

**Congress of the United States**  
**Washington, DC 20515**

April 12, 2013

The Honorable Janet Napolitano  
Secretary  
Department of Homeland Security  
Washington, DC 20528

Dear Madame Secretary:

We recently have had the opportunity to visit with hundreds of Border Patrol Agents in our communities who have the responsibility of securing the U.S.-Mexico border. We write to share the concerns of the Border Patrol Agents and Customs and Border Protection Officers who serve on the front lines and to request your assistance in addressing the issues raised.

The overwhelming concern of these hard-working men and women is the availability of resources which will allow them to sustain the current level of effort to secure our borders. Recently, Congress passed the Consolidated and Further Continuing Appropriations Act, 2013 (CR), and our intent in passing the CR was to ensure that the Department of Homeland Security (DHS) is able to prevent furloughs and ensure continuation of Administratively Uncontrolled Overtime (AUO) for previously eligible Customs and Border Protection (CBP) employees. However, numerous constituents have told us – and our conversations with CBP indicate – that the elimination of AUO is still a significant possibility. Although CBP recently announced its decision to delay implementation of deauthorizing AUO on a temporary basis, we remain concerned about long-term plans.

Compounding our concerns about AUO are serious financial planning challenges within CBP. As you are aware, the Senate committee report on this issue noted that the CR provides \$315,000,000 in appropriated funds to rectify CBP's salary shortfall, created by the fiscal year 2013 budget request that incorrectly assumed CBP access to fee revenues. Furthermore, it appears that CBP failed to adequately estimate its salary needs for its operational workforce. It seems possible that the same type of faulty financial assumptions may now be causing CBP to misinterpret how the CR funding is able to allow continued AUO. We hope you will immediately investigate this possibility.

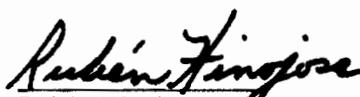
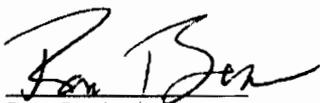
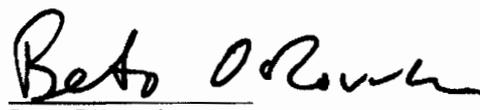
Additionally, numerous CBP employees from various areas along the U.S.-Mexico border have informed us of their perception that senior CBP leadership has long desired to eliminate AUO. That these perceptions exist among so many employees from numerous areas strongly suggests a serious trust deficit between CBP leadership and the rank and file. We encourage you to scrutinize the impending CBP actions on AUO, especially considering the additional funding provided by the CR. It was the intent of Congress to prevent deauthorization of AUO, and we expect CBP leadership to respect and follow the guidance provided. Failure to address the current situation could cause long-term damage to the confidence of CBP employees who have dedicated their professional lives to national service. The challenges we face must never be used as an excuse to renege on promises of AUO made when we hire these public servants. Border Patrol recruitment documents on CBP's website advise incoming agents that, "(y)our work week consists of 40 hours of regular time plus another 9-10 hours of what is termed Administratively Uncontrollable Overtime (AUO) for covering shift changes, illegal alien processing and other tasks that can't be scheduled."

As you well know, the use of AUO is a key component of the Border Patrol's staffing model, and AUO allows the agency to address the unique aspects of border law enforcement including vast distances between the ports of entry and the flexibility requirement for agents in active pursuit and developing situations. We share the concern of Border Patrol Agents regarding the impacts of deauthorizing AUO, which will include fewer hours spent in support of the border security mission. We request that you provide us with additional information about the justification for eliminating AUO for Border Patrol Agents, and we urge you to reconsider any decision which would result in lower staffing levels along our nation's borders.

Our nation has invested considerable resources in Customs and Border Protection and in the agents and officers who guard our nation. We are concerned that the hard-fought efforts to expand Customs and Border Protection and the investment in training and experience will be squandered by proposals which unfairly target border security personnel. We know that you and your staff are working hard to mitigate the impacts of sequestration, and, as you seek to address the effects of the mandated cuts, we urge you to listen to the concerns of our nation's border professionals and ensure that they are treated fairly. At a time when they are facing increased threats from ruthless traffickers and others, they have certainly earned fair pay which honors the sacrifices they make to secure our borders and our nation.

We appreciate your attention to the matter and look forward to hearing from you soon.

Sincerely,

  
Filemon Vela  
Sheila Jackson Lee  
Pete Gallego  
Rubén Hinojosa  
Ron Barber  
Beto O'Rourke

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