



Anthony M. Reardon
NTEU National President

Anthony M. Reardon (Tony) is the National President of the National Treasury Employees Union. As the union's top elected official, he is the spokesman for the union and represents [NTEU](#) with the media, Congress and agency leadership on issues of importance to union members and federal employees. He leads NTEU's efforts to ensure dignity and respect for all federal workers.

Reardon is committed to working with NTEU chapter leaders and members to construct a shared vision for NTEU's future, one that prepares the union to meet the challenges ahead. He believes strongly that federal employees deserve fair pay and a secure retirement and has fought to give them the tools and resources they need to do their jobs.

Since his 2015 election as National President, Reardon has led the union and its members in obtaining federal pay increases and, in 2019, overturning a pay freeze. NTEU has successfully fought a number of threats to federal employees and the union's ability to represent employees, while also expanding congressional support for the federal workforce. Reardon has pursued an aggressive legal strategy to protect employees after the cyberbreaches at the Office of Personnel Management, defend a historic legal victory against anti-employee executive orders, and bring an end to federal government shutdowns.

In 2016, President Obama appointed Reardon to the [National Council on Federal Labor-Management Relations](#) and the [Federal Salary Council](#).

Reardon graduated from DePaul University in Chicago with a bachelor's in finance. He and his wife, Dawn, have four children and reside in Mount Airy, Md.



**STATEMENT FOR THE RECORD OF ANTHONY M. REARDON
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION**

**BUSINESS AS USUAL? ASSESSING HOW DHS
CAN RESUME OPERATIONS SAFELY**

**BEFORE THE SUBCOMMITTEE ON OVERSIGHT,
MANAGEMENT, AND ACCOUNTABILITY
COMMITTEE ON HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES**

June 16, 2020

Chairwoman Torres Small, Ranking Member Crenshaw, and distinguished members of the Subcommittee, thank you for the opportunity to testify before you today. As National President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 27,000 Customs and Border Protection (CBP) Office of Field Operations (OFO) employees, including CBP Officers, Agriculture Specialists and trade enforcement personnel stationed at the 328 land, sea and air ports of entry across the United States (U.S.) and 16 Preclearance stations at airports in Ireland, the Caribbean, Canada and the United Arab Emirates. CBP's OFO pursues a dual mission of safeguarding American ports, by protecting the public from dangerous people and materials, while enhancing the nation's global and economic competitiveness by enabling legitimate trade and travel. CBP OFO employees are responsible for border security, including anti-terrorism, immigration, anti-smuggling, trade compliance, and agriculture protection at U.S. ports of entry.

I commend the Committee for holding this hearing and closely monitoring the Department of Homeland Security's (DHS) plans for bringing more employees back to their worksites, their implementation of guidance, and how they are keeping employees safe. As more federal agencies begin to call employees back to their workplaces, many employees have expressed a significant amount of anxiety and fear about their ability to return to work safely. Their fears are understandable as more than 2 million Americans have been infected with COVID-19 and more than 115,000 U.S. residents have already died from this virus.

As coronavirus began to spread in the United States, the ports—including airports and land border crossings—were fully staffed and personnel were interacting with international travelers, many of whom came directly from or had recently traveled to places where the virus was already being widely transmitted between individuals. As volume of travelers fell, CBP OFO began

adjusting work schedules by providing some Weather and Safety Leave (WSL) for CBP Officers and Agriculture Specialists. These temporary CBP OFO work schedules allowed CBP port of entry employees to limit exposure to the virus and were the product of urgent discussions between employee representatives and management, with the twin goals of delivering the mission while promoting the health of these employees. Indeed, those two goals merge, because effective mission delivery is not possible without a healthy workforce.

These temporary schedule adjustment agreements were reached in late March as the number of international travelers at airports fell by over 90 percent and crossings at the northern and southern ports of entry dipped by as much as 75 percent. This allowed CBP to adjust schedules to limit the number of CBP personnel at ports while still meeting operational needs. It additionally allowed OFO personnel to more fully comply with Centers for Disease Control and Prevention (CDC) guidance to limit the spread of coronavirus by staying home, social distancing and avoiding groups as much as possible. The agreements were a smart way for local port officials to protect their employees, follow public health recommendations and respond to the lower volumes of international travelers. Under the revised schedules, CBP employees who were on leave were subject to recall and ready to return to the port at a moment's notice, should the need arise.

