



# *National Border Patrol Council*

## *Legal Division - Tucson*

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Dear Senior Special Agent V'Dovec:

As you are aware, on May 18, 2017, the Department of Homeland Security Office of Inspector General (DHS/OIG) conducted a subject interview of National Border Patrol Council (NBPC) President Brandon Judd. While it initially appeared that the DHS/OIG investigation was aimed at allegations of corruption against management officials in the United States Border Patrol Havre Sector, DHS/OIG informed Mr. Judd that he was being investigated for the unauthorized disclosure of law enforcement information.

The allegation of the unauthorized disclosure of information involved an April 18, 2017, article published on the *Breitbart* website entitled "*Officials Defy Trump's Promises: 40 Miles of Border Ordered Unpatrolled.*" The article raised genuine issues concerning possible illegal activity, gross mismanagement and public safety. It stated that certain unnamed Border Patrol Agents believed that one of the possible motives behind the Havre Sector manager's order to allow certain portions of the border to be unpatrolled was due to "widespread corruption." Prior to Mr. Judd's interview, the DHS/OIG investigators were told that it was our belief that nothing in the article qualified as "law enforcement sensitive information." More importantly, you were informed that even if there was a disclosure of law enforcement sensitive information, Mr. Judd's disclosures were protected by the Whistleblower Protection Act (WPA) as well as the Whistleblower Protection Enhancement Act (WPEA). Specifically, DHS/OIG was apprised of the Supreme Court case of *Dep't of Homeland Security v. MacLean*, 135 S.Ct. 913 (2015), where the Court held that while a protected whistleblower disclosure does not include a disclosure that is "specifically prohibited

by law,” regulations or agency policy does not qualify as a “law” under the WPA. Despite being alerted to the law in this particular area, the DHS/OIG investigators proceeded on with the interview of Mr. Judd. Mr. Judd cooperated with the investigation by answering questions and providing a statement to the DHS/OIG investigators.

The purpose of this letter is to formally document the legal elements involving a charge of unauthorized disclosure of information as well as to highlight the case law with regards to the protections contained in the Whistleblower Protection Act. Based upon the law, DHS/OIG cannot legally sustain any allegation that Mr. Judd improperly disclosed law enforcement information. Also, we understand that DHS/OIG is only the investigatory body responsible for gathering the facts and that any threatened or actual personnel action would be taken by U.S. Customs and Border Protection. As a result, we are forwarding this memorandum to CBP as well as the Office of Special Counsel (OSC) to ensure that no threatened or actual personnel action be taken against Mr. Judd.

## **I. DHS OIG Investigation into Havre Sector Corruption Allegations**

During the week of May 15, 2017, four (4) Special Agents with the Department of Homeland Security (DHS) Office of Inspector General (OIG) interviewed Havre Sector managers and Border Patrol Agents with regards to an article published on the *Breitbart* website entitled “*Officials Defy Trump’s Promises: 40 Miles of Border Ordered Unpatrolled.*”<sup>1</sup> The article was published on April 18, 2017, and stated that certain Border Patrol Agents were “sounding the alarm about miles of border being left wide open and unsecured” due to an order issued by “a Havre Sector Border Patrol manager.” The article generally stated there were 40 miles of the Montana border that was left open and unpatrolled. The article did not specify the exact location of the 40 miles, whether the 40 miles was contiguous, or even the Border Patrol station within the Havre Sector where the order was given.<sup>2</sup> According to the *Breitbart* article, Agents believed that one of the possible motives behind the Havre Sector manager’s order was due to “widespread corruption.”

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<sup>1</sup> See <http://www.breitbart.com/texas/2017/04/18/exclusive-officials-defy-trumps-promises-40-miles-border-ordered-unpatrolled/>

<sup>2</sup> There are six (6) Border Patrol Stations within the Havre Sector that patrol the Montana Border. The stations are: St. Mary’s Station, Havre Station, Plentywood Station, Scobey Station, Malta Station, and Sweetgrass Station. According to the Agency’s public website, Havre Sector is characterized by 456 miles of international border. <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/havre-sector-montana>

