson, Arizona.

Mr. Anthony Reardon is the national president of the National Treasury Employees Union. He is the leader of the largest independent Federal sector union, representing 150,000 Federal workers, including 25,000 Custom and Border Protection employees. Reardon has over 25 years of hands-on experience addressing the concerns of front-line employees.

The witnesses' full written statements will appear in the record. The Chair now recognizes Mr. Judd for 5 minutes to testify.

**STATEMENT OF BRANDON JUDD, NATIONAL PRESIDENT,
NATIONAL BORDER PATROL COUNCIL**

Mr. JUDD. Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, I would like to thank you for inviting me to testify today in order to communicate the significant challenges that our Nation's Border Patrol agents are facing.

My organization and I have a long-standing relationship with Chairwoman McSally and Ranking Member Vela. In fact, I really appreciate everything that you two do for our agents.

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 line agents. I have 20 years of experience as a Border Patrol agent and a thorough understanding of the policies affecting border security, and I would like to discuss a few issues with you today.

The debate over what to do with undocumented immigrants in the United States has been raging for as long as I can remember, and the debate will continue as long as people from other countries are able to sneak across our borders, evade apprehension, and disappear into the shadows of society. In short, until the borders are secure, we will continue to have hearings such as this, and border security and illegal immigration will continue to be politicized and will continue to be a polarizing topic that divides liberals, moderates, and conservatives of all parties.

In a recent town hall meeting, a United States Senator asked a packed conference room of Border Patrol agents what percentage of illegal border crossers in their individual locations are apprehended. The answers ranged from 40 to 60 percent. He then asked what percentage of narcotics that are smuggled across the border are detected and seized. The percentage went down exponentially.

The Senator wasn't surprised, and in a later private meeting he asked me what the proper percentage would be to consider the border secure. My answer was that the percentage could vary from location to location, but a secure border would be achieved once it became too difficult for criminal cartels to turn a profit and the risk outweighed the reward.

Unfortunately, and as we speak, we still have work to do. Illegal cross-border crime, including human smuggling, is a multi-billion dollar industry and is controlled exclusively by organized crime within and without the United States. These criminal enterprises—cartels—are constantly evolving and adapt to our enforcement postures. The cartels have come to realize that we are far more reactive than proactive, which makes it easy for them to stay one step ahead of our enforcement efforts.

In some cases, the cartels will expend a great deal of money and resources to dig expensive tunnels, bribe Government employees, build elaborate compartments in vehicles, and many other measures to get their contraband across the borders illegally. Most of the time, however, they will use simple ingenuity that allows them to use our laws, lack of resources, and prosecutorial discretion against us.

Over the past year, we have seen a historic drop in the number of people entering the United States illegally. The administration's simple promise to enforce the laws was all it took to send shock waves throughout the world. Less people were entering the country illegally, which meant Border Patrol agents weren't being overwhelmed by sheer numbers. It became much more difficult to cross the border illegally, and I believe we were putting a dent in the profits of the criminal cartels.

Due to such, assaults on Federal agents with a border security mission increased by 76 percent in 2017, compared to the previous year. In order to combat this issue, we must understand what I be-

lieve are the three drivers: Cartel violence, criminal aliens attempting to illegally reenter the United States, and manpower.

As previously stated, all of the human and narcotic trafficking along the border are controlled by drug cartels. The cartels are extremely violent and have killed an estimated 150,000 people, including law enforcement, in Mexico. I believe that the violence we are seeing is simply a spillover from the chaos on the other side of the border.

The other thing is criminal aliens attempting to reenter the United States. For obvious reasons, criminal aliens are more likely to assault Border Patrol agents, and until fully prosecuted, I believe the assaults will continue.

Manpower is also a huge issue. We are currently almost 2,000 agents below the Congressional floor of 21,370 agents. The President has proposed the hiring of 5,000 additional agents, which we fully support. The committee has included the 5,000 additional agents in the Border Security for America Act, and I want to thank the committee for doing so.

However, this year, there is only a proposal to fund 500 new agents. At this rate, the agents we hire this year will be halfway to retirement before we meet the goal of an additional 5,000 new agents by 2028.

In the field, manpower equals response time, whether it be a sensor hit or an agent fighting for his life. Currently, we have agents covering large-scale areas where the nearest backup may be more than 15 to 20 minutes away. As someone who has had to struggle to arrest a violent subject on more than one occasion, that kind of response time is equivalent to no response at all.

I fear that the level of violence that we are seeing now may become the new normal. This is because the new primary drivers of the violence, cartels and criminal aliens, are most likely going to get worse, not better, in the years ahead. We need to focus our efforts on what we can change. This includes more manpower and ensuring that any assaults on an agent is fully prosecuted.

I want to thank the committee for your time, and I look forward to answering any of your questions.

[The prepared statement of Mr. Judd follows:]

PREPARED STATEMENT OF BRANDON JUDD

JANUARY 9, 2018

Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, I would like to thank you all for inviting me to testify today in order to communicate the significant challenges that our Nation's Border Patrol agents are facing. My organization and I have a long-standing relationship with both Chairwoman McSally and Ranking Member Vela and I want to thank you both for all your hard work and support for the Border Patrol.

My name is Brandon Judd and I currently serve as the president of the National Border Patrol Council, where I represent 16,000 Border Patrol field agents. I have 20 years of experience as a Border Patrol agent and a thorough understanding of the policies affecting border security. I will be spending the bulk of my time this morning addressing the dramatic increase in assaults on agents in 2017.

BACKGROUND

In 2017, assaults on agents were up 76 percent to reach 774. This included the tragic death of Agent Rogelio Martinez in November in Van Horn, Texas. There is not a day that goes by where at least one agent is not being sent to the hospital.

Although Agent Martinez's death made National news, there are many cases that do not.

Let me give you two recent examples in the last several weeks that barely made the news. On December 26 in Brownsville, Texas, Federal authorities confirmed the shooting of a U.S. Border Patrol agent patrolling the waters of the Rio Grande. The round shot by a "small caliber" weapon came from the river banks on the Mexican side. One inch the other way and the shot more than likely would have been fatal. On December 30 in San Diego, California, an agent was hit in the chest by a rock the size of a grapefruit while patrolling on an ATV. The force of the rock knocked him off the ATV causing the vehicle to roll on top of him. Thankfully, the agent did not lose consciousness and was able to radio for help.

As national president, I am typically called when an agent is seriously assaulted. I have to tell you, when my phone rings in the middle of the night my heart skips a beat.

WHY THE INCREASED VIOLENCE

Many may be wondering why assaults on agents are skyrocketing when apprehensions for 2017 are down. Last year we apprehended 310,000 illegal aliens as opposed to 415,000 in 2016. There is a loose correlation between arrests and assaults on agents. This correlation is limited to the extent that there will always be a percentage of illegal immigrants who will fight with an agent to avoid arrest.

I believe that the following issues are driving the escalating violence that we are seeing at the border:

- *Cartel Violence.*—All of the human and narcotic trafficking along the border are controlled by the drug cartels. When I joined the Border Patrol 20 years ago, there were smaller, less violent organizations who ran the trade. This is not the case anymore. The drug cartels are extremely violent and have killed an estimated 150,000 people, including law enforcement, in Mexico. In the first 6 months of 2017, violence in Mexico increased to a staggering 33 percent. I believe that the violence we are seeing is simply a spillover from the chaos on the other side of the border.
- *Criminal Aliens Attempting to Illegally Reenter.*—In 2016 we apprehended over 16,000 criminal aliens. This figure includes both those convicted of crimes, approximately 13,000, and those with outstanding warrants in the United States, approximately 3,600. Last year the criminal alien apprehensions were lower at 11,000 apprehensions, however this is still a significant number. Criminal aliens are highly likely to assault agents because many of them are subject to criminal charges for either illegal reentry, or prison time for violating the terms of their parole. In April 2017 Attorney General Sessions's office issued a memo stating that all 94 U.S. Attorneys' offices should prosecute those who transport aliens, aliens with 2 or more illegal reentries, as well as criminal aliens seeking to reenter this country. Although we welcome this change, I am hearing from my agents on the field that this directive is not being fully implemented. I would greatly appreciate it if this committee exercise its oversight role and ensure that any assault on an agent is fully prosecuted.
- *Manpower.*—We are currently almost 2,000 agents below the Congressional floor of 21,370. The President has proposed the hiring of 5,000 additional agents, which we fully support. The committee has included the 5,000 additional agents in the Border Security for America Act and I want to thank the committee for doing so. However, the President has only proposed and Congress is slated on funding for only 500 new agents this year. At this rate, the agents we hire this year will be half way to retirement before we meet this goal in 2028.

In the field, manpower equals response time whether it be a sensor hit or an agent fighting for his or her life. Currently, we have agents covering large-scale areas where the nearest backup may be more than 15 to 20 minutes away. As someone who has had to struggle to arrest a violent subject on more than one occasion, that kind of response time is equivalent to no response at all.

WHAT CAN CONGRESS DO?

I fear that the level of violence that we are seeing now may become the new normal. This is because the two primary drivers of this violence, cartels and criminal aliens, are most likely going to get worse not better in the years ahead. We need to focus our efforts on what we can change. This includes more manpower and ensuring that any assault on an agent is fully prosecuted.

I want to thank the committee for your time this morning and I look forward to answering any questions that you may have.

Ms. MCSALLY. Thank you, Mr. Judd.
The Chair now recognizes Mr. Anfinsen for 5 minutes.

STATEMENT OF JON ANFINSEN, PRESIDENT, LOCAL 2366, DEL RIO, TEXAS, NATIONAL BORDER PATROL COUNCIL

Mr. ANFINSEN. Good morning, everyone.

Chairwoman McSally and Ranking Member Vela, I want to thank you for inviting us to the committee and affording us the opportunity to testify this morning.

My name is Jon Anfinsen, and I have been a Border Patrol agent for about 11 years. I have been assigned to the Del Rio Sector my entire career. I spent several years working in the prosecutions unit, including working 2 years at the U.S. Attorney's Office.

I want to discuss with you this morning the issues of retention and recruitment and how they affect Border Patrol's operations in the field. As many of you know, law enforcement is a difficult career. The hours are long and often unpredictable. We work weekends and holidays. We miss out on birthdays and anniversaries, and unfortunately, we sometimes see the worst in humanity. All of this takes a toll not only on us but our families.

Although there are challenges with this profession, I work with a lot of really great people who truly care about border security. They have become a second family, and after 11 years in the job, I still look forward to going to work every day.

Whether we are arresting undocumented immigrants who recently crossed the border, interdicting drug smugglers, or rescuing undocumented immigrants lost in the brush, I believe our work makes a difference to this country. However, there are aspects of being an agent that present a challenge when it comes to recruitment, retention, and morale.

Unlike many other Federal law enforcement agencies, Border Patrol work is shift work that covers 24 hours a day, 365 days a year. We operate in some of the most unforgiving environments in the country, and some agents struggle to make it to retirement, with a career filled with injuries. We often work in communities that lack quality health care, schools, and employment opportunities for our spouses.

So I would like to first start by addressing agent retention. The Border Patrol is only as good as its employees. If we can't retain quality personnel, we will never be able to secure our border. As Brandon Judd has previously testified, we are approximately 2,000 agents below the Congressionally-mandated floor of 21,370 agents. This deficit is largely due to the result of two issues.

The first is the agency is facing a significant wave of retirement of agents who were hired in a large hiring push in the early 1990's. The second is agents just leaving the Border Patrol before they are due to retire.

Currently, the Border Patrol has a 6 percent attrition rate, which is nearly twice the Government-wide Federal law enforcement attrition rate of 3.2 percent. Agents routinely transfer to other Federal law enforcement agencies for a whole host of reasons. Compounding the problem is the pay disparity that Border Patrol has with competing agencies.

In 2014, Congress passed the Border Patrol Agent Pay Reform Act. This legislation modernized the overtime system that agents had used for over 40 years, and for the first time gave agents a stable pay system. This legislation, which we supported, was originally revenue neutral. However, through the legislative process, the Obama administration forced through a savings cut of \$100 million per year in the final law, and as a result, the average agent took a pay cut of approximately \$5,500.

We only supported the legislation because the agency had begun limiting agents' AUO, which began affecting agents' monthly pay and retirement.

It is our understanding that it costs approximately \$180,000 to recruit, hire, and train one new agent. So that means with every agent that we lose, taxpayers are losing \$180,000. If agents were properly compensated and that compensation leads to retaining agents, it will lead to a net gain for the taxpayer.

