



**STATEMENT OF ANTHONY M. REARDON  
NATIONAL PRESIDENT  
NATIONAL TREASURY EMPLOYEES UNION  
THE BEST AND WORST PLACES TO WORK  
IN THE FEDERAL GOVERNMENT  
BEFORE THE COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
SUBCOMMITTEE ON GOVERNMENT OPERATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES**

**April 6, 2017**

Chairman Meadows, Ranking Member Connolly, distinguished members of the Subcommittee; thank you for the opportunity to testify before you today on mission and morale issues at the Department of Homeland Security (DHS). As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 25,000 DHS Customs and Border Protection (CBP) Officers and trade enforcement specialists in the Office of Field Operations (OFO) who are stationed at 328 land, sea and air ports of entry across the United States.

CBP employees' mission is to protect the nation's borders at the ports of entry from all threats while facilitating legitimate travel and trade. At POEs, CBP Officers arrested more than 21,370 people wanted for crimes, including murder, rape, assault, and robbery. CBP Officers also encountered nearly 275,000 people attempting to enter the United States through an air, sea or land ports of entry who were found inadmissible for immigration, customs, health, criminal, or security reasons.

CBP trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money. CBP is also a revenue collection agency, processing nearly \$2.2 trillion in imports and collecting more than \$44 billion in duties, taxes, and other fees.

Low morale has been a consistent challenge at DHS. In both 2012 and 2013, NTEU submitted testimony to the House Homeland Security Committee about issues that contribute to low morale at DHS. (See NTEU's March 22, 2012 testimony entitled "Why is Employee Morale Low?" and NTEU's December 12, 2013 testimony entitled "Help wanted at DHS: Implications of Leadership Vacancies on the Mission and Morale").

Factors that contribute to low morale at DHS that I spoke to in previous testimonies are echoed in the 2016 Office of Personnel Management (OPM) Federal Employee Viewpoint Survey (FEVS). Though DHS has made some gains in 2016, it remains the lowest ranked large agency for employee engagement, global satisfaction and inclusiveness.

The major factor contributing to low morale at DHS, insufficient resources and staffing, is particularly acute at CBP OFO. The current CBP Officer shortage is staggering. There is an existing vacancy rate of nearly 1,400 funded CBP Officers at the ports, including over 350 positions at San Ysidro, 250 at Nogales and 200 at Laredo. And, according to CBP's analytic workload staffing model (WSM), an additional 2,100 CBP Officers need to be funded and hired in order to meet 2017 staffing needs—translating into **a total CBP Officer staffing shortage of 3,500 today.**

The economic cost of this shortage is also staggering. **For every 33 additional CBP Officers hired, the U.S. can potentially gain over 1,000 private sector jobs. If Congress fully staffed the ports with the needed 3,500 additional CBP Officers, 106,000 private sector jobs could be created.** Understaffed ports lead to long delays in travel and cargo lanes and also create a significant hardship for frontline employees. Both involuntary overtime and involuntary work assignments far from home disrupt CBP Officers' family life and destroy morale. Ongoing CBP staffing shortages directly contribute to CBP's perennial low ranking in federal employee workforce satisfaction surveys.

As you know, the President's January Executive Order calls for hiring 5,000 additional Border Patrol Agents (BPAs) and 10,000 new Immigration and Customs Enforcement (ICE) Agents, **but does not ask for one additional CBP officer new hire, despite the fact that CBP officers at the ports of entry in 2016 encountered over 274,000 undocumented immigrants and seized over 600,000 pounds of illegal drugs, and over \$62 million in illicit currency, while processing over 390 million travelers and \$2.2 trillion in imports through the ports.**

CBP employees at the ports of entry are not only the frontline for illegal trade and travel enforcement, but their role of facilitating legal trade and travel is a significant economic driver for private sector jobs and economic growth. According to CBP Fiscal Year (FY) 2013 data, for every new CBP Officer hired 33 private sector jobs are created.

Noting the positive impact of hiring additional CBP officers, it is troubling that even though Congress actually appropriated funding to hire 2,000 additional CBP Officers in FY 2014, CBP has only realized a net gain of less than 600 Officers as of January 2017, due to attrition and the amount of time it takes to onboard new CBP Officers.

### **CBP Officer Hiring Challenges**

NTEU continues to have significant concerns about the slow pace of hiring at CBP. CBP has struggled to fill the initial 2,000 positions Congress authorized in 2014.