The *Breitbart* article also had a link to a podcast interview with National Border Patrol Council President Brandon Judd. Mr. Judd was interviewed by *Breitbart* News on April 18, 2017. During the interview, Mr. Judd discussed the *Breitbart* article as well as the current overall status of border enforcement. With respect to the *Breitbart* article, Mr. Judd generally discussed – without specifically identifying – the 40 miles of border being left unpatrolled within the Havre Sector. He stated he had discussions with the highest levels of management who were looking into the situation. Mr. Judd also stated it's believed that the order was due to corruption and that "management [was] making the decision to pull agents out of certain zones to allow contraband to come across the border." Quotations from the podcast interview were published on the *Breitbart* website on April 18, 2017.<sup>3</sup>

On April 20, 2017, Mr. Judd sent an e-mail to the Chief of the United States Border Patrol Ronald Vitiello and Associate Chief Rodolfo Karisch. Mr. Judd also carbon copied the Commissioner of CBP, Kevin McAleenan. The subject of the e-mail was titled "Allegation of Corruption," and in the e-mail Mr. Judd cited several pieces of circumstantial evidence he believed showed that the change in operations at the Havre Sector were "due to either corruption, retaliation, or for political purposes." Mr. Judd highlighted the evidence which gave him reasonable cause to believe that the new zone assignments evidenced certain wrongdoing. At the end of his e-mail, Mr. Judd stated "[f]or the safety of the agents and the public at large I can not implore you enough to change back to the same enforcement posture pre 4/12/17."

Based on the *Breitbart* article and Mr. Judd's complaint to the Office of Border Patrol, the DHS OIG opened up a criminal investigation ostensibly against Havre Sector management officials. Initially, it appeared that the sole purpose of the DHS OIG investigation was to investigate the allegation of possible corruption within the Havre Sector management ranks. However, towards the latter part of the investigation, the DHS OIG investigators began to conduct an administrative investigation against NBPC Union President Brandon Judd for the unauthorized disclosure of law enforcement information. It is unclear when DHS OIG opened up an administrative investigation of Mr. Judd as Mr. Judd was not issued a Notice to Appear prior to his DHS/OIG interview. Instead, prior to Mr. Judd's interview on May 18, 2017, the OIG Special Agents compelled his testimony by having Mr. Judd sign a *Kalkines* Warning.<sup>4</sup> In completing the *Kalkines* Warning, the OIG Special Agents wrote the general nature of the allegation as the unauthorized disclosure of law enforcement information.

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<sup>3</sup> See <http://www.breitbart.com/texas/2017/04/18/u-s-border-officials-suspected-working-drug-smugglers-says-border-patrol-council-president/>

<sup>4</sup> In *Kalkines v. United States*, 200 Ct. Cl. (1973), the U.S. Court of Claims ruled that an employee can be compelled to "answer questions about the performance of an employee's duties . . . when that employee is duly advised of his options to answer under the immunity granted or remain silent and face dismissal."

Upon being informed that the nature of the allegation concerned the unauthorized disclosure of law enforcement information, NBPC Legal Counsel disputed that any information in the article contained law enforcement sensitive information. More importantly, however, NBPC Legal Counsel informed the DHS OIG Special Agents that even if Mr. Judd's disclosures constituted "law enforcement sensitive" information, that his disclosures were protected under the Whistleblower Protection Act, 5 U.S.C. § 2302. In addition, NBPC Legal Counsel informed the OIG Agents of the Supreme Court case in *Dep't of Homeland Security v. MacLean*, 135 S.Ct. 913 (2015), and that even if they substantiated any allegation against Mr. Judd, the Agency could not legally take any type of personnel action based upon the disclosure. The DHS OIG Agents, however, proceeded on with the interview in which Mr. Judd fully cooperated and provided a written statement. In his written statements, Mr. Judd invoked the protections of the Whistleblower Protection Act.

## **II. There is No Evidence that Mr. Judd's Disclosures to the Media Constituted Law Enforcement Sensitive Information**

In order to prove the unauthorized disclosure of law enforcement information, the Agency must show: (1) the employee possessed "law enforcement sensitive" information; (2) the employee disclosed the law enforcement sensitive information; and (3) the such disclosure was "unauthorized." See *Wrocklage v. Dep't of Homeland Security*, 769 F.3d 1363 (Fed. Cir. 2014); *Voorhis v. Dep't of Homeland Security*, 2010 MSPB LEXIS 1521 (May 5, 2010), *aff'd*, 116 MSPR 538 (2011).