The Border Patrol cannot be successful if our attrition rate remains nearly double what our sister agencies are facing. Therefore, we have to address this pay disparity. The National Border Patrol Council has already initiated discussions with the Trump administration to eliminate this gap. However, I hope that Congress might be able to play a positive role in resolving this issue.

On the recruitment side, we face similar challenges. This committee, through the Border Security for America Act, has supported the administration's proposal to hire 5,000 additional agents. In order to do this and account for attrition, the Border Patrol will need to hire and train approximately 2,729 new agents every year for the next 5 years.

But to put this in perspective, in 2016, we hired, trained, and employed only 485 new agents. At this hiring rate, we are not able to keep up with attrition, much less add manpower.

The single biggest hindrance to hiring is the polygraph. I know this is a controversial subject, but as you likely know, the Border Patrol is failing approximately two out of every three applicants, which is double the rate most law enforcement agencies see. So there is clearly a problem with how we are administering the polygraph.

In response, last year, this committee passed the Anti-Border Corruption Reauthorization Act, which gave the CBP the ability to waive the polygraph for certain law enforcement officers and military service members. We believe this is a positive step forward, but it is not the only solution. The bottom line is we need to start administering the polygraph correctly and stop treating applicants like criminal suspects.

Despite the support the Border Patrol has received from the current administration, our ranks are still plagued with low morale. CBP has thankfully begun to seriously look at employee resiliency, including morale, but until we get everyone in the agency on-board with the concept that employee morale is part and parcel of effective border security, we will continue to lose more agents than we can hire.

Many of the agencies that do well with recruitment and retention are able to provide a portfolio of the benefits and perks which make their agencies a desirable place to work. Now that all law enforce-

ment agencies are having to compete Nation-wide for a shrinking pool of applicants, Border Patrol needs to do a better job of making itself more competitive and desirable both for current agents and prospective employees. We have to get a handle on this situation sooner rather than later, because the adverse effects of low morale and attrition oftentimes are not detected until years later, usually when it is too late to fix the situation.

I want to thank the committee for your time this morning, and look forward to answering questions that you may have.

[The prepared statement of Mr. Anfinsen follows:]

PREPARED STATEMENT OF JON ANFINSEN

JANUARY 9, 2018

BACKGROUND

Good morning Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee. Thank you for the opportunity to appear before you today to discuss several important issues related to Border Security. My name is Jon Anfinsen and I have been a Border Patrol agent for 11 years. I am currently assigned to the Del Rio Sector in Texas as a field agent. In addition to being a field agent I have also served several years working in the agency's prosecutions unit, including 2 years as the liaison to the U.S. Attorney's Office in Del Rio, Texas.

I want to discuss with you this morning the issues of retention and recruitment and how they affect Border Patrol's operations. As many of you know, law enforcement is a difficult career. The hours are long and often unpredictable. We work weekends and holidays and miss out on birthdays and anniversaries. And, unfortunately, we sometimes see the worst of humanity. We will encounter violence and resistance, as increasingly every action we take is under the microscope. All of this takes a toll on not only us, but our families.

Although there are challenges with this profession, I work with a lot of really great people who care about border security. They have become a second family and after 11 years on the job I still look forward to work every day. We do a job that truly matters and whether it is arresting illegal aliens who recently crossed the border, interdicting drug smugglers, rescuing illegal aliens lost in the brush, or a litany of other activities, I believe our work makes a difference to this country.

However, there are aspects of being a Border Patrol agent that present a challenge when it comes to recruitment, retention, and morale. Unlike many other Federal law enforcement agencies, Border Patrol works shift work that covers 24 hours a day, 7 days a week, 365 days a year. We operate in some of the most unforgiving environments in the country. This job is physically hard on our bodies and some agents struggle to make it to retirement after a career filled with injuries. And we often work in communities that lack quality health care, schools, and employment opportunities for our spouses. Many of the amenities folks here in Washington, DC take for granted simply do not exist where we live and work.

RETENTION

I would like to first start with addressing agent retention. As an agency, the Border Patrol is only as good as its employees. If we cannot retain quality personnel we will never be able to secure our border. As Brandon Judd has previously testified, we are approximately 2,000 agents below the Congressionally-mandated floor of 21,370 agents.

This deficit is largely the result of two issues: The first is that the agency is facing a significant wave of retirements of agents who were brought on during the hiring spree in the early 1990s and the second is agents leaving the Border Patrol prior to retirement which remains a persistent problem. Currently, the Border Patrol has a 6 percent attrition rate which, according to GAO data (GAO-09-727), is nearly twice the Government-wide Federal law enforcement attrition rate of 3.2 percent. Border Patrol agents routinely transfer to other Federal law enforcement agencies for a host of reasons. By transferring to other agencies, they gain a regular schedule, in most cases a less physically strenuous job, have access to different career paths, and typically find employment in a major metropolitan area where the amenities are much greater.

Compounding the problem is the pay disparity that Border Patrol has with competing agencies. In 2014, Congress passed the Border Patrol Agent Pay Reform Act

(Pub. L. 113–277). This legislation modernized the overtime system that Border Patrol agents had used for over 40 years and for the first time gave Border Patrol agents a stable pay system. This legislation, which we supported, was originally revenue neutral. However, through the legislative process, the Obama administration forced through a savings cut of \$100 million per year in the final law. As a result, the average Border Patrol agent took a pay cut of approximately \$5,500. We only supported the legislation because the agency had begun limiting agents Administratively Uncontrollable Overtime, which began affecting agents' monthly pay and retirement.

It is our understanding that it costs approximately \$180,000 to recruit, hire, and train one new agent, which means with every agent we lose, taxpayers lose \$180,000. If agents were properly compensated, it would ultimately lead to a net gain for the taxpayer.

The Border Patrol cannot be successful as an organization if our attrition rate remains nearly double what our sister agencies are facing; therefore, we must address this pay disparity. The National Border Patrol Council has already initiated discussions with the Trump administration to eliminate this gap, however I hope that Congress might be able to play a positive role in resolving this issue.

RECRUITMENT

On the recruitment side, we face similar challenges. This committee, through the Border Security for America Act, has supported the administration's proposal to hire 5,000 additional agents to bring us to 26,370. In order to do this and account for attrition, the Border Patrol will need to hire and train approximately 2,729 new agents every year for the next 5 years. To put this in perspective, in 2016, the Border Patrol hired, trained, and deployed only 485 new agents. At this hiring rate we are not able to keep up with attrition, much less add manpower.

Above all, the single biggest hindrance to hiring is the polygraph. I know this is a controversial subject, but as you likely know the Border Patrol is failing approximately 2 out of every 3 applicants, which is double the rate most law enforcement agencies see. There is clearly a problem with how we are administering the polygraph.

In response, last year this committee passed the Anti-Border Corruption Reauthorization Act. This legislation would provide CBP with the ability to waive the polygraph for certain State and local law enforcement officers who previously passed their agency's polygraph, as well as other Federal law enforcement and military service members, provided they meet certain conditions.

We believe this is a positive step forward, but not the solution. The bottom line is that we need to start administering the polygraph correctly and stop treating prospective job applicants like criminal suspects. There are many agents in the field who personally know an applicant—some of whom they recruited—who has failed the polygraph. Ironically, many of these applicants later get hired by State, local, or other Federal law enforcement agencies, sometimes passing another polygraph.

Despite the support the Border Patrol has received from the current administration, our ranks are still plagued with low morale. There unfortunately remains within our agency those who believe it is not the job of a manager to be concerned with employee morale and that it is up to each individual agent to find their own motivation to do this job. CBP has thankfully begun to seriously look at employee resiliency, including morale, but until we get everyone in the agency on board with the concept that employee morale is part and parcel of effective border security, we will continue to lose more agents than we can hire.

Many of the agencies that do well with recruitment and retention are able to provide a portfolio of the benefits and perks which make their agencies a desirable place to work. Now that all law enforcement agencies are having to compete with agencies Nation-wide for a shrinking pool of applicants, Border Patrol needs to do a better job of making itself more competitive and desirable, both for current agents and prospective employees. We have to get a handle on this situation sooner, rather than later, because the adverse effects of low morale and attrition oftentimes are not detected until years later, usually when it is too late to fix the situation.

I want to thank the committee for your time this morning and I look forward to answering any questions that you may have.

Ms. MCSALLY. Thank you, Mr. Anfinsen.

The Chair now recognizes Ms. Pepperdine for 5 minutes.

STATEMENT OF ROSEMARIE PEPPERDINE, UNION REPRESENTATIVE, LOCAL 2544, TUCSON, ARIZONA, NATIONAL BORDER PATROL COUNCIL

Ms. PEPPERDINE. Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, I would like to thank you all for inviting me to testify today.

I began my career with the U.S. Border Patrol in 1996. During the first half of my career, I was stationed in the San Diego Sector, and in 2005, I transferred to the Tucson Sector. I am proud to work side-by-side with the resilient men and women of the Border Patrol who are driven to address the challenges our Nation faces along the border.

I would like to address three things this morning that highlight how we can more effectively utilize our limited manpower.

Currently, 653 miles of the 2,000 miles of Southern Border is fenced at a cost of nearly \$7 billion since fiscal year 2007. This fencing consists of 353 miles of primary fencing, 300 miles of vehicle fencing, 36 miles of secondary fencing behind the primary fencing, 14 miles of tertiary fencing behind the secondary fence.

Fencing is a tool that allows agents to maximize their available manpower. It is not, however, a single solution to illegal immigration and drug trafficking. Illegal immigrants and drug traffickers routinely go over, under, and through existing fencing. Fencing without the manpower to arrest those who penetrate it is not a prudent investment.

What fencing does do is allow us to maximize our manpower. Generally speaking, in areas where there is no primary fencing, it takes one agent to secure a linear mile of the border. However, in areas where there is fencing, we can increase the range of an agent to 3 miles.

With that said, I want to be clear about our position on fencing. Our first priority is placing secondary fencing behind the primary fencing that we already have. This can be done quickly and at a nominal cost. To put this in perspective, the 36 miles of secondary fencing already in place was constructed for \$2 million per mile.

Beyond secondary fencing, we believe that only about 300 additional miles of primary fencing is needed. The 300 miles of new fencing would focus on areas such as Del Rio, Laredo, and the Tohono O'odham Indian Reservation in Arizona.

Effective communication is both a force multiplier and a critical component of agent safety. In CPB's fiscal year 2017 Congressional budget request stated that 18,000 units lack adequate security voice encryption, 25,000 units have exceeded their useful life, and 35,000 units cannot communicate with State and local law enforcement agencies.

For most of my career, I have been issued a radio that oftentimes does not work in the field. The primary issue is a lack of signal coverage. Essentially, if you are not within close proximity of a CBP radio tower, you cannot communicate.

When working in remote areas alone and without backup, an inoperable radio quickly becomes a safety issue. Many times in my career I had a visual of a fellow agent, but could not communicate via my service radio, and in some instances, I had to use my personal cell phone to communicate to other agents.

With that said, the Council would like to thank the committee for including language in the Border Security for America Act calling for future radio procurements to include LTE capability. Most likely, everyone in this room has a smartphone with an LTE capability. Right now, there are LTE-capable public safety radios that can operate on CBP's radio communication system. If a signal is not available, you are able to switch to a commercial LTE provider. This LTE capability is a quantum leap forward, and will greatly improve both agent safety and effectiveness.

The Border Patrol is an extremely top-heavy organization with far too many layers of management and convoluted chain of command. Although Congress has appropriated funds to double the size of the Border Patrol, we have, unfortunately, not doubled the number of agents in the field.

To put this in perspective, the average large-size police department has 1 supervisor for every 10 officers. The Border Patrol has 1 supervisor for every 4 agents. Why do we have twice as many supervisors as other large law enforcement agencies? Your guess is as good as mine.

The reason, in my opinion, that this imbalance has been able to persist is that in headquarters, there are only about 300 agents. The real management bloat has been at the sector and station level. In some sectors we have more agents assigned than we do at headquarters. The Council has long advocated that Congress should force the agency to rightsize its management structure to something more in line with other law enforcement agencies.

In addition, allow me to offer another efficiency Border Patrol should definitely pursue: Processing. Anyone arrested by Border Patrol is brought back to the station and processed before being turned over to either ICE or voluntarily returned to their country. This includes taking biometrics, running a criminal background check for outstanding warrants, and filling out the appropriate paperwork. Depending on how busy it is in some locations, you can have 15 to 20 percent of the agents bogged down processing and not active in the field. In comparison, many police departments have civilian employees, who make considerably less than officers, handle the bulk of the processing.

Thank you for your time this morning, and I look forward to answering any questions that you may have.