After initially permitting WSL at the northern and southwest border land ports, to NTEU's great consternation, in early April CBP unilaterally cancelled the use of WSL at the land ports. Therefore, for the most part, CBP Officers at these land border crossings have continued to work throughout the last three months of the pandemic at great risk to their health and safety. The CBP workforce as of June 9 has more than 459 confirmed COVID-19 cases, according to CBP-wide figures, and many more employees in quarantine.

Sadly, we have lost five officers who worked at the international ports of entry to COVID-19. I want to take a moment to honor these NTEU members by name: **CBP Technician Van Dong** worked in Agriculture Secondary at the Tom Bradley International Terminal, Los Angeles International Airport; **CBP Officer Richard McCoy** worked at the Fort Lauderdale/Port Everglades Port of Entry in Florida; and **CBP Officer Omar Palmer, CBP Officer Ching Kok 'CK' Yan** and **Field Technology Officer James Taylor** all worked at John F. Kennedy International Airport. NTEU mourns these losses with the family and friends of these Officers and appreciates their dedicated service to our nation.

The pursuit of the safest possible working environment for CBP employees at all ports of entry, trade, enterprise services and operations support facilities has been NTEU's paramount concern during the COVID-19 crisis. Throughout the pandemic, most international air, sea, and land ports of entry remained open and are staffed by CBP OFO employees 24 hours a day, seven days a week, 365 days of the year. There are unique, ongoing challenges to make sure health and safety precautions at all CBP worksites are comprehensive and effective. As international trade and travel struggles to return to normal, our CBP members deserve every possible safety precaution CBP can implement.

NTEU is working with CBP to ensure the following safeguards:

- On-site, free widespread COVID-19 and antibody tests for CBP employees. To date, DHS has not provided on-site testing and will not until there is a government or DHS-wide policy. NTEU also requested that CBP provide real-time notification of positive cases among employees.
- A contact tracing protocol that requires notification of CBP OFO employees exposed to asymptomatic travelers who subsequently test positive for the virus. NTEU is seeking a less restrictive time exposure requirement. NTEU has concerns that current DHS Guidance that CBP follows is insufficient to precisely define the duration of time that constitutes a prolonged exposure. Recommendations vary on the length of time of exposure from 10 minutes or more to 30 minutes or more. Brief interactions are less likely to result in transmission; however, symptoms and the type of interaction (e.g., did the person cough directly into the face of the individual) remain important.
- Increased cleaning of all terminals and work areas, including shared vehicles, staggering lanes, and cleaning booths between Officer rotations, not just between shifts. CBP has told us that staggering lanes and cleaning booths between rotations is a “best practice,” but acknowledged that it may be cost prohibitive at some ports.
- Plexiglass barriers on primary booths and in detention areas and promoting social distancing where possible. CBP acknowledged NTEU’s concerns about limited space in soft-secondary areas which may prevent maintaining safe social distances. They will do what they can to maintain such distances, particularly to ensure that safe distances exist between members of the public and officers working the counter.
- Proper and sufficient Personnel Protective Equipment (PPE)—masks, gloves, sanitizer, and wipes—for all employees, including Agriculture Specialists, and non-uniformed trade personnel. To promote officer safety, CBP requires N95 masks be worn in secondary when working in close proximity to others and that surgical masks be worn in primary booths. NTEU also strongly supports requirements for travelers to wear masks while being processed in air, sea, and land port primary booths.
- Adequate notice of return to work and adjusted work schedule policies to ensure appropriate physical distancing and staggered shift arrivals and departures.
- Maximize telework and other flexibilities, particularly for employees with children whose schools or child-care facilities are closed and those who rely on public transportation where social distancing may not be possible to get to work.
- Authorize telework or WSL for “high risk” CBP employees and for employees whose work is portable and are not assigned to frontline work at the ports.
- Allow WSL for quarantined and symptomatic employees who are still able to work. CBP has resisted providing WSL to symptomatic employees who are still working from home, saying they must take sick leave.
- Provide safety suits for CBP Officers and Agriculture Specialists entering confined spaces, such as ship holds.
- Provide parking subsidies to reimburse employees who choose to drive to work because of concerns with using public transportation.