In this case, there is no evidence to support that any "law enforcement sensitive" information was disclosed. Although there was certainly a disclosure in the media, neither the article or the podcast contain any "law enforcement sensitive" information.

At the outset, it is unclear what type of information qualifies as "law enforcement sensitive" information. As pointed out by the Government Accountability Office in March 2006, at least seven (7) federal agencies or agency components use the term "Law Enforcement Sensitive" (LES) information. This includes the Department of Homeland Security. However, all the agencies gave differing definitions for the term.<sup>5</sup> The GAO Report noted that DHS does not formally define what information qualifies as LEO designated information.<sup>6</sup> DHS Management Directive 11042.1 addresses "Safeguarding Sensitive But Unclassified (For Official Use Only) Information" and states that "law enforcement sensitive information" falls under the arena of "sensitive but unclassified" information. Such information is defined as information "designated

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<sup>5</sup> See GAO Report (GAO-06-385), *"Information Sharing: The Federal Government Needs to Establish Policies and Processes for Sharing Terrorism-Related and Sensitive but Unclassified Information"* (March 2006), p. 24.

<sup>6</sup> *Id.*

as sensitive to control and restrict access to certain information, the release of which could cause harm to a person's privacy or welfare, adversely impact economic or industrial institutions, or compromise programs or operations to the safeguarding of our national interests."

A general disclosure that 40 miles of the Montana border was left open and unpatrolled is not specific enough to qualify as either "law enforcement sensitive" information" or "sensitive but unclassified" information. The disclosure did not specify the exact location of the 40 miles, whether the 40 miles was contiguous, or even the Border Patrol station within the Havre Sector where the order was given. As CBP's public website indicates the Havre Sector's area of responsibility consists of 456 linear miles of the international border. Also, there have been other similar public disclosures concerning areas of vulnerability on the border. For example, a recent *Washington Post* article discussed "high priority" areas in the Sectors of Rio Grande Valley, El Paso Sector, Tucson and San Diego that are close "to urban centers and roads, allowing those who cross to vanish quickly."<sup>7</sup> According to the article, the DHS Planning document was released by the Democratic staff of the Senate Homeland Security and Governmental Affairs Committee. This information is certainly more specific than the information released in the *Breitbart* article or podcast. Unlike trying to identify 40 miles of the Montana-Canada border, it is easy to identify "urban centers" in those Border Patrol Sectors where the illegal crossing is occurring.

Additionally, one must simply compare the facts of this case to cases in which actual law enforcement sensitive information was disclosed. For example, in *Bledsoe v. Dep't of Justice*, 91 MSPR 93 (2002), a DEA Agent was removed from federal service for disclosing an ongoing investigation to a suspect and informed the suspect that search warrants would be executed at his residence. Similarly, in *Levick v. Dep't of Treasury*, 75 MSPR 84 (1997), a Customs Criminal Investigator divulged sensitive information to a co-worker who did not have a need-to-know which compromised a smuggling investigation. Recently, in *MacLean v. Dep't of Homeland Security*, 543 F.3d 1145, 1150 (2008), the Ninth Circuit found that the release to the media of a government text message to Federal Air Marshals (FAM) that stated, "all RON (Remain Overnight) missions . . . up to August 9<sup>th</sup> would be cancelled," qualified as "sensitive security information" because it contained "**specific details** of aviation security measures" regarding "deployment and missions" of FAMs. (emphasis added). All these cases share one common trait — *i.e.*, very specific and detailed information that either did or could have compromised law enforcement operations.

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<sup>7</sup> See "These Border Towns Could be First to Get Trump's 'Big Beautiful' Wall," *Washington Post*, April 24, 2017. Attachment 1.

It is hard to fathom how a general statement that 40 miles of the Montana border is being left open and unpatrolled could “compromise programs or operations to the safeguarding of our national interests.” Again, the article only identified the Havre Sector and did not identify the particular station within the Sector. In fact, the names of the Border Patrol Agents who signed the order regarding the change in operations were “redacted to avoid any chance of revealing the exact station in the Havre Sector.” As the Agency’s public website states Havre Sector’s area of responsibility consists of 456 linear miles of the international border. Moreover, the article does not mention whether the 40 miles were contiguous. Based upon the *Breitbart* article, no Drug Trafficking Organization or an alien smuggler would know where to attempt to cross believing that the area was unmanned and unpatrolled.