[The prepared statement of Ms. Pepperdine follows:]

PREPARED STATEMENT OF ROSEMARIE PEPPERDINE

JANUARY 9, 2018

BACKGROUND

Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, I would like to thank you all for inviting me to testify today. I began my career with the U.S. Border Patrol in 1996. During the first half of my career I was stationed in El Cajon, California and in 2005 I transferred to the Tucson Sector. I am proud to work side-by-side with the resilient men and women of the Border Patrol who are driven to address the challenges that our Nation faces along the border.

I would like to address three themes this morning that highlight how we can more effectively utilize our limited manpower.

FENCING

Currently 653 miles of the nearly 2,000 miles of the Southern Border is fenced at a cost of nearly \$7 billion since fiscal year 2007. This fencing consists of:

- 353 miles of primary fencing;
- 300 miles of vehicle fencing;;
- 36 miles of secondary fencing behind the primary fencing;
- 14 miles of tertiary fencing behind the secondary fence.

Fencing is a tool that allows agents to maximize their available manpower. It is not however a single solution to illegal immigration and drug trafficking. Illegal immigrants and drug traffickers routinely go over, under, and through existing fencing. Fencing without the manpower to arrest those who penetrate it is not a prudent investment.

What fencing does do is allow us to maximize our manpower. Generally speaking, in areas where there is no primary fencing, it takes one agent to secure a linear mile of the border. However, in areas where there is fencing we can increase the range of an agent to 3 miles.

With that said, I want to be clear about our position on fencing. Our first priority is placing secondary fencing behind the primary fencing that we already have. This can be done quickly and at a nominal cost. To put this in perspective, the 36 miles of secondary fencing already in place was constructed for \$2 million per mile.

Beyond secondary fencing, we believe that only about 300 additional miles of primary fencing is needed. The 300 miles of new fencing would focus on areas such as Del Rio, Laredo, and the Tohono Odem Indian Reservation in Arizona.

INTEROPERABLE COMMUNICATIONS

Effective communication is both a force multiplier and a critical component to agent safety. In CBP's fiscal year Congressional Budget Request stated that 18,000 units lack adequate security voice encryption, 25,000 units have exceeded their useful life, and 35,000 units cannot communicate with State and local law enforcement agencies.

For most of my career, I have been issued a radio that often times does not work in the field. The primary issue is the lack of signal coverage. Essentially if you are not within close proximity of a CBP radio tower you cannot communicate. When working in remote areas alone and without backup, an inoperable radio quickly becomes a safety issue. Many times in my career, I had visual of a fellow agent but could not communicate via my service radio and in some instances I had to use my personal cell phone to communicate to other agents.

With that said, the Council would like to thank the committee for including language in the Border Security for America Act calling for future radio procurements to include LTE capability. Most likely, everyone in this room has a smartphone with LTE capability. Right now there are LTE-capable public safety radios that can operate on CBP's radio communication system. If a signal is not available, you are able to switch to a commercial LTE provider. This LTE capability is a quantum leap forward and will greatly improve both agent safety and effectiveness.

SUPERVISOR STAFFING LEVELS AND AGENTS DOING NON-AGENT WORK

The Border Patrol is an extremely top-heavy organization with far too many layers of management and a convoluted chain of command. Although Congress has appropriated funds to double the size of the Border Patrol, we have unfortunately not doubled the number of agents in the field.

To put this in perspective, the average large-size police department has 1 supervisor for every 10 officers. The Border Patrol has 1 supervisor for every 4 agents. Why do we have twice as many supervisors as other large law enforcement agencies? Your guess is as good as mine.

The reason, in my opinion, that this imbalance has been able to persist is that in headquarters there are only about 300 agents. The real management bloat has been at the sector and station level. In some sectors we have more agents assigned than we do at headquarters. The Council has long advocated that Congress should force the agency to right-size its management structure to something more in line with other law enforcement agencies.

In addition, allow me to offer another efficiency Border Patrol should definitely pursue—processing. Anyone arrested by the Border Patrol is brought back to the station and processed before being turned over to either ICE, or voluntarily returned to their country. This includes taking biometrics, running a criminal background check for outstanding warrants, and filling out the appropriate paperwork. Depending on how busy it is in some locations, you can have up to 15 to 20 percent

of the agents bogged down processing and not active in the field. In comparison, many police departments have civilian employees, who make considerably less than officers, handle the bulk of the processing.

Thank you for your time this morning and I look forward to answering any questions that you may have.

Ms. MCSALLY. Thank you, Ms. Pepperdine.

The Chair now recognizes Mr. Reardon for 5 minutes.

**STATEMENT OF ANTHONY M. REARDON, NATIONAL
PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION**

Mr. REARDON. Chairwoman McSally, Ranking Member Vela, thank you for the opportunity to testify on behalf of over 25,000 front-line Customs and Border Protection officers, agriculture specialists, and trade enforcement specialists at CBP, who are stationed at 328 U.S. air, sea, and land ports of entry, and at preclearance operations overseas.

First, I would like to say that NTEU supports the nomination of Kevin McAleenan to be the next CBP commissioner.

That said, there is no greater roadblock to border security, stopping illicit trafficking in people, drugs, illegal weapons, and money, and to ensuring legitimate trade and travel efficiency than the lack of sufficient staffing at the ports.

The current CBP officer shortage is indeed staggering. There is a vacancy rate of nearly 1,200 funded CBP officers at the ports. According to CBP, an additional 2,500 CBP officers needed to be funded and hired in order to meet 2018 staffing needs. So as of today, there is a total CBP officer staffing shortage of 3,700.

The economic cost of this shortage is also staggering. For every 33 additional CBP officers hired, the United States can potentially gain over 1,000 private-sector jobs. If Congress fully staffed the ports, 112,000 private-sector jobs could be created.

Understaffed ports lead to long delays in travel and cargo lanes, and also create a significant hardship for front-line employees. Both involuntary overtime and involuntary work assignments far from home disrupt CBP officers' family life and destroys morale.

An example of the negative impact of staffing shortages can be found at San Ysidro and Nogales, where CBP has instituted involuntary temporary duty assignments, or TDYs.

Starting January 7, a new round of 175 CBP officers are being sent from other ports to Nogales, which is critically understaffed. However, these TDYs then create short-staffing situations at other ports of entry, such as the Orlando International Airport, where airport officials have taken to Congress their concerns with losing 10 CBP officer positions to TDYs.

Many of you have toured the San Ysidro port of entry. The screens show a typical day there. As you can see, there are 26 primary vehicle lanes with up to two booths at each lane, a total of 50 booths. Approximately 60,000 vehicles and 25,000 pedestrians apply for entry each day. Over 139,000 travelers on a daily basis. In the photo insert, you can see the pedestrian crossers.

Today, this port has over 200 CBP officer vacancies. By the summer of 2019, this port will expand to 32 lanes with 62 booths. Imagine working up to 16 hours a day, days on end, with no relief in sight. But neither the President's January 2017 Executive Order

nor the fiscal year 2018 omnibus include any new funding even to meet today's on-board staffing needs at the ports of entry.

The CBP employees I represent are frustrated that Congress does not seemingly recognize that securing the ports of entry is just as vital to border security as is securing the borders between the ports of entry and that the ports are an economic driver of the U.S. economy.

However, NTEU does have concerns with CPB's decision to award a multi-million-dollar contract to augment CBP's hiring process. While we support increased hiring efforts, NTEU believes this money could be better spent by utilizing available pay flexibilities on actual officers to incentivize new and existing CBP officers to seek vacant positions at hard-to-fill ports of entry. It is imperative that Congress fund CBP officer new hires to alleviate the ongoing CBP staffing shortages at the ports of entry.

Thank you, and I am happy to answer any questions you may have.

[The prepared statement of Mr. Reardon follows:]

PREPARED STATEMENT OF ANTHONY M. REARDON

JANUARY 9, 2018

Chairwoman McSally, Ranking Member Vela, distinguished Members of the subcommittee, thank you for the opportunity to deliver this testimony. As president of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 25,000 Customs and Border Protection (CBP) officers, agriculture specialists and trade enforcement personnel stationed at 328 land, sea, and air ports of entry across the United States (U.S.) and 16 Preclearance stations currently in Ireland, the Caribbean, Canada, and United Arab Emirates airports. CBP's Office of Field Operations (OFO) pursues a dual mission of safeguarding American ports, by protecting the public from dangerous people and materials, while enhancing the Nation's global and economic competitiveness by enabling legitimate trade and travel.

In addition to CBP's trade and travel security, processing, and facilitation mission, CBP OFO employees at the ports of entry are the second-largest source of revenue collection for the U.S. Government. In 2016, CBP processed more than \$2.2 trillion in imports and collected more than \$44 billion in duties, taxes, and other fees. Thank you for this opportunity to address the border security issue of utmost concern to CBP OFO employees—hiring and funding challenges that contribute to ports of entry being chronically understaffed.

Having met with thousands of CBP officers at the ports of entry, I can tell you that the No. 1 border security issue from the CBP OFO employee perspective is the critical staffing shortage at the ports of entry, and this staffing shortage is staggering. Understaffed ports lead to long delays in travel and cargo lanes and also create significant hardship and safety issues for front-line employees. Involuntary overtime and involuntary work assignments far from home disrupt CBP officers' family life and destroy morale.

There is an existing vacancy rate of nearly 1,200 funded CBP officers at the ports and, according to CBP's analytic workload staffing model, an additional 2,500 CBP officers and 731 agriculture specialists need to be funded and hired in order to meet 2018 staffing needs. With the existing vacancy of 1,200 funded CBP officers this adds up to a total CBP officer staffing shortage of 3,700 today.

The more than 25,000 CBP employees represented by NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs, and our economy safe from illegal trade, while ensuring that legal trade and travelers move expeditiously through our air, sea, and land ports, but front-line CBP officers and agriculture specialists at our Nation's ports of entry need relief.

The economic cost of the CBP OFO staffing shortage is also staggering. CBP employees at the ports of entry are not only the front line for illegal trade and travel enforcement, but their role of facilitating legal trade and travel is a significant economic driver for private-sector jobs and economic growth. According to CBP fiscal year 2013 data, for every 1,000 CBP officers hired there is an increase in the Gross Domestic Product (GDP) of \$2 billion; \$642 million in opportunity costs are saved

(the quantification of time that a traveler could be using for other purposes than waiting in line, such as working or enjoying leisure activities); and 33,148 annual jobs are added. For every 33 additional CBP officers hired, the United States can potentially gain over 1,000 private-sector jobs. If Congress fully staffed the ports with the needed 3,700 additional CBP officers, 112,000 private-sector jobs could be created.

If the full 3,700 CBP officers were funded and hired according to the same study, the impact could be as high as a \$7 billion increase in GDP; a \$2 billion savings in opportunity costs; and the creation of 112,000 new jobs.

Noting the positive impact of hiring additional CBP officers, it is troubling that even though Congress actually appropriated funding to hire 2,000 additional CBP officers in fiscal year 2014, CBP has only realized a net gain of approximately 900 officers as of December 2017, due to attrition and the amount of time it takes to on-board new CBP officers.

As you know, the President's January 2017 Executive Order calls for hiring 5,000 additional Border Patrol agents (BPAs) and 10,000 new Immigration and Customs Enforcement (ICE) agents, but does not ask for one additional CBP officer new hire, despite the fact that CBP officers at the ports of entry in 2017 recorded over 216,370 apprehensions and seized over 444,000 pounds of illegal drugs, and over \$96 million in illicit currency, while processing over 390 million travelers and \$2.2 trillion in imports through the ports.

In response to the President's January 2017 Executive Order, Congress included funding to hire 500 new Border Patrol agents despite the fact that there is no workload staffing model justifying this increase. In fact, the Inspector General for Homeland Security issued a report in November 2017 that said CBP could not provide enough data to justify the hiring of additional Border Patrol agents. Increasing staffing between the ports will just funnel more criminals, terrorists, drug and human smugglers into the ports of entry further exacerbating the current staffing crisis at the ports. It is essential to recognize that CBP OFO has a workload staffing model that shows a staffing shortage of 2,500 CBP officers and 721 agriculture specialists at the ports of entry (not including the 1,200 current CBP officer vacancies), yet Congress has not provided any funding to address this staffing gap.

The risk of successful incursions through the ports of entry by terrorists, smugglers, and other criminals increase when ports are under constant pressure to limit wait times while working short-staffed. If port traffic increases significantly due to squeezing illegal activity there, it will become impossible for CBP officers and agriculture specialists to stop bad actors and bad things from coming through the ports without significantly increasing wait times, which will harm legal international trade and travel. Ports need to hire up to the level specified in CBP's OFO workload staffing model in order to address existing trade and travel traffic.