In addition to Congressional support needed to ensure the above safeguards are in place and sustained at the ports of entry until an effective vaccine is made available, legislation is also

needed to further support employees. NTEU applauds the House for passing last month a fourth coronavirus legislative relief package that includes NTEU-backed provisions supporting and protecting federal employees during the pandemic. The Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, H.R. 6800, includes several NTEU-supported provisions that would impact federal employees, including:

- Creating a HEROES Fund that would provide federal employees with additional premium pay of \$13 per hour, up to a maximum \$10,000 for those whose basic pay is less than \$200,000, for either those who have regular or routine contact with the public or those who must report to a worksite where social distancing is not possible and other preventative measures are not available;
- Continued telework for all eligible federal employees throughout the pandemic, plus incentives for agencies to expand their telework programs.
- Allowing federal first responders, including CBP Officers, to stay in their current law enforcement retirement plans even if they are unable to meet the physical requirements of their position due to exposure to coronavirus and are moved to other civil service jobs.
- A presumption that federal employees who work with the public and are diagnosed with COVID-19 contracted it in the workplace, for workers' compensation purposes.
- Eliminating out-of-pocket costs for COVID-19 treatment under the Federal Employee Health Benefit Program.
- Extending the emergency leave provisions in the Families First Coronavirus Relief Act to all federal employees.

As Congress continues negotiations on legislation to respond to the impacts of the COVID-19 pandemic, we ask that you include additional language supporting federal workers on the frontlines who bear a significant share of the burden in responding to this crisis.

Legislation is needed to address the need for expansion of carry over annual leave hours due to the inability of federal workers to take annual leave during the pandemic. Under current law, carry over hours are limited to 240. Many CBP families have cancelled their scheduled vacations this year due to pandemic related inability to travel, destination shutdowns and required quarantines. We believe the earned annual leave of employees who are unable to take leave as they continue the important work of government and adhere to stay at home orders should be protected beyond the 240-hour limit. NTEU supports Rep. Wexton's bill (H.R. 6733) to ensure at least frontline workers responding to the pandemic can carry over excess annual leave. We urge Congress to pass it and to extend this benefit to all federal workers.

While many CBP personnel would be eligible for additional pay from the Heroes Fund included in the HEROES Act if it were enacted, NTEU believes CBP employees and other federal personnel should already be eligible to receive hazardous duty pay under existing law. Because of the nature of their jobs, many CBP employees have regular contact with the public and difficult to practice social distancing while working at the air, sea, and land ports of entry. According to the Schedule of Pay Differentials Authorized for Hazardous Duty Pay, one such hazard is: "Exposure to Hazardous Agents, work with or in close proximity to... (5) Virulent biologicals. Materials of micro-organic nature which when introduced into the body are likely to cause serious disease or fatality and for which protective devices do not afford complete

protection.” NTEU submits that COVID-19 exposure falls within this hazard, but to date, CBP has said that it does not, and has not paid either Hazardous Duty Pay or Environmental Differential Pay to those employees that are exposed to COVID-19 because of their work for CBP. NTEU urges Congress to pass a provision, like that in H.R. 6379, which would clarify that employees who have contact with the public and may be exposed to an individual who has or has been exposed to COVID-19 are eligible for this pay differential.

Lastly, the Federal Law Enforcement Training Center (FLETC) has reopened on a limited basis. NTEU has been told that students will be screened upon returning, quarantined for 14 days prior to the commencement of formal class training, tested twice during the quarantine period, and be provided ample PPE. In addition, class sizes will be smaller and other additional new practices have been put in place to ensure social distancing. Nevertheless, we have concerns about staff and instructors leaving at the end of each day and the chance that they could then bring the virus into the classrooms. We have raised those concerns and now FLETC will be testing high contact instructors (e.g. PT and Firearms) weekly.

