



National Border Patrol Council

Testimony of Brandon Judd

On behalf of the

National Border Patrol Council

In front of The Senate Judiciary Subcommittee on Immigration and the National Interest

May 19, 2016

Chairman Sessions and Ranking Member Schumer, thank you for providing me the opportunity to testify on behalf of the National Border Patrol Council (NBPC). The NBPC represents the interests of 16,500 line Agents of the Border Patrol. The Agents whom I represent demand I present testimony from a law enforcement standpoint and not from partisan politics. My testimony is about the safety and security of our nation and its borders and I will be testifying about illegal and not legal immigration.

Current Situation on the Border

If you ask the Administration about the state of the border, they will undoubtedly tell you the border is secure. They will point to apprehension numbers and say that because we are apprehending fewer illegal aliens than in the past, our border is more secure than ever. Although our numbers are down from the historic highs prior to the year 2008 when we were apprehending 1.5 million people, it does not mean our borders are secure. We simply cannot assess border security based on apprehensions.

During the Bush administration, we were told that the high number of apprehensions was a sign that the border was secure. During the Obama Administration, we have been told that declining apprehensions was a sign of a secure border.

So which administration is right? The answer is neither. If you have an unsecure border, the level of apprehensions will be low or high based off the flow of illegal immigrants. Prior to 2008, the housing industry was booming and we saw massive flows of illegal immigrants drawn to the United States by the prospect of finding work in the construction industry. Not surprisingly, we had massive numbers of apprehensions. But after the housing market collapse of 2008, job opportunities for illegal immigrants were scarce. The flows decreased as did apprehensions. The bottom line is that as our economy continues to slowly improve, so will the lure of jobs, ultimately increasing the illegal immigration which we are seeing today.

When I talk about the border not being secure let me be very specific. Along the border we have thousands of sensors that will alert Border Patrol Agents to a border breach. If a group of illegal aliens or narcotics smugglers trip a sensor, we instantly know exactly

where the breach has occurred and can rush Agents immediately to the area. In cases where we have a sensor alert our chance of apprehending the illegal aliens or drug smugglers is 50 percent.

In those cases where illegal aliens or drug smugglers cross where we do not have sensors, our chances of making a successful apprehension is a fraction of this 50 percent. How much lower is it? Frankly we do not know, but many Agents will tell you it could be as low as 10 percent.

In the last eight years, three things have changed that make my job much harder. The first is the continued rise of the Mexican drug cartels, the second is the Administration's use of the catch and release policy to an extent never before seen, and the third is the lack of management accountability.

Rise of the Mexican Drug Cartels

Although there have been smuggling organizations along the U.S. and Mexican border for decades, the rise of Mexican drug cartels started in earnest in the 1990s. As their power and influence grew, so did the violence and corruption. In 2006, the situation in Mexico got so bad that then Mexican President Felipe Calderon ordered the Mexican Armed Forces to directly confront the cartels. That decision sparked the Mexican drug war.

Over the past 10 years, more than 150,000 people have been killed by cartel violence. This number includes teachers, police officers, judges, elected officials and ordinary citizens. Within the last few years the situation with the cartels has gotten so bad, the U.S. State Department issued multiple travel warnings to U.S. citizens about visiting Mexico. And over the past eight years, Mexican cartels have maintained a stranglehold on illegal activity along our Southwest Border.

Drug cartels control the illegal activity along our border in the same way gangs control illegal activity within our prisons. Nothing moves along the border in the U.S. or Mexico without the cartel's permission. For the cartels, illegal alien and narcotic smuggling are two lines of huge business that brings in billions in annual revenue.

For example, last year the Border Patrol apprehended 174,000 illegal immigrants in the Rio Grande Valley. Each of these individuals paid the Gulf Cartel approximately \$5,000 to be smuggled into the United States. That is \$870 million in revenue for the cartel. When you factor in those that "got away" the total revenue from alien smuggling alone for the Gulf cartel in this sector is nearly over \$1.7 billion.

The money cartels earn from illegal alien smuggling underwrites their narcotics operations, fuels the violence in Mexico which has killed more than 150,000 people, and is threatening the very viability of Mexico as a democracy. But that is not all. The illegal alien smuggling funds cartel expansion into our own communities. Last year, the DEA released a report ([DEA-DCT-DIR-065-15](#)) that chronicled the extent of the cartel incursion, showing that virtually no state was immune. For instance, New York is controlled by the Sinaloa cartel while in Alabama, both the Sinaloa and Gulf cartels have operations.

Catch and Release

There are a number of factors that are driving the illegal immigration that we are seeing. Many point to the endemic violence in Central America. Without a doubt violence and instability in Central America is a factor. It is not however what is driving the problem. The single biggest factor driving our illegal immigration right now is our catch and release program.

When Border Patrol Agents arrest illegal immigrants, we interview them. Most illegal immigrants believe that they will either not be caught, or even if they are caught, they will not be deported back to their home country. Most believe that they will simply be issued a Notice to Appear (NTA) and will be released.

Candidly, they are not wrong. If you are an unaccompanied minor we will not only release you, but will escort you to your final destination. If you are a family unit, we will release you. If you claim credible fear, we will release you. If you are a single male and we do not physically see you cross the border and you claim that you have been in this country since 2014, we will release you. Do you have to offer any proof that you have been here the last two years – absolutely not. We will take your word for it.

We have encountered individuals in the Rio Grande Valley who are still wet from crossing the river, who have claimed they had been in the United States since 2014. Under current Administration policy we processed them and let them go – sometimes without even issuing an NTA.

The illegal aliens that we apprehend are practical people. Before making what is a very dangerous journey and risking a lifetime of savings, they weigh the costs and the benefits. Right now with catch and release, the costs are lower than the benefits. As long as we continue with this policy they will continue to come.

Twenty years ago we faced a similar problem with Brazilian illegal immigrants. If we did not have enough detention space and started to release illegal immigrants with NTAs, they would flood that sector. The second we held illegal aliens in custody pending deportation, the flood of Brazilians stopped overnight. I know that if we simply remembered this lesson once again we could decrease the flow of illegal immigrants attempting to cross.

Lack of Accountability

The last time we had comprehensive immigration reform in this country was 1986 with the passage of the Immigration Reform and Control Act. This legislation gave amnesty to any illegal immigrant who had arrived before 1982 and was one of the factors driving the tidal wave of illegal immigrants we saw in the 1990s.

When the Senate was considering immigration reform three years ago, many warned about what happened after 1986. The Administration promised the American people that it would be different this time because the border was secure. It was a terrific talking point.

Too bad it was completely untrue, unless you count a 50 percent apprehension rate as success. My guess is that your constituents would not call that success.

The challenge now is that the Administration has painted itself into a corner. If the border is secure, how do you ask Congress for more manpower? If the border is secure, how do you ask for money for additional air support, technology and fencing?

The answer unfortunately is that you don't. You do not talk about the Mexican drug cartels. You do not talk about the fact that every day on average a Border Patrol Agent is seriously assaulted. You do not talk about how 20 percent of the individuals we are apprehending now are convicted felons and have previously been deported. You do not talk about any of this. You talk about how apprehensions are down and how well things are going. And you punish anyone who has the temerity not to echo the Administration's talking points.

Closing

We can solve this problem and we can have a secure border. We can put a serious dent in narcotics trafficking and make sure our communities are safer. However, the first step is to have the courage to admit the problem exists and acknowledge that some of our policy choices are making the problem worse – not better.

I would be happy answer any questions that the Committee might have. Thank you.