

Testimony summary for Rodney Scott 05/23/2023

Chairman McClintock, Ranking Member Jayapal, Members of Congress, good morning and thank you for inviting me to testify before you today.

Before I talk about the national security threats associated with the current border crisis and take your questions, I believe it would be beneficial for you to understand the unique experience I gained over my career so you can put my concerns into the proper context.

My name is Rodney Scott. I am currently a Distinguished Senior Fellow for Border Security and Immigration at the Texas Public Policy Foundation (TPPF). Before joining TPPF, I served as a U.S. Border Patrol (USBP) agent for over 29 years. I began my career as a GS-05 Border Patrol agent trainee in San Diego, Ca in 1992. I competitively progressed through the ranks and earned key leadership roles under presidential administrations of both parties. Over my career I had several unique assignments that formed my border security perspectives. I was ultimately promoted to Chief, USBP in February 2020. I served as President Biden's Chief of USBP until I chose to retire on August 14, 2021.

I have never been a political appointee. Throughout my entire career, I worked diligently to secure our international borders as a nonpartisan civil servant. My only objective is and has been to provide America with the best border security possible.

When I joined the USBP in 1992 the USBP was primarily a reactionary law enforcement agency and did not have any semblance of control over any section of the US border. In 1994 the Clinton administration initiated Operation Gate Keeper and Operation Hold the Line. These two operations represented the first phase of an effective long-term strategy to establish control over our borders in between the ports of entry. The strategy, which included focused personnel deployments, physical barriers, improved access, the application of technology and appropriate consequences for violations of law was designed to reduce the clutter and chaos of illegal immigration so agents could more effectively identify and mitigate the most serious public safety threats. This successful strategy evolved over time to address various surges in illegal immigration and changes in smuggling tactics. However, the fundamental principles of deterrence and appropriate consequences for violations of law endured up until January 20, 2021.

The success experienced by Border Patrol agents sparked an unprecedented level of optimism within the USBP rank and file. High morale equates to a motivated workforce which further improved border security. We began to see what a secure border looks like and increasingly knew how to replicate it. I was privileged to observe and experience the transition from chaos to order firsthand. I watched the people and the economies of border communities in the US and Mexico begin to thrive as order was restored and people felt safe again.

These successes instilled in me a fundamental understanding that while border security and immigration policy are often spoken about synonymously, they are in fact two distinctly different, yet interrelated issues. Border security is simply knowing and controlling who and what enters our homeland. All immigration and customs laws and associated policies are founded on the premise of being able to establish and maintain border security, or simply the ability to control the initial entry. If you cannot control who enters our home, any discussion about who is allowed to stay is irrelevant.

The terrorist attacks that occurred on September 11, 2001, also had a profound impact on my career and subsequently on my perspectives of border security. Prior to the terrorist attacks on 9/11 my duties as a Border Patrol agent had focused on interdicting illegal narcotics and illegal aliens. Terrorism was not part of the US Border Patrol's daily discussions or focus. That all changed as we realized we had been

attacked by foreign terrorists that had exploited vulnerabilities in our border security. Congress responded by creating the Department of Homeland Security and consolidating the legacy border interdiction and inspection missions of US Customs, US Immigration and Naturalization Service, including the US Border Patrol, and the Department of Agriculture to create US Customs and Border Protection.

Shortly after DHS was established in March of 2003, I was recruited to be on a small team that stood up the CBP Office of Anti-Terrorism. I traded the remote mountain canyons and deserts of Arizona for the florescent lights of an office in DC and a windowless SCIF. I quickly found myself immersed in classified intelligence briefings and associated operational and strategic planning efforts, advising CBP senior leaders and representing CBP in interagency efforts to mitigate terrorist threats facing the United States.

The terrorists that perpetrated the 9/11 attacks had entered the country through official Ports of Entry. As such, improving our inspections at Ports of Entry was the top priority. Although, we never lost sight of the fact that as we mitigated the vulnerabilities at ports of entry, terrorists would predicably shift to entering illegally in between the ports of entry. There was also reason to believe that terrorist organizations would increasingly seek to use operatives that were unknown to US intelligence or law enforcement.

In the years since 9/11 CBP dramatically enhanced the security at our ports of entry through many initiatives. This included information sharing on known threats as well as advanced training and technology to help identify unknown threats. The Border Patrol strategy also evolved with an increased focus on situational awareness through intelligence and information sharing as well as physical surveillance along the borders. However, the strategy of deterring illegal immigration through a certainty of arrest and application of consequence remained a fundamental pillar.