FY 2020 CBP Budget Shortfall

One of the most critical pandemic related issues facing CBP OFO is the reduction of user fee funding that is threatening nation’s economic recovery as international trade and travel struggles to return to normal. This budget shortfall is a result of the reduction in customs and immigration user fees collected due to the drastic drop in international commercial travel, and to a lesser extent, trade volume since March 2020. As you know, CBP collects fees under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and immigration inspection user fees to recover certain costs incurred for processing air and sea passengers and various private and commercial land, sea, air, and rail carriers and shipments. The source of these user fees are commercial vessels, commercial vehicles, rail cars, private aircraft, private vessels, air passengers, sea passengers, cruise vessel passengers, dutiable mail, customs brokers, and barge/bulk carriers.

COBRA and immigration user fees together fund 40 percent of CBP’s OFO budget, including 8,000 CBPO positions. That is roughly one third of the entire CBP workforce at the ports of entry.

Due to the COVID-19 pandemic, travel and trade volume has fallen precipitously resulting in a significant reduction in the amount of user fees collected and a massive user fee shortfall of several hundreds of million dollars for CBP in FY 2020. CBP is projecting that they will spend all the fees they collect this year as well as any surplus from prior years before the end of FY 2020.

Further, the agency anticipates low fee collections due to a continued diminishment of travel volumes into FY 2021 due to the pandemic’s continued disruption of fee generating commerce. The length and degree of disruption caused by the pandemic is still unknown. Without appropriated funding to support these CBP officers in FY 2020, we are

gravely concerned that this loss of user fee funding could result in furloughs at a time when trade and travel will be struggling to return to normal.

U.S. businesses rely on the safe and efficient movement of goods and people across our borders and are all working to safely resume international travel and travel. Keeping current CBP Officer staffing levels will be necessary to successfully transition into a more robust, safe, and delay-free travel environment and improve cargo movement. Also, CBP will likely lose the hiring and staffing advances that they finally started to gain, after years of effort and much appreciated funding support by Congress, which will negatively impact cross-border travel, passenger processing and trade facilitation in future years as the economy returns to normal.

The critical issues that American businesses are facing to recover from this pandemic require quick, decisive action so that our government can best facilitate the flow of travel and trade as the economy recovers. Without supplemental appropriated funding to support these CBP Officers between now and the end of FY 2020, we are gravely concerned that this loss of user fee funding will result in furloughs at a time when this workforce is most needed to facilitate the flow of legitimate travel and trade as the economy recovers. Recently, NTEU and 15 industry leaders, including air and seaport authorities, the Border Trade Alliance and the U.S. Chamber of Commerce, have asked House and Senate appropriators to provide funding in either a DHS supplemental funding bill or in the next COVID recovery package to make up for user fees lost because of the pandemic and to help CBP respond effectively to the COVID-19 related challenges it must overcome now and in the future. It is our understanding that new trade and travel volume data collected by CBP shows a shortfall of over \$400 million through FY 2020 and a need for over \$1.5 billion in FY 2021 appropriations to cover user fee shortfall through the next fiscal year.

This FY 2020 CBP OFO supplemental funding request will help to ensure that current CBP Officer staffing levels are maintained as trade and traffic volumes increase. NTEU implores you to seek additional funding now so that CBP Officers can stay on the job during the economic recovery. CBP employees at the ports of entry already face many challenges in the course of their work and concerns about their health and safety or of being furloughed as the country reopens for business should not be among them.

In closing, we all understand federal workers' anxiety about their own safety during this pandemic as they work to keep our country safe. As leaders, it is important that we continue to do everything we can to mitigate the risks they face, and we need to encourage them to do so on an individual basis, for their own safety as well as their coworkers.

We deeply appreciate your efforts to support and protect federal employees throughout this crisis and encourage you to continue to provide strong oversight to help ensure the safety of all federal employees in this unprecedented time.