One factor that may be hindering hiring is that CBP is not utilizing available pay flexibilities, such as recruitment awards and special salary rates, to incentivize new and existing CBP Officers to seek vacant positions at hard to fill ports, such as Nogales.

Another major impediment to fulfilling CBP's hiring goal is that CBP is the only federal agency with a congressional mandate that all front-line officer applicants receive a polygraph test. Two out of three applicants fail its polygraph—about 65 percent--more than double the average rate of eight law enforcement agencies according to data provided to the Associated Press. The eight law enforcement agencies that supplied information showed an average failure rate of 28 percent. As an example, the U.S. Drug Enforcement Administration failed 36 percent of applicants in the past two years.

NTEU commends Congress for including in the FY 2017 Defense authorization bill a provision spearheaded by Rep. McSally (R-AZ) that authorized the CBP Commissioner to waive polygraph examination requirements for certain veterans applying for CBP job openings. NTEU also commends Senators Flake (R-AZ), McCain (R-AZ) and Johnson (R-WI), for introducing S. 595, a bill that expands the authority to waive polygraph examinations to expand exemptions for veterans and allow exemptions for existing state and local law enforcement officers who apply for these positions at CBP.

NTEU does not seek to reduce the standards used by CBP in their hiring process, but believes that there is a problem with how the polygraph is currently administered. We ask for CBP to review its current polygraph policy to understand why CBP is failing applicants at a much higher rate than individuals applying to work at other federal law enforcement agencies. Also, because ICE does not require polygraphs for job applicants, it is likely that CBP will not be competitive with ICE in attracting new hires.

Improving the current polygraph program should help in expediting the CBP Officer hiring process so that the existing 1,400 vacancies can be filled and CBP can move forward with funding and hiring the 2,107 additional Officers as required by the WSM. NTEU also recommends that CBP allow immediate polygraph re-testing opportunities to those with a No Opinion or Inconclusive result, including those with a No Opinion Counter Measures finding.

Lastly, the best recruiters are likely current CBP Officers. Unfortunately, morale continues to suffer because of staffing shortages. In addition to being overworked due to excessive overtime requirements, temporary duty assignments are a major drag on employees, especially those with families. Based on their experiences, many officers are reluctant to encourage their family members or friends to seek employment with CBP. I have suggested to CBP leadership that they look at why this is the case.

### **Impact of Staffing Shortages**

Due to this ongoing current staffing shortage of over 3,500 CBP Officers, CBP Officers nationwide are working excessive overtime to maintain basic port staffing.

Currently, CBP Officer overtime pay is funded 100% through user fees and is statutorily capped at \$35,000 per year. All CBP Officers are aware that overtime assignments are an aspect of their jobs. However, long periods of overtime hours can severely disrupt an officer's family life, morale and ultimately their job performance protecting our nation.

Because of the ongoing staffing shortages, CBP Officers are required to regularly work overtime which results in individual Officers hitting the \$35,000 overtime cap very early in the fiscal year. This leaves no overtime funding available for peak season travel, holidays and other times when CBP Officers are expected to work overtime resulting in critical staffing shortages in the third and fourth quarter of the fiscal year that usually coincide with peak travel at the ports.

At many ports, CBP has granted overtime exemptions to over one half of the workforce to allow managers to assign overtime to Officers that have already reached the statutory overtime cap, but cap waivers only force CBP Officers already working long daily shifts to continue working these shifts for more days. Officers are required to come in hours before their regular shifts, to stay an indeterminate number of hours after their shifts (on the same day) and compelled to come in for more overtime hours on their regular days off as well. Both involuntary overtime--resulting in 12 to 16 hour shifts, day after day, for months on end--and involuntary work assignments far from home disrupt CBP Officers' family life and erode morale.

As cited in a 2008 GAO report, "[CBP] officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support and safety issues when officers inspect travelers--increasing the potential that terrorists, inadmissible travelers and illicit goods could enter the country." (See GAO-08-2 19, page 7.)

"Due to staffing shortages, ports of entry rely on overtime to accomplish their inspection responsibilities. Double shifts can result in officer fatigue...officer fatigue caused by excessive overtime negatively affected inspections at ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long stints in primary passenger processing lanes in order to keep lanes open, in part to minimize traveler wait times. Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports." (See GAO-08-219, page 33.)