According to the Joint Economic Committee (JEC), every day 1.1 million people and \$5.9 billion in goods legally enter and exit through the ports of entry. The volume of commerce crossing our borders has more than tripled in the past 25 years. Long wait times lead to delays and travel time uncertainty, which can increase supply chain and transportation costs. According to the Department of Commerce, border delays result in losses to output, wages, jobs, and tax revenue due to decreases in spending by companies, suppliers, and consumers. JEC research finds border delays cost the U.S. economy between \$90 million and \$5.8 billion each year.

CBP OFFICER HIRING CHALLENGES

NTEU continues to have significant concerns about the slow pace of hiring at CBP. CBP has struggled to fill the initial 2,000 positions Congress authorized in 2014. One factor that may be hindering hiring is that CBP is not utilizing available pay flexibilities, such as recruitment, retention, and relocation incentives (3 Rs) and special salary rates, to incentivize new and existing CBP officers to seek vacant positions at these hard-to-fill ports, such as Nogales. When using a recruitment incentive to attract employees to a certain location, CBP must be mindful that this incentive should be used in conjunction with retention incentives. Otherwise, a situation is created where a newly-hired employee is working side-by-side with a veteran employee that not only is denied the opportunity to transfer out, but may also now be paid less than a new recruit. The 3 Rs are also needed to attract transfers to the most severely short-staffed ports, such as San Ysidro, Nogales, and Laredo.

Another major impediment to fulfilling CBP's hiring goal is that CBP is the only Federal agency with a Congressional mandate that all front-line officer applicants receive a polygraph test. Two out of three applicants fail its polygraph—about 65 percent—more than double the average rate of 8 law enforcement agencies according to data provided to the Associated Press. The 8 law enforcement agencies that

supplied information showed an average failure rate of 28 percent. As an example, the U.S. Drug Enforcement Administration failed 36 percent of its applicants in the past 2 years.

NTEU commends Congress for including in the fiscal year 2017 Defense authorization bill a provision that authorized the CBP Commissioner to waive polygraph examination requirements for certain veterans applying for CBP job openings. NTEU also commends Subcommittee Chairwoman McSally for introducing and working for House passage of H.R. 2213, a bill that expands the authority to waive polygraph examinations for veterans and to allow exemptions for existing State and local law enforcement officers who apply for these positions at CBP.

NTEU does not seek to reduce the standards used by CBP in their hiring process, but believes that there is a problem with how the polygraph is currently administered. CBP reviewed its polygraph policy to understand why CBP is failing applicants at a much higher rate than individuals applying to work at other Federal law enforcement agencies and is currently piloting a change in the CBP polygraph test from “Law Enforcement Pre-Employment Test” to “Test for Espionage, Sabotage and Corruption” which appears to be resulting in improved passage rates. NTEU also recommends that CBP allow immediate polygraph re-testing opportunities to those with a “No Opinion” or “Inconclusive” result, including those with a “No Opinion Counter Measures” finding. Also, because ICE does not require polygraphs for job applicants, it is likely that CBP will not be competitive with ICE in attracting new hires.

In addition to the complaints about the polygraph process, NTEU has heard that CBP candidates frequently are subject to a segmented hiring process where they are required to travel hundreds of miles in some cases to fulfill the tests and procedures required under the application process. This can be a significant hardship for applicants that results in them dropping out of the hiring process.

Finally, if the hiring problems that have left over 1,200 funded CBP positions vacant are rectified and as CBP embarks on the hiring of additional front-line personnel as set forth in recent Executive Orders, CBP may need to expand their training classes. When experiencing a hiring surge in the past, the Federal Law Enforcement Training Center (FLETC) instituted a 6-day training program to accommodate the expanded classes. NTEU supports FLETC 6-day training, as long as the employees are paid for 6 days of training. NTEU is proud to be newly representing FLETC employees that work and reside in various locations across the country.

To address some of these hiring concerns, CBP awarded a \$297 million contract with Accenture Federal Services on November 12, 2017 “to manage the full life cycle of the hiring process from job posting to processing” of 7,500 CBP Border Patrol, Air and Marine, and OFO new hires. NTEU has seen reports that the 5-year contract cost is approximately \$39,600 per hire—nearly the same as the starting salary of a CBP officer. NTEU strongly believes that these Federal funds would be better spent actually hiring new CBP employees using CBP’s in-house human resources department rather than in contracting out to a private-sector consultant “to augment our internal hiring capabilities.”

Last, the best recruiters are likely current CBP officers. Unfortunately, morale continues to suffer because of staffing shortages. In addition to being overworked due to excessive overtime requirements, temporary duty assignments are a major drag on employees, especially those with families. Based on their experiences, many officers are reluctant to encourage their family members or friends to seek employment with CBP. I have suggested to CBP leadership that they look at why this is the case. NTEU strongly believes that addressing OFO hiring shortages by funding needed new CBP officer and agriculture specialist to fill the fiscal year staffing gap will do more to improve morale and encourage peer-to-peer recruitment than funding a private contractor to help recruit and hire new CBP employees.

CBP OFFICER OVERTIME

Also, due to the on-going current staffing shortage of over 3,700 CBP officers, CBP officers Nation-wide are working excessive overtime to maintain basic port staffing. Currently, CBP officer overtime pay is funded 100 percent through user fees and is statutorily capped at \$45,000 per year. All CBP officers are aware that overtime assignments are an aspect of their jobs. However, long periods of overtime hours can severely disrupt an officer’s family life, morale, and ultimately their job performance protecting our Nation.

Because of the on-going staffing shortages, CBP officers can be required to regularly work overtime which results in individual officers hitting the overtime cap very early in the fiscal year. This leaves no overtime funding available for peak season travel, holidays, and other times when CBP officers are expected to work over-

time resulting in critical staffing shortages in the third and fourth quarter of the fiscal year that usually coincide with peak travel at the ports.

At many ports, CBP has granted overtime exemptions to over one-half of the workforce to allow managers to assign overtime to officers that have already reached the statutory overtime cap, but cap waivers only force CBP officers already working long daily shifts to continue working these shifts for more days. Officers are required to come in hours before their regular shifts, to stay an indeterminate number of hours after their shifts (on the same day) and compelled to come in for more overtime hours on their regular days off as well. Both involuntary overtime—resulting in 12- to 16-hour shifts, day after day, for months on end—and involuntary work assignments far from home significantly disrupt CBP officers' family life, erode morale, and are not a solution for staffing shortages at the ports.

TEMPORARY DUTY ASSIGNMENTS AT SOUTHWEST LAND PORTS OF ENTRY

Due to CBP's on-going staffing shortage, since 2015, CBP has been diverting CBP officers from other air, sea, and land ports to severely short-staffed Southwest land ports for 90-day temporary duty assignments (TDYs). Owing to the failure to fill CBP officer positions, neither the San Ysidro (see attached) nor the Nogales land ports can safely function without these TDYs. On December 13, 2017, CBP sent the following message to all OFO Field Offices:

"The Tucson Field Office is currently experiencing critical shortages of front-line personnel. These long-term staffing shortfalls continue to stretch the limits of operational, enforcement, and training capabilities at the ports of entry. In support of this, Headquarters is soliciting 175 CBP Non-Supervisory Officers to serve in a Temporary Duty (TDY) capacity to support the Tucson Field Office with Operation Overflow Fiscal Year 2018 Phase 2 from January 7, 2018 (travel day in) through March 30, 2018 (travel day out)."

In response to CBP's TDY reassignments, Orlando International Airport (OIA) officials sent a December 22 letter to their Congressional delegation expressing concerns about losing 10 CBP officers to these TDYs. ". . . We believe taking 10 CBP officers from their important and critical duties at OIA will pose a serious and noticeable safety and security problem for the traveling public and the thousands of employees at OIA . . . This directive will seriously diminish the security at OIA by adding more demands on already overburdened CBP officers who have been stretched to the limit to meet ever-increasing international visitation demands."

To end TDYs, CBP must fill the 1,200 CBP officer vacancies and fund the hiring of the additional 2,500 CBP officers. In the mean time, to encourage volunteers for these TDYs and avoid forced TDYs, NTEU suggests Congress ask CBP to supplement the TDY solicitation to include:

- The TDY pool should be increased by including non-bargaining unit personnel such as qualified Headquarters staff, supervisors, and other employees on special teams such as the Tactical Terrorism Response Team and the Strategic Response Team, and by including all officers who have graduated from the Federal Law Enforcement Training Center and who have received a sufficient amount of post-academy training;
- CBP should schedule TDYs in such a way that the supplemental staffing through TDYs remains constant, so there is not a gap between the departure of one round of TDYs and the arrival of the next, and a surplus of volunteers for a TDY from one Field Office should be allowed to make up for a shortage of volunteers in another Field Office;
- CBP should establish an advertised cash award for individuals who volunteer for a TDY and should offer available incentives such as student loan repayments, overtime cap waivers, and home leave;
- Approved leave should continue to be allowed during a TDY.

IMPACT OF STAFFING SHORTAGES

As cited in a 2008 GAO report, "[CBP] officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support and safety issues when officers inspect travelers—increasing the potential that terrorists, inadmissible travelers, and illicit goods could enter the country." (See GAO-08-219, page 7.)

"Due to staffing shortages, ports of entry rely on overtime to accomplish their inspection responsibilities. Double shifts can result in officer fatigue . . . officer fatigue caused by excessive overtime negatively affected inspections at ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long stints in primary passenger processing lanes in order to keep lanes open, in part

to minimize traveler wait times. Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports.” (See GAO–08–219, page 33.)

These impacts, as reported to Congress by GAO, have changed little as CBP officer staffing continues to lag far behind pedestrian, vehicle, and commercial traffic volume at the ports. In fact, with 1,200 vacancies and 2,500 CBP officer positions yet to be authorized and funded, the situation is even worse today.

Staffing shortages have also reduced the number of CBP officers available to conduct more in-depth secondary inspections. In the past, there were three inspectors in secondary processing for every one inspector in primary processing. Now there is a 1-to-1 ratio.

Without adequate personnel at secondary, wait times increase and searches are not done to specification. This is a significant cargo security issue. For example, a full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes. Frequently, only one CBP officer is available for this type of search and this type of search will then take well over an hour.

IMPACT ON OFFICER SAFETY

Staffing shortages at the ports also threaten CBP officer safety. For example, at the Brownsville and Matamoros International Bridge at about 8:15 p.m. on December 18, 2017, an officer working alone at Pedestrians was processing multiple travelers when he observed a male subject attempt to “Enter Without Inspection” (EWI). This EWI had exited a door that is used by travelers going to Passport Control from Vehicle Hard Secondary or Visitor parking. The lone officer confronted the subject and when the officer attempted to control the subject to bring him in for inspection, the EWI began to resist.

Fortunately, this situation happened outside where Vehicle Hard secondary officers could see the subject forcibly resisting and attempting to get away from the lone officer. However, had this event transpired inside the enclosed Pedestrian walkway, this lone officer could have been seriously injured or even disarmed.

It took 5 CBP officers to finally subdue this subject and place him in handcuffs. The lone officer was injured during this confrontation and was taken to the hospital for treatment for a shoulder injury he suffered while trying to subdue this subject.

AGRICULTURE SPECIALIST STAFFING

CBP employees also perform critically important agriculture inspections to prevent the entry of animal and plant pests or diseases at ports of entry. For years, NTEU has championed the CBP agriculture specialists’ Agriculture Quality Inspection (AQI) mission within the agency and has fought for increased staffing to fulfill that mission. The U.S. agriculture sector is a crucial component of the American economy generating over \$1 trillion in annual economic activity. According to the U.S. Department of Agriculture, foreign pests and diseases cost the American economy tens of billions of dollars annually.

NTEU believes that staffing shortages and lack of mission priority for the critical work performed by CBP agriculture specialists, CBP agriculture detector dog teams, and CBP technicians assigned to the ports is a continuing threat to the U.S. economy.

At many ports, including the port of Brownsville, there are not enough agriculture specialists to staff all shifts and CBP officers are backfilling for agriculture specialists despite a December 10, 2007 directive that states “directors, field operations must ensure that CBPAS are assigned to agricultural inspectional activities at the individual ports of entry. It is imperative that assignments for these employees are dedicated to the mission of protecting the Nation’s food supply and agricultural industry from pests and diseases absent exigent operational circumstances.”