There is additional evidence that supports our contention that the *Breitbart* article did not contain law enforcement sensitive information. On April 16, 2017, prior to the article being published, Mr. Judd sent Chief Ronald Vitiello an e-mail which contained a draft of the article. Above the draft article, Mr. Judd wrote: “Chief – Below is the story, I’m able to hold it off for one more day. Please let me know if anything is not accurate.” *Attachment 2*. Chief Vitiello responded back the following day stating “Thanks, I’ll get back to you.” *Id.* Additionally, Mr. Judd informed Acting Commissioner Kevin McAleenan of the article the day before it was published and asked Acting Commissioner McAleenan if he wanted to see a copy of the draft article. Acting Commissioner McAleenan responded in the affirmative and Mr. Judd sent him a copy of the article. Neither Acting Commissioner McAleenan nor Chief Vitiello expressed any concerns that the article contained law enforcement sensitive information.

For all these reasons, any allegation that Mr. Judd improperly disclosed law enforcement sensitive information cannot be sustained. Neither the facts or law support any such conclusion.

### **III. Mr. Judd’s Disclosures Are Protected by the Whistleblower Protection Act and the Agency Cannot Threatened or Take an Actual Personnel Action against Mr. Judd based on the Protected Disclosures**

It is well-settled that discipline may not be based on a disclosure protected by the Whistleblower Protection Act. *Chambers v. Dep’t of Interior*, 602 F.3d 1370, 1380 (Fed. Cir. 2010); *Parikh v. Dep’t of Veterans Affairs*, 116 MSPR 197, ¶ 35 (2011); *MacLean v. Dep’t of Homeland Security*, 2015 MSPB LEXIS 10203 (November 3, 2015)(removal reversed where appellant’s protected disclosure was a contributing factor in the agency’s personnel action). As the courts have consistently stated, the purpose of the WPA is to shield employees who are willing to speak out and criticize government management, to “freely encourage employees to disclose that which is wrong with our government.” *Marano v. Dep’t of Justice*, 2 F.3d 1137, 1142 (Fed. Cir. 1993). In fact, the Supreme Court

has indicated that there are “powerful network of legislative enactments—such as whistleblower protection” laws that exceed the protections of the First Amendment and are “available to those who seek to expose wrongdoing.” *Garcetti v. Ceballos*, 547 U.S. 410, 425 (2006). As the Court stated, “[e]xposing governmental inefficiency and misconduct is a matter of considerable significance” and “public employers should ‘as a matter of good judgment,’ be ‘receptive to constructive criticism offered by their employees.’” *Garcetti*, 547 U.S. at 425, *quoting Connick v. Myers*, 461 U.S. 138, 149 (1983).

The WPA by its terms includes and protects “any” disclosure that an employee “reasonably believes” evidences a violation of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. 5 U.S.C. § 2302(b)(8)(A). The WPA and WPEA does not apply to disclosures that are specifically prohibited by law or information that is required to be kept secret in the interest of national defense or the conduct of foreign affairs. 5 U.S.C. § 2302(b)(8)(A); 5 C.F.R. § 1209.4(b). The term “law” in the phrase “specifically prohibited by law” excludes rules and regulations. In other words, if an employee’s disclosure violates an agency regulation, it is not “specifically prohibited by law” because regulations do not qualify as a “law” under the statute. *Dep’t of Homeland Security v. MacLean*, 135 S.Ct. 913 (2015).

