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April 18, 2016

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Johnson:

During testimony before the House Judiciary Subcommittee on Immigration and Border Security on February 4, 2016, Brandon Judd, President of the American Federation of Government Employees National Border Patrol Council, testified that the Department has established a policy whereby Border Patrol agents are required to release unlawful immigrants apprehended at the border and instructed to not place them in removal proceedings, if they do not have a felony conviction and merely claim to have been in the United States since January 1, 2014. His stunning testimony marked a clear contradiction between the current immigration enforcement policies and those contained in your memorandum of November 20, 2014, titled, "Policies for the Apprehension, Detention and Removal of Undocumented Immigrants." Under that memorandum, all aliens apprehended at the border after January 1, 2014, are priorities for removal. Mr. Judd, who represents more than 16,000 Border Patrol Agents, further testified that the current DHS policy was established because of the embarrassing fact that large numbers of aliens apprehended at the border failed to appear at their removal hearings and simply absconded.

On March 1, 2016, U.S. Customs and Border Protection Commissioner Gil Kerlikowske testified before the House Appropriations Committee. He stated that Border Patrol agents "should not be releasing anyone" and he flatly disputed Mr. Judd's testimony, stating that the agency is not engaging in the "catch and release" policies of the past. Commissioner Kerlikowske questioned Mr. Judd's credibility by stating that the National Border Patrol Council "is not the most knowledgeable organization about what's actually going on." To ensure that his point was understood, he then warned agents who do not follow the directions of their supervisors – "[Y]ou really do need to look for another job."

I have been informed that one or more managers within the U.S. Border Patrol submitted a complaint for alleged misconduct to the Joint Intake Center against Mr. Judd and other Executive Committee members of the National Border Patrol Council, and that the Office of Professional

Responsibility is the most likely DHS component that will be tasked with this investigation. Such an inquiry, launched within days of Mr. Judd's testimony before the Subcommittee on Immigration and Border Security, raises the specter of retaliation against Mr. Judd and the other executive committee members. I fully expect that you will personally ensure that no DHS employee or contractor will be targeted for reprisal or any other form of adverse employment action on the basis of voicing their legitimate concerns regarding compliance with unwritten departmental policies that contradict your written policies. Additionally, please give me your assurance that any allegation of employee misconduct against Mr. Judd or any other DHS employee or contractor will be investigated fairly and impartially by the appropriate DHS component, without any improper influence by any person within DHS.

Thank you for your prompt attention to this important matter. Please direct any questions about this letter to Tracy Short, Counsel for the House Judiciary Committee, at (202) 225-3926.

Sincerely,

A handwritten signature in blue ink that reads "Bob Goodlatte". The signature is fluid and cursive, with the first letters of "Bob" and "Goodlatte" being capitalized and prominent.

Bob Goodlatte
Chairman

cc: Hon. John Conyers, Jr.