NTEU worked with Congress to include in the recent CBP Trade Facilitation and Enforcement Act (Pub. L. 114–125) a provision that required CBP to submit, by the end of February 2017, a plan to create an agricultural specialist career track that includes a “description of education, training, experience, and assignments necessary for career progression as an agricultural specialist; recruitment and retention goals for agricultural specialists, including a time line for fulfilling staffing deficits identified in agricultural resource allocation models; and, an assessment of equipment and other resources needed to support agricultural specialists.”

CBP’s Agriculture Resource Allocation Model (AgRAM) shows a need for an additional 721 front-line CBP agriculture specialists and supervisors to address current workloads through fiscal year 2018; however, even with the 2016 increase in AQI

user fees, CBP proposed to fund 2,418 CBP agriculture specialist positions in fiscal year 2018, not the 3,149 called for by the AgRAM.

Because of CBP's key mission to protect the Nation's agriculture from pests and disease, NTEU urges the committee to authorize the hiring of these 731 CBP agriculture specialists to address this critical staffing shortage that threatens the U.S. agriculture sector.

CBP CANINE PROGRAM

The CBP Canine Program is also critical to CBP's mission. The primary goal of the CBP Canine Program is terrorist detection and apprehension. The working CBP canine team is one of the best tools available to detect and apprehend persons attempting entry into the country to organize, incite, and carry out acts of terrorism. The Canine Program's secondary goal is detection and seizure of controlled substances and other contraband, often used to finance terrorist and/or criminal drug trafficking organizations.

Currently, there are 1,500 authorized canine teams but, as with all CBP resources, there is a shortage of canine teams at the ports of entry. At one high-volume Southwest Border port, NTEU was told that the port only has 24 of the 38 authorized canine teams. By CBP's own allocation, this port is short 14 dogs and handlers. NTEU supports Congress fully funding and staffing the CBP canine detection program.

SYNTHETIC OPIOID INTERDICTION

CBP plays a major role in addressing the Nation's opioid epidemic—a crisis that is getting worse, as the deadly chemical fentanyl is being manufactured in China and is either funneled through Mexico or sent by mail and express consignment operators directly to addresses in the United States. Under the Trade Act of 2002, Congress required all carriers, including express consignment operators (like FedEx and DHL) to work with CBP to inspect inbound international express cargo and mail. CBP collects advanced electronic data collection to use to target inspections and rolled out the implementation in phases. Express consignment operators are required to provide “electronic advance data” (EAD)—such as the shipper's and recipient's name and address—for all in-bound express cargo. The data collection requirements were to be implemented by CBP in three phases.

Phase 1 required electronic manifests to CBP for international travel 4 hours prior to arrival and for Canada, Mexico, the Caribbean, parts of Central and South America at “wheels up.” However, every day these manifests are inaccurate with countless “overages.” An overage is a shipment that is not included on the manifest. In other words, an overage is an un-manifested, unknown shipment which is in violation of the law. A manifested shipment may have 1 or 500 overages, but the highest penalty for “overages” is \$5,000 and these penalties are routinely mitigated to \$50 for a first violation and \$100 for subsequent violations.

Phase 2 required express consignment operators to provide quality shipper/consignee data. Express consignment operators that provide an electronic manifest that does not show the packages are received from legit businesses/addresses and are delivered to legit businesses/addresses are subject to a penalty.

In 2007, CBP drafted the phase 3 implementation plan, but to date has not implemented it. Phase 3 would allow CBP officers to impose a monetary penalty for incorrect manifest descriptions. Without implementation of Phase 3, CBP officers cannot penalize carriers for bringing in items manifested as one thing that turn out to be another. Many of these shipments are not concealed well and are often simply mis-manifested. Narcotic chemicals are labeled “car parts” or “Supplement powder” and CBP cannot impose a penalty for this mislabeling.

In addition to providing additional needed CBP OFO staffing at the express consignment hubs, Congress should direct CBP to provide a report to the House Committee on Homeland Security on an annual basis on the individuals and companies that violate the Trade Act (19 USC 1436 and 19 USC 1584.) The annual report would require the violator's name; the violation committed; the port of entry/location through which the items entered; an inventory of the items seized including description of the item and quantity; place of origination including address of the violator; the amount in penalties assessed by CBP for each violation by violator name and port of entry/location; the amount of penalties that CBP could have levied for each violation by violator name and port of entry/location and the rationale for negotiating down the penalty for each violation by violator name and port of entry/location.

Congress, by requiring CBP to report this useful information on violators and violator penalty assessments, would enhance CBP's interdiction of prohibited items from entering the United States through express consignment operators.

REIMBURSABLE SERVICE AGREEMENTS

In recent years, in order to find alternative sources of funding to address serious CBP officer and agriculture specialist staffing shortages, CBP received authorization for and has entered into Reimbursable Service Agreements (RSAs) with the private sector as well as with State and local governmental entities. These stakeholders reimburse CBP for additional inspection services including overtime pay and the hiring of new CBP officer and agriculture specialist personnel that in the past have been paid for entirely by user fees or appropriated funding. According to CBP, since the program began in 2013 CBP has entered into agreements with 60 stakeholders, providing more than 368,000 additional processing hours for incoming commercial and cargo traffic.

NTEU believes that the RSA program would be entirely unnecessary if Congress, when it authorized CBP user fees collected to be indexed to inflation, had provided that the \$140 million a year funding stream be used to increase CBP overtime, staffing, and other resources, rather than fund highway and other infrastructure projects authorized by the 2016 highway bill. NTEU also believes that the RSA program is a Band-Aid approach and cannot replace the need for Congress to either appropriate new funding or authorize an increase in customs and immigration user fees to adequately address CBP staffing needs at the ports.

RSAs simply cannot replace CBP appropriated or user fee funding—and makes CBP a “pay-to-play” agency. NTEU also remains concerned with CBP's new Preclearance expansion program that also relies heavily on “pay-to-play.” Further, NTEU believes that the use of RSAs to fund CBP staffing shortages raises significant equity issues between larger and/or wealthier ports and smaller ports, which calls for an engaged Congress conducting active oversight.

RATIO OF SUPERVISORS TO FRONT-LINE PERSONNEL

Another concern is that CBP continues to be a top-heavy management organization. In terms of real numbers, since its creation, the number of new managers has increased at a much higher rate than the number of new front-line CBP hires. CBP's own fiscal year end-of-year workforce profile (dated 10/3/15), shows that the supervisor-to-front-line employee ratio was 1 to 5.6 for the total CBP workforce, 1 to 5.7 for CBP officers, and 1 to 6.6 for CBP agriculture specialists. Prior to 2003, the supervisor-to-front-line ratio was closer to 1 supervisor to 12. It is also NTEU's understanding that nearly 1,000 CBP officers are serving either at CBP headquarters or non-Office of Field Operations locations. This means that nearly 4,000 CBP officers are serving in supervisory positions.

The tremendous increase in CBP managers and supervisors has come at the expense of National security preparedness and front-line positions. Also, these highly-paid management positions are straining the CBP budget. CBP's top-heavy management structure contributes to the lack of adequate staffing at the ports, excessive overtime schedules, and flagging morale among the rank and file.

FISCAL YEAR 2019 BUDGET

The Ranking Member of the Senate Homeland Security and Governmental Affairs Committee recently released a report based upon inter-agency Office of Management and Budget (OMB) and Homeland Security documents, titled “Department of Homeland Security Fiscal Year 2019 Budget and Policy Guidance,” that she obtained from a whistleblower. The internal budget documents relate to the Department's fiscal year 2019 budget request, which is not yet final, or public.

According to the report, OMB has notified DHS that the Department will need to shave \$88 million from its internal budget request for CBP OFO in fiscal year 2019. The report further notes that OMB has proposed a hiring increase solely for Border Patrol agents, and is ignoring the need to fill thousands of CBP officer vacancies or fund new hires at the ports of entries.

Additionally, the documents indicate that while DHS requested a pay raise for its employees, including CBP officers, Border Patrol, and ICE agents, OMB denied DHS's request to provide additional pay, and instead stated that the administration plans to issue a Government-wide pay freeze for all Federal civilian employees for calendar year 2019. NTEU would strongly oppose a pay freeze proposal for all Federal employees, including for DHS and CPB, which have already struggled to recruit and retain law enforcement officers in recent years, and which comes amidst the back-up of planned private-sector average 3 percent pay increases in 2018.

As Congress finalizes fiscal year funding in the next few weeks, and begins consideration of fiscal year 2019 funding for CBP, NTEU urges committee Members to ensure the funding necessary to meet the CBP officer and CBP agriculture specialist staffing requirements through fiscal year 2018 and 2019, as stipulated in CBP's own Workload Staffing Model and to oppose a calendar year 2019 pay freeze.

RECOMMENDATIONS

To address the dire staffing situation at the Southwest land ports, as well as other staffing shortages around the country, it is clearly in the Nation's interest for Congress to authorize and fund an increase in the number of CBP officers, CBP agriculture specialists, and other CBP employees as stipulated in CBP's workload staffing model.

In order to achieve the long-term goal of securing the proper staffing at CBP to address workloads, NTEU recommends that Congress take the following actions:

- Fill 1,200 CBP officer current vacancies;
- Fund the additional 2,500 CBP officer needed new hires;
- Address the polygraph process to mitigate excessive (60 percent) applicant polygraph failures;
- Fund 721 CBP agriculture specialists needed new hires;
- Restore recruitment and retention awards, and other incentives; and
- Restore cuts in mission support personnel that will free CBP officers from performing administrative duties such as payroll processing, data entry, and human resources to increase the numbers available for trade and travel security and facilitation.

Congress should also redirect the recently-enacted increase in customs user fees from offsetting transportation spending to its original purpose of providing funding for CBP officer staffing and overtime, and oppose any legislation to divert additional fees collected to other uses or projects.

The employees I represent are frustrated and their morale is indeed low. These employees work hard and care deeply about their jobs and their country. These men and women are deserving of more staffing and resources to perform their jobs better and more efficiently.

Thank you for the opportunity to deliver this testimony to the committee on their behalf.

SAN YSIDRO PORT OF ENTRY

By the summer of 2019, the San Ysidro port of entry expects completion of an expansion project that will increase its northbound vehicle lanes from 26 to 32 and primary inspection booths from 50 to 62. The proposed fiscal year 2018 budget recommends no new CBP officer hires.



- 50,000 northbound vehicles processed each day
- 25,000 northbound pedestrians cross each day
- The port has approximately 200 CBP officer vacancies
- The port has a maximum of 26 vehicle lanes with 50 primary inspection booths and 20 pedestrian lanes
- The port lacks staff to keep all 50 booths open daily causing backups
- The economic cost of lost commerce due to staffing shortages in excess of \$7.2 billion and 62,000 jobs

Ms. MCSALLY. Thank you, Mr. Reardon.

I now recognize myself for 5 minutes for questions.

First, I just want to say thanks to all of you and to those that you represent for what you do every single day to keep us safe. Having been a veteran, oftentimes we are thanked for our service for wearing a military uniform. People forget there are men and women out there every single day keeping our country safe in the capacity that you all represent and what you are doing to also keep us safe and putting your lives on the line, literally, for potential death or injury in the line of duty.

I want to open up with the issue of assault. I am very deeply concerned about the rise of the assaults on our agents. As you mentioned, Mr. Judd, they are often out there by themselves with manpower shortages in remote areas with long distances for others to respond to help them, and they get hit with a rock, they get ambushed, and they are out there on their own.

Thanks for your insights as to what is driving those assaults, but what can we do right now? We have men and women right now out there risking their lives on shift right now. What can we be doing? What do the American people need to hear about what is happening with our agents and these assaults? What can we do in order to better protect them and make sure that those who assault our agents are held accountable for their violence?

Mr. JUDD. Your last comment is exactly what needs to be done. We have to hold those that assault our agents accountable. Unfortunately, very few of those who assault our agents are prosecuted for assault on a Federal law enforcement officer. When we do that, we send a clear message that our laws aren't going to be enforced, and it incentivizes individuals to try to assault our agents in an effort to get away.

Ms. MCSALLY. Why do you think that is?

Mr. JUDD. I think that it is the sheer numbers. If you look at how many U.S. attorneys we have, we just don't have the resources that are necessary to prosecute the number of assaults on agents.

I want to make one thing very clear. Just like people in the military, and we appreciate your military service, our agents understand what they are getting into when they put the uniform on. They understand that they are going to do a dangerous job. As we have seen border crossers drop, our agents understand that it is going to be a little bit more violent out there because they are going to try to get away a little bit more. This is one thing that we are willing to take on in order to secure the border.