In *Dep’t of Homeland Security v. MacLean*, *supra*, the United States Supreme Court found that the Transportation Security Administration (TSA) violated 5 U.S.C. § 2302(b)(8)(A), when it fired an air marshal because he had told a reporter that the TSA had decided to remove air marshals from certain long-distance flights to save money on hotel costs, even though it had credible information that al Qaeda was planning to attack passenger flights in the United States. Federal Air Marshal Robert MacLean had objected to management’s decision to cancel certain overnight missions and after being told by his superiors that “nothing could be done,” he contacted an MSNBC reporter and told the reporter about the canceled missions. After MSNBC published a story about the cancelled missions, several Members of Congress criticized TSA’s decision. Within 24 hours, TSA reversed its decision and put air marshals back on the flights. Initially, TSA did not know MacLean was the source of the disclosure. However, MacLean later appeared on NBC Nightly News to criticize the TSA’s dress code for air marshals. Although MacLean appeared in disguise, several co-workers recognized his voice and TSA began investigating the NBC appearance. During that investigation, MacLean admitted he had disclosed the information concerning the cancelled missions. TSA subsequently removed MacLean from federal service based on a charge of unauthorized disclosure of sensitive security information.

In finding that TSA violated § 2302(b)(8)(A), the Court found that while MacLean's disclosure may have violated a regulation it was not "specifically prohibited by law." The Court found that such a broad interpretation of the word "law" could defeat the purpose of the whistleblower statute. *MacLean*, 135 S.Ct. at 920. As the Court stated (*Id.*):

*If 'law' included agency rules and regulations, then an agency could insulate itself from the scope of Section 2302(b)(8)(A) merely by promulgating a regulation that 'specifically prohibited' whistleblowing. But Congress passed the whistleblower statute precisely because it did not trust agencies to regulate whistleblowers within their ranks. Thus, it is unlikely that Congress meant to include rules and regulations within the word 'law.'*

It is important to note that the Supreme Court affirmed the Federal Circuit's decision which remanded the case back to the MSPB to determine whether MacLean reasonably believed that the content of his disclosure evidenced a substantial and specific danger to public health and safety. *MacLean v. Dep't of Homeland Security*, 714 F.2d 1301, 1310-1311 (2013). The Agency continued with its attempt to remove MacLean from federal service but on November 3, 2015, the removal action was reversed by an MSPB Administrative Judge. *MacLean v. Dep't of Homeland Security*, 2015 MSPB LEXIS 10203 (MSPB AJ 2015). The MSPB AJ found that the Agency violated the WPA in removing MacLean from federal service and ordered MacLean to be reinstated.

As we informed DHS/OIG prior to the beginning of Mr. Judd's interview, the facts in this case are nearly identical to the facts in *Department of Homeland Security v. MacLean* as it pertains to an affirmative defense under the Whistleblower Protection Act. Mr. Judd's disclosure to *Breitbart* was a protected disclosure as he had a reasonable belief that there was evidence of a violation of law, rule or regulation; gross mismanagement or a substantial and specific danger to public health or safety. It is important to note that an alleged whistleblower does not have to prove actual wrongdoing in order to establish that his disclosure is in a protected category. *Elkassir v. GSA*, 325 F.App'x 909 (Fed. Cir. 2009). Therefore, it is immaterial whether or not the DHS/OIG investigation found corruption on the part of Havre Sector management. The only issue is whether Mr. Judd possessed a reasonable belief of his protected disclosures. In his interview and statement, Mr. Judd explained to the DHS/OIG investigators the factors that led to his reasonable belief. These factors were also listed in Mr. Judd's e-mail to Chief of the United States Border Patrol Ronald Vitiello and Commissioner Kevin McAleenan. Also, it is clear that Mr. Judd's disclosure was "not prohibited by law" as DHS/OIG informed Mr. Judd that he was being questioned on a matter that may lead only to an administrative action.



Mr. Judd's disclosure that Havre Sector management issued an order which left 40 miles of the Montana border open and unpatrolled as well as his belief that management was making this decision to pull agents out of certain zones to allow contraband to come across the border qualifies under the following categories: (1) a violation of law, rule or regulation; (2) gross mismanagement; and/or (3) a substantial and specific danger to public health or safety. Either drug smuggling or alien smuggling would violate Title 21 and or Title 18 of the United States Code. "Gross mismanagement" is a management action or inaction that creates a substantial risk of significant adverse impact on the agency's ability to accomplish its mission. *Wood v. Dep't of Defense*, 100 MSPR 133 (2005). Here, the Agency is responsible for protecting our nation's borders so an order to leave a certain section of the border unmanned and unpatrolled would create a significant adverse impact on the Agency's mission. Likewise, this same disclosure would also qualify as a substantial and specific danger to public health or safety. *See Chambers v. Dep't of the Interior*, 116 MSPR 17 (2011)(appellant's statement concerning the diversion of Park Police patrol officers from national parks and the resulting increase in drug dealing in smaller national parks qualified as a substantial and specific danger to public health or safety especially in light of appellant's expertise and familiarity with the areas under her jurisdiction).