When I was selected as Chief of the USBP, the capabilities of the USBP to detect and effectively interdict illegal entries along our southwest border were rapidly improving. Illegal entries were dropping to record lows. The reduction in illegal immigration combined with the construction of the new border wall system and advances in technology were making every agent more efficient and more effective. The efficiencies equated to additional time that could be devoted to conducting thorough intelligence interviews of anyone that was arrested. These interviews provided invaluable information on multiple levels. First it allowed agents a better opportunity to verify an arrested subject's identity and their intent. Further, it helped agents to identify transnational criminal networks and smuggling tactics to inform investigations and improve daily operational deployments.

As Chief, I was the most senior official responsible for border security between the ports of entry. I personally witnessed the unprecedented seismic shift in border security and immigration policy that was initiated by the Biden administration on January 20, 2021. As political leadership consistently ignored the guidance of career professionals and increasingly made policy decisions that resulted in aliens being released into the US, the volume of illegal immigration predictably increased dramatically. I observed and experienced the rapid degradation of our border security from order back to total chaos firsthand. I watched the border security gains that were made over three decades dismantled and the economies and safety of border communities in the US and Mexico spiral backwards.

It is my professional assessment that this highly publicized policy shift created the current border crisis and effectively transferred control of our southwest border into the hands of the Mexican drug cartels. Of greater concern, I also witnessed a lack of any meaningful effort on behalf of the Biden administration to secure our borders against the illegal entry of aliens as required by 8 USC 1103(a)(5) or to establish Operational Control of our borders as required by the Secure Fence Act of 2006 (Public Law 109-367,

109th Congress). I also witnessed disregard for the Impoundment Control Act of 1974 which established procedures to prevent the Executive Branch from unilaterally substituting their own funding decisions for those of Congress.

As I sit here today and reflect on the significant border security advances that were made over the past three decades, I am sickened by the avoidable and what appears to be intentional destruction of what was the most effective border security in our Nation's history.

During my tenure as Chief, the Biden administration's team at DHS was laser-focused on expediting the processing and flow of migrants into the U.S. They downplayed or completely refused to accept the significant vulnerability this creates for terrorists, narcotics smugglers, human traffickers, and even hostile nations to gain access to our homeland. Common sense border security recommendations from experienced career professionals were systematically ignored and/or stymied by inexperienced political appointees. The sustained record-breaking mass illegal immigration we have been experiencing is a direct result of the catch and release policies implemented through the termination of the Migrant Protection Protocols, broad exemptions to Title 42 expulsions, reduction of detention space and the implementation of an arguably illegal parole program.

While the sheer volume of aliens illegally entering the US is overwhelming, it is critical that policy makers understand that these mass incursions are not simply an immigration issue. These illegal entries are controlled by transnational criminal organizations (TCO) to overwhelm law enforcement and create controllable gaps in border security. These gaps are then exploited to easily smuggle contraband, criminals, or even potential terrorists into the U.S. at will. Today, low level, unsophisticated and uneducated smugglers are illegally crossing the border and increasingly evading apprehension. To think that well-resourced terrorist networks, criminal organization, and hostile nations are not doing the same is naive.

Unfortunately, due to the mass illegal immigration and the administration's decision to prioritize immigration processing over enforcement, when USBP detects an illegal entry, agents are routinely spread so thin that they lack the capability to make an interdiction. These events are reported as known Gotaways. It is important that you understand that the gotaways that USBP reports are only the known gotaways. That number does not include any estimate on the total number of gotaways that are not detected along the hundreds of miles of border that lack any persistent surveillance technology and go unpatrolled for days and even weeks. This is largely due to manpower being redirected to conduct administrative immigration processing and care and feeding of aliens in custody. Of note, when the border wall construction was stopped, the installation of the surveillance and communication technology that was part of the wall system was also halted.

It In my professional assessment, U.S. Border Patrol has lost the ability to maintain any meaningful level of situational awareness to know who and what is entering our homeland. The ability of USBP to detect and interdict those that want to evade apprehension has been decimated. An illegal entry unseen is an illegal entry uncounted. It is important to remember that what happens at the border does not stay at the border. The border is not the destination. The border is simply a transit point enroute to every, town, city, and State throughout the United States.

Again, thank you for inviting me here today and I look forward to answering your questions.

Rodney Scott
Retired – Chief U.S. Border Patrol
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