Ms. MCSALLY. Do you think it is a bandwidth issue or a will issue in the prosecutions? We don't have, you know, oversight of Judiciary, but we certainly can work with our colleagues in order to raise this issue with the administration.

Mr. JUDD. I believe it is a bandwidth. I think that the U.S. attorneys want to see justice brought to those who assault our agents, they just don't have the resources to do it.

Ms. MCSALLY. OK. Thank you.

Is it safe to say—I mean, I have heard you all talk about the morale issues across the board with your agencies and CBP. But do you agree that since the new administration has been in office, that morale has improved at the higher level of understanding that there is now a will and a desire to give you the tools that you need to do your job, that you have been unshackled from restrictions in the past?

I think again about my military experience. Sometimes you have a new commander at the highest level that changes the environment and the culture, and that in and of itself boosts morale, but it still takes a while to kind of trickle down through mid-level bureaucratic issues or equipment or everything you need to do the job.

But has there been a shift, and do you see that every day out there on the job?

Mr. ANFINSEN. Last year, morale was probably about as low as it could get. So with the new administration showing the support that they are showing, it has helped, but it can only do so much. So morale is hit or miss. There are some places you have good days and bad days. I think part of the improvement has been that we

have an administration that clearly supports what we do, and that has been a great improvement, but there are still issues within the agency that, you know, are going to take a while for us to get through. The agency is starting to pay more attention to morale, but we are still seeing issues in the field where there are managers who feel that it is just not their job to be worried about that.

Ms. MCSALLY. Ms. Pepperdine.

Ms. PEPPERDINE. I notice at our sector that morale is definitely at an all-time low. I don't believe it has anything to do with the administration. I believe it has been more the pay reform that Mr. Anfinson spoke about earlier. Many agents weren't happy even though we had to settle for a more stable pay system, which was overall better for all of us. A lot of people are upset that they lost pay and are doing the same dangerous job for less money.

Ms. MCSALLY. Great. Thank you.

Mr. Reardon, do you have something to add to that?

Mr. REARDON. I do. I think the morale for the folks in Office of Field Operations, CBP officers, remains dangerously low. I think it is really related to the staffing issues that I raised, where you have individuals who are working 16-hour days, days on end.

I just heard a story this morning, in fact, that in one pay period, we had a CBP officer work 73, hear my words, 73 hours of overtime. Where you have that happening, and when it happens days on end, week after week, the impact on that individual in terms of that person's health, the impact on that family and, I might add, the impact on the potential for maintaining high security in the ports for our country, it is a major problem.

I would also offer this in terms of the health: One of the things that really concerns me is, over the last probably year and a half, maybe 2 years, I have heard, and I get these calls late at night or whenever it happens, that there has been a dramatic increase in the number of suicides among CBP officers. There has been, I have heard from the agency, a dramatic increase in the number of substance abuse cases, a dramatic increase in the number of domestic violence cases.

So what I would urge is that, yes, we have to take care of staffing, yes, we have to take care of morale, but part of the issue that I think has to be looked at is what are the root causes of those things? Because they impact, they are a part of, morale. Until we start figuring out the answer to those questions and start taking care of these officers, we are going to have serious problems.

Ms. MCSALLY. Thank you, Mr. Reardon.

I am over my time. Before I hand it over to Mr. Vela, I just want to say I so appreciate some of the things that you have raised for the American people to hear, and we will continue to be partners with you on these issues.

Retention is, I think, a very important top issue. If you are going to have to replace people, retaining those you have already trained and have all the experience is of the utmost importance. Additional duties and queep are things that need to somehow be taken off the agents' responsibilities and given to other support personnel, others, and we are just going to continue to partner with you on all these issues.

I want to now recognize Mr. Vela, my Ranking Member, for 5 minutes.

Mr. VELA. Thank you, Congresswoman McSally.

I am going to yield 5 minutes to Congresswoman Demings because she has to go to a Judiciary Committee hearing. But before I do that, I want to follow up on the assault issue real quickly with Mr. Judd.

You mentioned that there is a 76 percent increase in assaults during the past year. I am wondering if you can put that in the context of how many more assaults were there this past year than before then so we can have a real-time idea of the number of assaults we are talking about. Second, give us a sense as to whether or not the assailants, are they actually—I couldn't figure out, are they actually being arrested and just not prosecuted or are they getting away and not arrested? If you could kind of elaborate on both those issues.

Mr. JUDD. So the total number of assaults in 2017 were 774. Seventy-six percent of that—I am no mathematician, but 76 percent of that, I would say that it would be somewhere around 300 assaults took place in 2016.

These individuals are being arrested. The vast majority that assault our agents are being arrested. The vast majority just aren't being prosecuted. When you think about 776 assaults on agents, 776 prosecutions is pretty overwhelming for the U.S. Attorney's Office.

Mr. VELA. So why don't we, after this hearing, at some point during the next few weeks, just feel free to come—let's meet in the office. We can go into that a little bit more.

But with that, I will go ahead and yield 5 minutes to Congresswoman Demings.

Mrs. DEMINGS. Thank you so much to our Chairwoman, and also to our Ranking Member for yielding.

Good morning, and thank you so much for being here. I so appreciate the service that you are giving and the people that you represent who are working hard every day to keep our Nation safe.

I am from Orlando, and I served as the police chief in Orlando. I served 27 years at the department, and 5 of those years I was assigned to the Orlando International Airport. I was assigned to OIA during 9/11.

I would like to start, Mr. Reardon, by thanking you for highlighting the concerns regarding the Orlando International Airport, particularly losing 10 officers indefinitely for temporary duty assignments at the southwest land ports of entry.

Almost 3 million international passengers arrive through OIA each year. While we are thankful to have them visit our great city, we must make sure that we still provide an efficient and safe operation. That almost 3 million number represents an 89 percent increase since 2009. However, the CBP officer staffing levels have remained unchanged.

I want you to think about that. It has remained unchanged. An 89 percent increase, the level remained unchanged, and now we are talking about sending 10 very valuable and important officers to work somewhere else.

Mr. Reardon, I know that that would not work for municipal law enforcement officers to be able to do that much with less and still maintain the same level of service that we expect, again, to be efficient and effective. Could you please tell me, based on your experience, I feel funny even asking you this question, but is it reasonable that the same number of officers can process almost double the number of international passengers? What would such a strain—wouldn't such a strain become worse by losing 10 officers as opposed to reaching the staffing levels that we so desperately need?

Mr. REARDON. Congresswoman, thank you very much for your comments, and thank you for the question. I don't think it is unreasonable to expect that losing 10 officers in Orlando, for example, is going to create a serious problem. I think it is a problem that we see across the country.

Where you are short—where our country and the Office of Field Operations is short 3,700 officers Nation-wide, it puts, as I had indicated previously, a strain on the system, it puts a strain on individual officers to the point that—and I am choosing my words carefully—our officers are at a breaking point. It is not right for our country to do this to these human beings.

So I think we have to get very serious. If we are going to be serious about security, and I think we should be, if we are going to be serious about the economy in this country, and I think we should be, we have got to get serious about getting those 3,700 CBP officers hired, because there is a direct relationship to the benefit of our security and there is a direct relationship to the benefit to our economy.

Mrs. DEMINGS. To your knowledge, what staffing model does CBP use to determine port of entry staffing needs?

Mr. REARDON. Well, I know they have a work force staffing model. In terms of its precise name or anything, I am not familiar with that. So, I mean, I can probably get that to you, but I don't have that with me today. But it is their work force staffing model that suggests that we are 2,500 short. Just to be clear, we are also 1,200—we have 1,200 vacancies from the 2,000 officers that were funded in 2014. So that is where I get the 1,200 plus the 2,500 gives you the 3,700.

Mrs. DEMINGS. Thank you so much, and I yield back.

Ms. MCSALLY. The Chair now recognizes Mr. Barletta for 5 minutes.

Mr. BARLETTA. Thank you all for being here today and for your service to our country.

As you know, we have immigration laws for two basic reasons: To protect our National security and protect American jobs. Unless and until we have complete control of our borders, it will remain impossible to fulfill this obligation. I am pleased that we have a partner in the White House who is actively working toward this goal to ensure the safety and prosperity of the American people.

Now, I have dealt with this first-hand and the consequences of our Federal Government's failure to enforce our immigration laws. I was the mayor of a city that had an illegal immigration problem. We are 2,000 miles away from our nearest Southern Border.

I don't need to be briefed on this issue. I lived it every single day. Our population in Hazleton grew by nearly 50 percent, but our tax revenue stayed the same. It became impossible for cities like ours, small cities, to deal with the problems that comes with the problem of illegal immigration, such as drugs, gangs, identity theft, fraud, and everything else that happens with it.

I came down to Washington in December 2005 and asked for help. I met with the Department of Justice, and they were great. They brought in all these experts to talk to me. At the end of the day, I got this nice coffee mug, I got a lapel pin, I got a pat on the back, and they sent me home.

Very shortly after that, a 29-year-old city man, Derek Kichline, father of three little children, he had some words with the head of the Latin Kings, who was in the country illegally; a man that was arrested six times and let go in sanctuary cities. The man went and got a gun, stuck it between Derek's eyes, shot and killed him. We spent half of our yearly budget in overtime in the police department in catching him and his buddy.

I had to sit with Mr. and Mrs. Kichline, and I had to sit with the family and explain why this man was still in the country and their son is gone. I had enough at that point. The Federal Government failed us. They weren't going to do anything. I created the first law in America as a mayor to try to deal with that problem, and I was sued immediately by illegal aliens.

So here we are 2018, and we are still talking about it. I have always been told that we must have compassion for the people who come here illegally, but no one speaks up for the victims of these crimes.

Mr. Anfinson and Ms. Pepperdine, what do you see as the most effective means of deterring illegal immigration once and for all? Tell me how sanctuary cities make it more difficult to enforce our immigration laws.

I was sued being a mayor wanting to enforce our laws, and now we have over 380 mayors thumbing their nose at the Federal Government, creating safe havens for people who are in the country illegally. I would like to hear your opinion.

Mr. ANFINSEN. Well, you mentioned it there: Enforce the laws that we have on the books.

In the Del Rio Sector, we were the first ones to implement what was previously called Operation Streamline, which meant that anybody arrested crossing the border illegally in our sector went to jail for some period of time. If it was your first time crossing, you might see a week, 10 days maybe. If you had crossed multiple times, you were going to see more time in jail. Ultimately, I don't have the percentage, but it led to a significant drop in apprehensions in our sector, and that deterred, at least in our area, but then it just pushed it elsewhere.

With the interior of the country, it has gotten to a point where they feel once they pass the border, they are home free. There are no repercussions to being illegally present in the United States, and we do have laws on the books to do this. We do. There is no reason not to enforce them, but that is what has been going on.

Mr. BARLETTA. Ms. Pepperdine.

Ms. PEPPERDINE. I agree with Mr. Anfinson. I also believe assurance of apprehension at the border is a huge deterrent in illegal immigration.

You asked about the safe havens. They definitely hurt us in the long run, not just us as agents doing our job, but the American people.

Mr. BARLETTA. I would like to apologize to all the families across this country who are victims of illegal immigration. You know, the focus is always on the illegal immigrant that comes here for a better life, but there are families there that have lost loved ones, and here we are, and I hope once and for all we do the right thing and secure our borders and then deal with the problem on the interior.

Thank you.

Ms. MCSALLY. The gentleman yields back.

The Chair now recognizes Mr. Correa from California for 5 minutes.

Mr. CORREA. Thank you, Madam Chair.

I just wanted to thank all the officers for the good job you do for all our citizens, and also want to tell all the victims of crimes in this country, those perpetrators with and without documents, we are coming after all of you. We are not going to make any distinction.

Gentlemen, ma'am, I had a chance to tour the San Ysidro border again a few months ago, and we have some great officers with, you know, great attitudes. A few of them were very proud to tell me about their big arrests or big busts, drug busts, of these big shipments.

Most of the shipments, by the way, are coming through border ports of entry. It is not folks with backpacks spinning across the mountains. It is folks driving across our border crossings, either through vehicles, family vehicles, or trucks. I asked these folks: How are you able to spot the shipments? It was interesting, because without a doubt, without a beat, they told me the experienced officer was the one that could look into the driver's eyes, they could look into passengers' eyes and say: There is something not right here. Then what they would do is bring over the police dogs, the drug-sniffing dogs, and, bingo, you had massive arrests because of the massive drug shipments that they could identify.

Conclusion? You are absolutely right. We need more agents, more of those blue agents on the border, to be able to identify the illicit drugs and other smuggling operations. You need more dogs there. They have proven to be better than any other technology that we have today.