These impacts, as reported to Congress by GAO, have changed little as CBP Officer staffing continues to lag far behind pedestrian, vehicle and commercial traffic volume at the ports. In fact, with 1,400 vacancies and 2,100 CBP Officer positions yet to be authorized and funded, the situation is even worse today.

Staffing shortages have also reduced the number of CBP Officers available to conduct more in depth secondary inspections. In the past, there were three inspectors in secondary processing for every one inspector in primary processing. Now there is a one to one ratio.

Without adequate personnel at secondary, wait times increase and searches are not done to specification. This is a significant cargo security issue. For example, a full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes. Frequently, only one CBP Officer is available for this type of search and this type of search will then take well over an hour.

Also, due to CBP's ongoing hiring delays, CBP has been diverting CBP Officers from other air, sea and land ports to the severely short-staffed Southwest land ports, such as the San Ysidro land port of entry. Since 2015, CBP has diverted Officers from their assigned ports to San Ysidro and more recently to Nogales for 90-day temporary duty assignments (TDYs.) In November 2016, CBP issued an updated TDY solicitation that directs 14 CBP Field Offices to provide 200 CBP Officers for TDYs to the San Diego and Tucson Field Office. For example, in this solicitation, CBP directed the Tampa Field Office to send 7 CBP Officers to the San Diego Field and 6 CBP Officers to the Tucson Field Office from January 9 through April 7, 2017.

**Ongoing staff shortages directly contribute to CBP's perennial ranking at the very bottom of the Partnership for Public Service's "Best Places to Work" Survey-- 291 out of 305 agency subcomponents on the latest survey.**

### **FY 2017 Supplemental Appropriations and FY 2018 Budget Requests**

The Administration released its FY 2018 budget submission to Congress that recommends \$44.1 billion in discretionary budget authority for DHS. This is an increase of \$2.8 billion or 6.8 percent over the 2017 annualized Continuing Resolution level.

The bill requests \$314 million to recruit, hire and train 500 new Border Patrol Agents and 1,000 new Immigration and Customs Enforcement Agents and support personnel. There is no mention of new funding to hire additional CBP Officers at the ports of entry.

In addition to the FY 2018 budget request, the Administration submitted a \$30 billion supplemental appropriations request for the remainder of FY 2017. This appropriations request would provide an additional \$3 billion for DHS implementation of the President's January 25, 2017 "Border Security and Immigration Enforcement Improvements" Executive Order. Of this \$3 billion increase, \$1.4 billion would be used to fund planning, design and construction of a physical wall along the southern border, \$1.2 billion to increase immigration detention and removal facilities, and \$286 million for CBP's border surge operations. The remainder of the \$3 billion supplemental appropriations request would be used to fund other programs related to meeting the goals of the President's January 25<sup>th</sup> Executive Order.

**NTEU is asking Congress to also prioritize and fund CBP staffing at the nation's air, sea and land ports by appropriating additional funding in the final months of FY 2017 and in the FY 2018 DHS appropriations bill to fully meet CBP staffing, resource and new mission needs at the 328 U.S. ports of entry.**

## **Conclusion**

Since 2010, federal employees have contributed \$114 billion to deficit reduction and economic recovery—an amount far greater than any other group in our society has been asked to sacrifice for these efforts. Federal workers have endured many challenges over the past several years—pay freezes, increased employee contributions for retirement, under staffing, deferred training, elimination of performance awards and other cuts—that have greatly contributed to low employee morale.

Despite these sacrifices by federal workers, the new Administration has proposed a hiring freeze for agencies which will only make federal employees' jobs harder. It is time for the voices of frontline workers to be heard and for Congress to treat them and all federal workers with the dignity and respect they earn and deserve.

The employees NTEU represents at CBP are frustrated and their morale is indeed low. These employees work hard and care deeply about their jobs. The more than 25,000 CBP employees represented by NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs, and our economy safe from illegal trade, while ensuring that legal trade and travelers move expeditiously through our air, sea and land ports, but frontline CBP Officers and Agriculture Specialists at our nation's ports of entry need relief. These men and women are deserving of more staffing and resources to perform their jobs better and more efficiently and are deserving of fair pay and benefits. They have not been receiving either. And those are the main reasons their morale is low.

Thank you for the opportunity to submit this testimony on their behalf.