#### **IV. Conclusion**

As stated above, since discipline may not be based on a disclosure protected by the Whistleblower Protection Act the DHS/OIG cannot substantiate the allegation that Mr. Judd committed an unauthorized disclosure of law enforcement sensitive information. Therefore, we respectfully request that the DHS/OIG not substantiate this allegation and forward the case to the Agency for disciplinary action. If DHS/OIG ignores this advice and substantiates the allegation, the Agency should immediately close the case finding it legally insufficient to propose any type of action against Mr. Judd. If the Agency proposes any type of personnel action against Mr. Judd or takes any significant change in his duties, responsibilities or working conditions as a result of the protected disclosure, we will file a complaint with the Office of Special Counsel (OSC) for an investigation of a Prohibited Personnel Practice. Further, if a proposed disciplinary or adverse action is issued, we will request OSC to file a stay of any personnel action with the Merit Systems Protection Board until such time as the OSC is able to complete its investigation and conduct a legal review as to whether to seek corrective action. 5 U.S.C. § 1214(b)(1)(A); *Special Counsel Ex Rel. Sharon Stephensonpino v. Dep't of Navy*, 96 MSPR 311 (2004).

It is our hope that this legal opinion will convince you to immediately close any investigation involving whether Mr. Judd improperly disclosed law enforcement information. Further, we ask that this legal opinion be included as an exhibit in any DHS OIG Report of Investigation to ensure that any management official understands the law prior to proposing or taking any personnel action.

Very truly yours,

National Border Patrol Council  
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# **ATTACHMENT 1**

# These border towns could be first to get Trump's 'big, beautiful' wall

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By Tracy Jan and David Nakamura April 24

Despite more than a year of campaign rhetoric about a “big, beautiful wall” spanning the entirety of the southern border, the Trump administration plans to start with a much less ambitious footprint focusing only on the most highly trafficked corridors, according to a Department of Homeland Security planning document.

Identified as “high priority” in the document are the border sectors of the Rio Grande Valley in the southern tip of Texas -- encompassing Rio Grande City, McAllen and Weslaco -- as well as El Paso, Tucson and San Diego.

The areas were selected because of their proximity to urban centers and roads, allowing those who cross to vanish quickly, according to the document, which was made public by congressional committee staffers.

The preliminary plan anticipates adding more than 100 new miles of wall over the next two years, on top of the 700 miles of fencing that already exists, at an initial cost of more than \$3.6 billion.

The wall, even on a smaller scope than billed during the campaign, is a sticking point in high-stakes budget negotiations to avert a government shutdown this week.



Trump himself weighed in Monday, tweeting: "The Wall is a very important tool in stopping drugs from pouring into our country and poisoning our youth (and many others)!"

The National Border Patrol Council, a union representing Border Patrol agents, hailed the targeted approach as a more practical and effective solution to illegal immigration than a 2,000-mile wall stretching from the Pacific Ocean to the Gulf of Mexico.

"As long as you put it in strategic locations, it will do a good job," said Brandon Judd, the council's president.

A U.S. Customs and Border Protection spokesman emphasized in a statement to The Washington Post that the document is preliminary and that the areas of priority could change, depending on an assessment by the border sector chiefs expected in the coming weeks.

Of the more than 400,000 illegal immigrants apprehended along the southern border in 2016, nearly half were stopped in the Rio Grande Valley, according to data compiled by the U.S. Border Patrol. Even as border crossers overall have decreased over the past two decades, the number of vulnerable crossers, including unaccompanied children and women with children, from Central America soared in the final years of the Obama administration.

"Donald Trump sold a seamless wall as the solution to our immigration problems, but a wall is more symbolic. I don't believe it's going to produce statistically significant results," said Joel Villarreal, mayor of Rio Grande City who attended a border summit on April 17 to discuss planning for the wall.