So given the limited resources that we have, I mean, where do we put our money? Do we put it on building another wall, another fence? Or do we put in more personnel and bring in more, you know, dogs and other technologies to identify these illicit shipments at border points of entry?

By the way, I want to say we also need them to make sure that commerce, good commerce, comes to and from the United States. You know, Mexico is, I think, our biggest trading partner in the world. So we want to create jobs. We want to make sure that commerce continues to be healthy.

So again, my question to all of you is: If you had to prioritize investment, where would it go?

Mr. JUDD. It has got to be a combination of the two. It has got to be—

Mr. CORREA. If you had to prioritize, sir?

Mr. JUDD. You can't. It has got to be a holistic approach.

Mr. CORREA. A, B, or C?

Mr. JUDD. You can't just say one is the key that is going to stop everything that we face. You have to look at everything.

Mr. CORREA. In San Ysidro you have three fences, I believe, in some areas? It is a question, sir.

Mr. JUDD. I worked as an intel agent, so I was able to analyze—I was also a canine handler.

Mr. CORREA. I am not being argumentative with you. I am saying in San Ysidro, do we have three fences there right now in some areas?

Mr. JUDD. We have double fencing, which has been very effective in those areas, yes.

Mr. CORREA. OK. So when you say “holistic”—San Ysidro is the most-crossed border entry point in the world. How can we make that much more effective? Where would you invest the money?

Mr. JUDD. As far as ports of entry, we are going to have to yield to Mr. Reardon. That is where he works. I work in between the ports of entry.

Mr. CORREA. Mr. Reardon.

Mr. REARDON. Congressman, thank you for the question, and I am more than happy to answer it.

Without question, I would put the resources into our human resources. We are, as I said, short a large number of CBP officers at San Ysidro. There are TDYs that are required as a result, which leaves other ports short-staffed and vulnerable, and yet we are still short people in San Ysidro. The impact on officers, on their health, on their families, on the entire system, is dramatic.

Yes, there is an economic impact. For every 33 officers—and these are CBP numbers—for every 33 officers hired, we could expect to bring in 1,000 private-sector jobs. So if we are going to take the economy seriously and we are worried about jobs, there is a primary candidate for it.

Mr. CORREA. I am running out of time. I just want to thank you for the straight answer. As a policy maker, that is all I want, is good information so I can figure out how to make these decisions.

Mr. Judd, absolutely right. It is holistic approach, but, you know, when you have a limited number of taxpayer dollars, you want to figure out where they go. I have talked to those, you know, border agents. Overworked, but you know what? They do a great job. Thank you very much.

Ms. MCSALLY. Thank you.

Before we go to Mr. Rutherford, I am going to have to step out to go to the White House for an important bicameral, bipartisan meeting with the President. Just know that I will be advocating for the agents and everything that you need in order to secure our border. Reasonable changes that need to happen in order to make sure we keep our country and community safe.

So I apologize for having to step out for this important meeting. Mr. Hurd from Texas will be coming into the chair.

The Chair now recognizes—oh, is Rutherford coming in to chair? Who is coming to the chair? Yes, he is the vice chair so he is coming in to the chair. But you are now recognized. So hold that thought for a second.

Thanks for all you do, and hold that thought here. Mr. Hurd, do you want to start coming back?

The Chair recognizes Mr. Rutherford for 5 minutes.

Mr. RUTHERFORD. Thank you, Madam Chair.

Listen, let me say, you know, I have heard others—first of all, thank you all for your service in a very, very tough, tough job. I know we have had other witnesses here speak to us about apprehension, securing the border and what that would look like, and really the conversation was about, you know, you need an impediment to slow them down, whether that is a wall or it is electronic, to detect, then you need to detect whoever is coming through, and then finally, and I think most critically, as Mr. Reardon has pointed out, then you have to have the human assets on the—the boots on the ground to actually apprehend those folks once they breach your impediment.

Now, what the impediment requires is a wall, some electronics, whatever that might be. I know on the Rio Grande, good Lord, they are even using these static balloons, you know, World War II stuff. It is horrible. Yet around, I think it is pronounced Fort Huachuca, they have drones and other devices that are incredibly effective. They have the big pipe, as they call it. So their communications is working great in those areas.

But then when you look at these three areas, when you look at the impediment, the detection, and the apprehension, and we talk about, you know, the physical barriers and the needs for those physical barriers and the lack of them in the Rio Grande Valley, which is where, you know, we did a codel to the Southern Border, and it looked like they got to around Fort Huachuca and ran out of money. You know, we were going from San Diego east. The Rio Grande is—they are in deep, deep need of help with the physical border.

On the detection piece, when you talk about the communications, and then I hear Ms. Pepperdine talking about the lack of communications, that you can actually see someone, but you can't communicate with them on your radio that doesn't work, so they actually use a cell phone. Their cell phone works better than their radio communications.

And, Lord, then you get to the apprehension piece and you talk about the manpower and, you know, Mr. Reardon has very well pointed out, you know, this 3,700 CBP officers short, 1,200 in these ports. I know, I was a sheriff for 12 years in Florida, worked closely with my colleague Mrs. Demings, and I can tell you, I understand the drain that that puts on your personnel and the impact that it has on their efficiency.

So, you know, when all of that fails—and in the interior in Jacksonville, for example, I had to start a 287(g) program in my community because we had a subculture that had grown in the illegal community, and not only were they violent toward citizens, as Mr.

Barletta pointed out, but they are also violent toward each other. Incredible amounts of rape and domestic abuse that is going unreported because they don't want to be deported. So we started a 287(g) program that would identify these individuals when they were in our jail so that we could deport them.

I just want to make a commitment to you, and I will ask Mr. Reardon, because I believe the place you have to start is with the manpower. What can we do to help you—you know, we have passed a bill to not require the polygraphs so that we can cut down on the time to hire. What else can we do? Raises I would imagine would help. When I see 25 to 40 percent of their income in a year is on overtime, that is not a good thing. That is a bad thing. Yes, it increases their salary and their take home, but it also leads to all of those issues that you pointed out before: Suicide, domestic violence, and other issues.

Could you please answer that?

My time has run out. I yield back.

Mr. REARDON. Certainly, Congressman. Thank you very much. I will try to go quickly through this. I think one is we have already talked about the length of time to on-board staff. I think the segmented hiring process that exists creates a lot of problems, and that is sort-of a subset of the hiring delays. I mean, in the past, I know it took in the neighborhood of 16 to 18 months to on-board somebody. No one that I know can wait that period of time in order to take a job. They are going to go work for the sheriff, they are going to work for a local police department or wherever, so that is important.

We talked about the polygraph. The fact that we have a 63 to 66 percent failure rate in the polygraphs is unconscionable. Something is wrong. Something should be done immediately to fix that, and I know we are working on that.

I think also related to the polygraph, right now, if an individual is identified with a no opinion result or an inconclusive result or a no opinion countermeasures finding, they have to wait an extended period of time before they can retest. I think they should be able to retest immediately.

I think that in terms of FLETC where our officers go to train, Federal Law Enforcement Training Center, I think it is important that we expand a number of classes. I think it is important that we look at the potential for having 6 days of training rather than 5, as long as, of course, you know, people are paid for 6 days. That is an important piece.

But I also think one other thing that can be done is, right now, there is something known as post-FLETC training. So the person goes to FLETC, they go through all their training, they then go back to their port, and then they are in a post-FLETC training period for 10 months. What I am hearing from my officers is that is too long, that certainly they need to go through the training, certainly they need to be prepared to work on the line, work primary, work secondary, but 10 months is too long. So those are the things that I would offer.

Mr. HURD [presiding]. Thank you, Mr. Reardon.

Now the distinguished gentlewoman from California, Ms. Barragán, is recognized for 5 minutes.

Ms. BARRAGÁN. I thank you, Mr. Chairman.

I want to thank all the witnesses for being here today. I think this is an important topic. My concern is about the timing. We are at a time where it appears that there is an effort being made to portray immigrants as violent criminals to justify these anti-immigration actions and policies. It is also a time when we are debating DREAMers and the future of U.S. immigration policy.

I think it is key to hear from officers from the front lines and to learn about the dangers that we face daily so Congress can work to address real border security threats. But I think it is also important to be clear about what groups we are talking about here today. The way I see this is we are really talking about the drug cartels, criminal aliens, hardened criminals who are responsible for violence at the border.

Mr. Judd, would you agree with that?

Mr. JUDD. I would agree that we need to address the violent criminals at the border.

Ms. BARRAGÁN. Mr. Judd, do you support a legislative solution that puts DREAMers on a pathway to citizenship?

Mr. JUDD. I support anything that we—when we are going to talk about comprehensive immigration reform, when we talked about it in 2013, we talked about border security. You have to secure the border first before we look at something like that, otherwise we are right back in the same situation. Now, if we secure the border, absolutely.

When you look at DREAMers, the difference between DREAMers as opposed to other people is there was no intent to break the law. They never had an intent to break the law. They didn't come here knowingly to break the law, and so they are in a little bit different situation. But the problem is the parents are able to use them to circumvent—

Ms. BARRAGÁN. Mr. Judd, I am just asking you about the DREAMers. My question is do you support a pathway for the DREAMers?

Mr. JUDD. I support border security and then look at anything beyond that.

Ms. BARRAGÁN. OK. Well, there was a video of you on February 27, 2017, where you specifically went on to support the DREAMers, and you said, "To no fault of their own and they came to this country, and as you know why we want to send somebody that came here when they are 1 year old back." And that, "It is common sense to find a pathway to them to stay in this country." We are talking about the DREAMers. Did you not say that?

Mr. JUDD. I did.

Ms. BARRAGÁN. OK. Thank you.

Mr. JUDD. That is what I am explaining.

Ms. BARRAGÁN. I am not trying to be argumentative. It was a very simple question, and it didn't seem like you wanted to reconfirm what you had previously said in the past.

I want to talk a little bit about body cameras, if anybody on this panel maybe want to comment on this. I think, unfortunately, our agents and officers are confronted an uptick in violence at the border. Again, it is stemming, I think, from the cartels, from vio-

lence—drug cartels, rather, and criminal aliens attempting to illegally enter.

The use of body-worn cameras is something that has been considered a best practice in law enforcement agencies. As we have seen, it increases accountability and transparency. In Los Angeles where I represent, the LAPD has placed body cameras on thousands of officers. Just quickly, do you have an opinion, yes or no, just down the panel, whether you think body cameras would be effective to try to put into place?

Mr. ANFENSEN. I think they can be effective. The problem is we haven't yet seen a camera that can handle the environment that we work in.

Ms. BARRAGÁN. OK. Anybody else?

Mr. JUDD. We have looked at all cameras, and if there is a camera that can handle our environment, absolutely.

Ms. BARRAGÁN. Ms. Pepperdine.

Ms. PEPPERDINE. Definitely. We don't work like most law enforcement. It is not the same kind of beat. Our terrain is rugged, and because of that it is hard to find a camera that we can utilize. But I love the idea of having a camera.

Ms. BARRAGÁN. Mr. Reardon.

Mr. REARDON. Thank you, Congresswoman. Currently, there are some pilots going on for our folks, and we are supportive of those pilots.

Ms. BARRAGÁN. Great. Thank you.

Mr. Reardon, back in October, our committee—Homeland—held a field hearing at the port of Los Angeles to talk about security at the ports. You submitted a statement for the record asserting that staffing shortages at the seaports Nation-wide are especially acute. I want to thank you for doing that, and thank you for your testimony here today.

I was drawn by when I saw reports that the President's proposal had included more money for Border Patrol agents but really didn't include any more money for Customs officers, which I believe the greatest threat, from what I have learned in my committee, is going to come through seaports and airports. So I want to applaud the work that you are doing, not just at the port of Los Angeles where I represent the largest port and busiest port by container volume, but for what your employees do to secure our ports. I am with you in believing that if we are going to put more money, they need to help the human assets that we have to increase morale and making sure they are not working 73 hours of overtime, which, as you state, is absolutely just unacceptable.

Thank you. I yield back.

Mr. HURD. It is now my pleasure to recognize a gentleman who has served his country his entire adult life, the gentleman from Nebraska, General Bacon. You are now recognized for 5 minutes.

Mr. BACON. Thank you very much. I want to thank all of you for helping to defend our country.

Mr. Judd, I think most Americans agree, at least in my district, that we want to solve the problem and provide a long-term solution for DACA. What I hear from folks in our district is if you just solve the long-term issue for the DACA youth that are here, we are going to have to do it again in 3 years, in 5 years, in 7 years if we don't

find a solution at the border and fix the border, as well as our visas. So I think what you are saying represents the majority of what I am hearing in our district.

One of the things that concerns me about—I have only been a part of this committee now for about a month and had a recent hearing, and I heard from the Homeland Security folks that we have captured Sunni extremists trying to come through our Southern Border. So often when we talk about border security we focus on immigration and it becomes controversial, but I think we forget the fact that there are people in the Middle East that know that we have a porous border and they are trying to come over the border. It is, granted, maybe out of a thousand we are talking one or two. But one or two suicide bombers is unacceptable.

I think if we put a little more emphasis on the al-Qaeda, the ISIS threat, this will help unify our country better knowing that we do have to do something more for our border security. But I would love to have your thoughts on that, Mr. Judd. Are we missing the boat on our messaging?

Mr. JUDD. We are. In fact, what needs to happen is CBP needs to release to the public the number of people that we are catching from countries of special interest. Like right now, we are catching an awful lot of people that are claiming to be from Bangladesh, but our agents believe that they are from Afghanistan. When they are interviewed, because we don't have those language skills so we have to use AT&T interpreters or some other interpreter, they are telling us they are not from Bangladesh.

So what needs to happen is CBP needs to let the American public know that this is what we are dealing with. We are not just dealing with people from the country of Mexico. We are dealing with people from all over the world, including from special interest countries.

Mr. BACON. Absolutely. I brought this up to the Homeland Security representatives. I did not get a good answer why we are not telling the American people that we are capturing al-Qaeda and ISIS operatives come over our border. I think the impression I am getting is they don't want to talk about how we caught them. Fair enough. We don't have to do that. But the American people deserve to know that we have had suicide bombers with that intent trying to come here, and I think that that would provide a more unifying conversation of what we have got to do at the border and why. It is not just about immigration; it is about security.

Now, I have only been part of this committee, again, for just a month, and I have heard a couple times now from our friends on the other side of the aisle comparing the Canadian border with our border in the south. Could you give me your views of how these two borders compare threat-wise, volume of threat-wise, the volume of violence committed against our border people? Thank you.

Mr. JUDD. There is no comparison of the number of illegal crossings that are taking place, whether it be on the Southwest or the Northern Border. The numbers are astronomical on the Southwest Border, and again, from countries that you would never think are coming here. But all indications show that if terrorists are going to come across the border, they are going to use the path of least resistance, which is going to be the Northern Border because we

have very few agents on the Northern Border and it is very easy to come across.

Now, we are seeing it on the Southwest Border. The problem is, is we just don't know what is crossing on the Northern Border because we are not very effective up there simply due to our numbers.

Mr. BACON. So we need to put some emphasis in both areas.

Mr. JUDD. We do.

Mr. BACON. OK. Now, for our remaining panelists, I wanted to ask you, as you look at the wall that we are talking about putting, what is—and you have referred to it a little bit—what is optimal, a 2,000-mile wall or just focus on some key areas? What should that wall look like? Should it be something you can look through? What would be the optimal configuration, from your perspective?

Mr. ANFINSEN. Well, it has become pretty clear we don't need a wall from coast to the Gulf; we just don't. There are some areas it is just not feasible to build in. There is a lake in my area. We are not building a wall there. There are other spots along the river where it is going to be extremely difficult to build and it wouldn't be feasible. So in those areas where we are not building a wall, that is where the technology piece comes in: Cameras, additional sensor technology, and of course, more agents.

As far as what the wall would look like, I mean, we have seen some prototypes there, but ideally—it doesn't necessarily need to be see-through, but we need to be able to see what is happening on the other side, so maybe see-through but maybe use cameras. The idea is we need to see what is on the other side preparing to try to get past the wall so we can prepare ourselves.

Mr. BACON. So if I hear you right, there is selected areas that we need to put physical security barriers in, but not the 2,000-mile wall, but you think there are key areas that we need to focus on.

Mr. ANFINSEN. Absolutely.

Mr. BACON. Ms. Pepperdine.

Ms. PEPPERDINE. The wall is definitely necessary. It doesn't need to be a physical wall in some areas. You don't need a pedestrian wall. Some areas we could utilize vehicle barriers. That is what we use in Tucson sector, at least in Casa Grande station. We are utilizing vehicle barriers and that has been very effective, but we definitely in some areas do need a pedestrian wall.

Mr. BACON. OK. Thank you very much. I just want to close by thanking Mr. Reardon for your comments on the economic impacts. I think you have a very valid point.

With that, Chairman, I yield back.

Mr. HURD. I recognize myself for 5 minutes.

First off, I appreciate the panel being here today and talking about something that a lot of people talk about, but don't have any experience the way that you all do. I would like to thank Mr. Judd and Mr. Anfinson specifically for all the work you have done to educate me on this important issue. Mr. Anfinson has taken me through carrizo cane on lakes, and I have gotten a real-world experience, and that experience has allowed me to come educate my colleagues that your push-and-talk radios don't work in some places. Your cell phone coverage doesn't work in some places. That you all's experience is important.

So we talked about a lot of topics today. I think everybody agrees we don't have the manpower, and we have to have the strategies in place to hit the manpower needs that we should be achieving. I think there is actually not much disagreement on that.

My question is, and it is for all four of you all, and if you can answer in a short response because I have a couple more, are the people—is our manpower in the right places? We have limited manpower, but is the manpower in the right places?

Mr. Judd, why don't you start us off.

Mr. JUDD. At times that is—you can't answer that question without going into in depth, but I would be happy to sit down with you and discuss that.

Mr. HURD. Jon.

Mr. ANFINSEN. We need more in certain areas like Big Bend Sector, for example; I know they are understaffed. We also have a lot of agents who spend their times indoors processing or doing other administrative work when they could be out in the field.

Mr. HURD. Put them on the border, huh?

Mr. ANFINSEN. That is right.

Mr. HURD. Ms. Pepperdine.

Ms. PEPPERDINE. I definitely agree with them. We definitely are—have a lot of details, a lot of agents detailed out, so we are not actually on the border. We definitely need to break some of those details down and bring them back.

Mr. HURD. Mr. Reardon.

Mr. REARDON. Congressman, thank you. In addition to not having enough CBPOs, we also have, in my view, too many managers. In 2003, there was a ratio of—

Mr. HURD. This is the 1-to-4 versus the—

Mr. REARDON [continuing]. One-to-12 at that time in the ports. Now it is 1-to-5.6. So I think that is a problem. I would also agree that for our CBPOs, too many of them are spending time doing administrative work when they could be on the front lines, and I think that is something that needs to be addressed.

Mr. HURD. Maybe this next question for Mr. Reardon and Mr. Judd, but Jon and Ms. Pepperdine, I welcome your feedback, have you all—have the unions given a suggestion or idea of a plan on a structure for how do you incent the right behavior? How do you make sure you have officers that are willing to go to some of these remote places, like in some places in Big Bend, in order to address that morale question when you are in hardship?

So having served in a few hardship places during my career with the CIA, I understand the model that is created in order to incent that behavior, and it seems that within you-all's ranks we don't have that. So, Mr. Judd, do you want to lead off?

Mr. JUDD. We have, and I think that CBP is looking at addressing that issue now. Right now, we have a very good leader at the top. I think that if you look at the structure within CBP and the Border Patrol, our top leader, our second and our third are absolutely fantastic, and they are looking at these issues, and I think they are going to address them.

Mr. HURD. I would welcome—the committee would welcome the suggestions and the points that you do have just so that we can get familiar with that.

Mr. JUDD. Will do.

Mr. HURD. Mr. Reardon, do you have anything else to add?

Mr. REARDON. I do. Thank you. You know, there are recruitment, relocation, and retention bonuses that are available now. I mean, you know, the opportunity to provide those exists already. Whether there is funding or not is certainly a different matter. So I think better utilizing those sorts of bonuses I think would be helpful. But I will also tell you that, you know, where we talk about morale, I think we need to deal, as I had indicated before, with appropriations for additional CBPOs.

But there is one other thing that when we are looking at trying to make a career at CBP more attractive, I think it is difficult to try to go out and recruit folks, and at the same time, they are hearing in the media the potential for Federal employees, all Federal employees getting another pay freeze. That is a nonstarter.

Mr. HURD. Loud and clear. This committee has spoken on this topic. We have included incentives in several sessions of the Border Security bill that was passed out of here. As a former Government employee—I guess I still am a Government employee—you know, I recognize the needs and the difficulties that you all go through, and so I appreciate you all coming up here to continue to educate. I appreciate you-all's willingness to take many of our colleagues and our staff and show them the real-world examples of what you all have to go through every single day, and we are going to have to continue to do that. We are going to have to continue to educate our colleagues that we can start making better decisions up here to support the important efforts that you do.

Now it is a pleasure to recognize my colleague from the great State of Texas. Mr. Vela, you are now recognized.

Mr. VELA. Thank you. I have got a couple more questions before we break here. In about 5 minutes, our leadership from both parties is going to the White House to talk about many of the issues we have discussed here today.

Mr. Reardon, I think you mentioned that probably the single most important factor that you think is important to address are the 1,200 agents that we are short of, and I understand with the other formula you are talking about could be another 2,500, right?

Mr. Judd, I am sure that with respect to the shortage of 1,900 officers that we are short of on the Border Patrol side, you know, with currently mandated funding, right, that you see that as critical as well.

So, you know, knowing that we have got our folks on the way over there, what is the message? I mean, what can we do, given the current dialog, to help get the 1,200 officers we need on the CBPO side and the 1,900 on the Border Patrol side, you know, in the next year?

Mr. JUDD. We have got to look at what needs to be done to retain our employees, and there is a lot of things that need to be done. We need to change the culture within the Border Patrol. We need to look at the pay issues within the Border Patrol, and we need to make those pay issues equal across the boards. I mean, if you look at CBPO officers and you look at Border Patrol, if you look at their overtime, they get double pay for every hour that they work. A Border Patrol agent gets straight pay for every hour work they work.

A CBPO officer for Sunday pay gets 50 percent. A Border Patrol agent gets 25 percent. Night differential, CBP officers can go all the way up to 25 percent, whereas a Border Patrol agent caps out at 10 percent. So you look at our sister agency, and we don't even have pay parity within our agencies within CBP, and so you have to look at those issues.

But what I would really like to see is I would like to see us secure our border so that we can deal with issues like DREAMers, like immigration reform, like those issues, so that we can take care of those issues that allows us to move together together instead of in a partisan fashion, which has been so disruptive to this country at this point.

Mr. VELA. Right. But aren't you also saying that in order to do that, we need to take care of this issue of 1,900 officers that we are short of?

Mr. JUDD. We do. We do. We have to retain our employees and hire those 1,900 agents.

Mr. VELA. Mr. Reardon.

Mr. REARDON. Yes, thank you, Congressman. I think there are several things. I think, No. 1, providing appropriations for additional staffing I think is important. I think fixing the polygraph problem is something that is important. I think fixing the hiring process so that it doesn't take 16 to 18 months or even 9 months to on-board somebody. I heard—I was talking to one of our officers not that long ago and he told me, you know, it only took me about 8 months to be on-boarded. I have to tell you, I found myself at that moment thinking, wow, that is really great. Then when you think about it, that is crazy. It should not take that long. So I think something has to be done to fix that as well.

I also, as I just said prior, I think we have to make sure that we are better utilizing the recruitment, relocation, and retention bonuses that are available. I will tell you that I think oftentimes in agencies, many of the personnel folks don't fully understand how to utilize those. So I think it is important that OPM or wherever they would get that training from and that understanding of how to better utilize the three Rs, as they are known, I think is also important.

Mr. VELA. One last question for you, Mr. Reardon. The President's budget proposed shifting the funding of CBP officers to more fee-based versus direct funding and investments for improvement at ports of entry. What is your thoughts on that budget proposal?

Mr. REARDON. Well, you know, I think it is important to make the appropriations available to fully fund the number of CBP officers that we need. I think to get into a situation where, you know, we are basing everything on fees or majority on fees is a difficult place to be.

Now, that is not to say that fees aren't important because, in fact, fees are important. I would also suggest that any of the fees that are available right now, that they not be directed in other areas; that they be focused on bringing in more staffing. But, you know, for me, I think it is important, to the extent that we can, to fully fund all of our CBP officers and the additional ones that we need.

Mr. VELA. Well, thank all of you, again, for your time today.

Mr. HURD. I would like to thank the witnesses for you all's valuable testimony, and I want to thank the Members for you-all's questions. Many of the Members of the committee will have additional questions that we will ask you to respond to in writing, if those exist. Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the committee stands adjourned.

[Whereupon, at 11:29 a.m., the subcommittee was adjourned.]