Elected officials in the border towns say their residents have mixed opinions on whether a wall is an effective deterrent to people crossing into the United States illegally.

"Border communities are overwhelmingly in favor of securing the border,"

# **ATTACHMENT 2**



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Brandon Judd <[bjudd10@gmail.com](mailto:bjudd10@gmail.com)>

Apr 16

to RONALD

Chief - Below is the story, I'm able to hold it off for one more day. Please let me know if anything is not accurate. Brandon

U.S. Border Patrol agents are once again sounding the alarm about miles of border being left wide open and unsecured. Breitbart obtained a document that shows a Havre Sector Border Patrol manager knowingly issuing orders to leave 40 miles of border open. Obama holdovers in the Customs and Border Protection (CBP) agency are continuing with the same careless disregard in the Trump that they did under former President Obama, according to Border Patrol agents.

Breitbart Texas has the specific order that was given to the agents signed by the Obama-holdover manager. The order demands that within one assigned zone and are not to leave that zone to patrol other zones that the agents have historically patrolled. The Havre Border Patrol stations and the order applies to one of these stations consisting of six zones. A total of 60 linear miles are covered by the Border Patrol station in question, yet agents say that this only allows them to patrol 20 of the 60 miles of border.

When Breitbart Texas asked multiple Border Patrol agents about motives for the manager leaving such a vast swath of border unpatrolled, agents felt that it was twofold; they blamed previous Obama-era policies and they also believed that widespread corruption exists in the Sector's upper-management.

One of the Border Patrol agents who was present when the manager gave the order spoke to Breitbart Texas on the condition of anonymity, "Criminal cartels exploit our weaknesses on a daily basis and they're certainly going to exploit such a large area of open and unsecured border." Another agent from the station told us on the same condition, "From a border security standpoint, this directive makes no sense. It has to be a reason so I don't think it's a far stretch to conclude it's due to corruption." And yet another agent from the station spoke on the same condition said, "This order has to be coming from the Sector Chief and Deputy Chief Patrol Agents. They, along with the Station in Charge and Deputy Patrol Agent in Charge, need to be immediately reassigned until a full and thorough investigation can be done."

Border Patrol Agent Brandon Judd, President of the National Border Patrol Council (NBPC) was appalled when he heard of this information -- thereby confirming to Breitbart Texas the authenticity of the other agents' concerns. He told Breitbart Texas that there have been more complaints filed out of the Havre sector than any other sector within recent years. Unfortunately, he says the agency has justified the manager's actions. Agent Judd said anytime you have managers investigating other managers, the result is always "no cause of action."

[REDACTED]



Agent Judd said there must be accountability from the top down. "I believe Secretary Kelly's constant praise of former Secretary endorsement of his open border policies. There are so many good managers in the Border Patrol, but when Secretary Kelly condoned predecessors failures, he opens the door for the bad managers to act like this and bring shame on the entire organization." Agent Judd said "President Trump is the president of the common citizen and the choice of the rank-and-file Border Patrol Agents, unfortunately highly paid career managers who want to believe they're above everyone else -- up to and including the President of the United States."

Agent Judd said the rank-and-file Border Patrol agents have spoken with the managers at the station in question until they were all to no avail. "Managers who sit behind a desk and never patrol the border should never dictate operations and policy, otherwise they get."

Multiple Border Patrol agents who were present for the manager's order to leave 40 miles of border open spoke with Breitbart Texas. All Border Patrol agents who were present argued with the manager and informed him they felt the order was "illegal and was denied." They even argued it was contrary to President Trump's express wishes as set forth in the Border Security Executive Order. The agent gave the rationale behind the order, but the manager refused to provide one, according to them.

Luckily for all of the Border Patrol agents present, a representative of the NBPC and an agent himself walked into the muster room given and he wrote the order down verbatim, according to the agents. Not only did he document the order, but the agents claim the manager and asked, "did I twist your words?" and the manager responded that he did not. The agent/NBPC representative then presented the documentation and he asked the manager to also sign the order which the manager did.

Breitbart Texas showed the handwritten and signed order we obtained to Agent Judd and he confirmed that agents were, in fact, He pointed to the manager's signature on the order as authentic.



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to me

Thanks, I'll get back to you.

Ronald Donato Vitiello

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