NTEU

The National Treasury Employees Union

TESTIMONY OF ANTHONY M. REARDON
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A REVIEW OF THE FY 2020 BUDGET REQUEST FOR
U.S. CUSTOMS AND BORDER PROTECTION

BEFORE THE COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON BORDER SECURITY,
FACILITATION AND OPERATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

May 9, 2019

Chairman Rice, Ranking Member Higgins, and distinguished members of the Subcommittee, thank you for the opportunity to submit this statement for the record. As 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) Officers, Agriculture Specialists and trade enforcement personnel stationed at 328 land, sea and air ports of entry across the United States (U.S.) and 16 Preclearance stations currently at airports in Ireland, the Caribbean, Canada and the United Arab Emirates. CBP's Office of Field Operations (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. OFO is the largest component of CBP responsible for border security –including anti-terrorism, immigration, anti-smuggling, trade compliance, and agriculture protection—while simultaneously facilitating lawful trade and travel at U.S. ports of entry that are critical to our Nation's economy. In addition to CBP's trade and travel security, processing and facilitation missions, CBP OFO employees at the ports of entry are the second largest source of revenue collection for the U.S. government. In 2018, CBP processed more than $2.8 trillion in imports and collected approximately $44 billion in duties, taxes, and other fees.

According to CBP onboard staffing data, there is a shortage of approximately 3,700 CBP Officers at the ports of entry. Unfortunately, the Administration has not included sufficient funding in its Fiscal Year (FY) 2020 budget request to address this significant staffing gap. Instead, the Administration's FY 2020 budget requests only $28 million to fund the hiring of 171 new Customs and Border Protection Officers, 91 Mission and Operational Support positions, and five Agriculture Specialists. According to CBP, these 267 new OFO employees in the FY 2020 budget request are designated to go to San Luis, AZ, Blaine, Cincinnati, and Boston. CBP's limited OFO personnel request is intended to test a "Proof of Concept" that if the

OFO allocations in its own Workload Staffing Model (WSM) at these four ports of entry are fully met, then these ports should function without excessive wait times, overtime or other economic consequences of short staffing.

While I am pleased that the Administration included some new funding for the hiring of critically needed CBP Officers, Agriculture Specialists and support staff, the FY2020 budget request for this "Proof of Concept" experiment does not by any means meet CBP's staffing needs. During post shutdown negotiations earlier this year, the House majority proposed funding 1,000 CBP Officer new hires, and ultimately the FY 2019 final funding agreement provided $58.7 million to hire 600 new CBP Officers.

According to CBP's most recent analytic workload staffing models— the FY 2018 CBP Officer WSM, the FY 2018 Agriculture Resource Allocation Model (AgRAM), and the FY 2017 Resource Optimization Model (ROM) for Trade Positions--an additional 2,516 CBP Officers, 721 Agriculture Specialists and at least 150 trade operations specialists need to be funded and hired in order to meet current staffing needs at the U.S. ports of entry.

CBP employees at the ports of entry are not only the first line of defense 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, for every 1,000 CBP officers hired there is an increase in the Gross Domestic Product (GDP) of $2 billion; $642 million in opportunity costs are saved (the amount of time that a traveler could be using for purposes other than waiting in line, such as working or enjoying leisure activities); and 33,148 annual jobs are added. **If CBP filled the 3,700 needed new positions, the impact could be as high as a $7.4 billion increase in GDP; a $2.38 billion savings in opportunity costs; and the creation of 122,650 new private sector jobs.**

In addition, according to the Joint Economic Committee (JEC), the volume of commerce crossing our borders has more than tripled in the past 25 years. Long wait times lead to delays and travel time uncertainty, which can increase supply chain and transportation costs. According to the Department of Commerce, border delays result in losses to output, wages, jobs and tax revenue due to decreases in spending by companies, suppliers and consumers. JEC research finds border delays cost the U.S. economy between $90 million and $5.8 billion each year.

CBP Officer Overtime

Due to the ongoing current staffing shortage of 3,700 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 $45,000 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.

In addition, since CBP Officers are required to regularly work overtime, many of these individual Officers are hitting the overtime cap very early in the fiscal year. This leaves no overtime funding available for peak season travel, resulting in critical staffing shortages in the third and fourth quarter of the fiscal year that usually coincide with holiday 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 are 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, significantly disrupt CBP Officers' family life and erode morale. As NTEU has repeatedly stated, this is not a long-term solution for staffing shortages at the ports and has gone on for far too long.

Temporary Duty Assignments at Southwest Land Ports of Entry

Due to CBP's ongoing staffing shortage, since 2015, CBP has been diverting hundreds of CBP Officers from other air, sea and land ports to severely short-staffed Southwest land ports for 90-day Temporary Duty Assignments (TDYs).

This past month, CBP announced a new round of CBP Officer TDYs—possibly exceeding 2,000—to be voluntarily reassigned not to ports, but to Border Patrol sectors across the southwest border. This redeployment is making the existing problems at the ports even worse and resulting in hours-long delays, since most of the CBP Officers being redeployed are from the nation's most short-staffed land ports on our southern border.

If these reassignments continue, they could lead to even more extensive staffing shortages at other critical land ports of entry on the southern and northern borders, and at international air and seaports. Reduced personnel numbers at other ports threatens CBP's capacity to carry out critical immigration, trade and health related inspections and to interdict illegal drug shipments.

According to a newly-released study "The Economic Costs of the U.S.–Mexico Slowdown," by the Perryman Group that was commissioned by IBC Bank in conjunction with the Texas Association of Business, Texas Border Coalition, Texas Business Leadership Council and the Border Trade Alliance, this most recent TDY has resulted in a significant slowdown at the US-Mexico border and led to substantial economic harms. Millions of trucks cross the southern border every year, and delays at the border cause logistical problems. The current slowing on the US-Mexico border is reducing efficiency and costing the US economy billions in output and hundreds of thousands of jobs.

The study further states that if the diversion of CBP Officers from the Southwest border international land ports continues, the state of Texas alone could lose more than $32 billion in gross domestic product in just over three months. If there is a one-third reduction in trade between the U.S. and Mexico over a three-month period, the cost to the US economy would be over "$69 billion in gross product and 620,236 job-years (when multiplier effects are considered). Almost half of these losses occur in Texas."

NTEU urges Congress to require CBP to allocate personnel and resources appropriately to ensure timely processing of people at all ports of entry and better manage the changing demographic flows at our southern border. To end all of these TDYs, CBP must fill existing CBP Officer vacancies and fund the hiring of the additional CBP Officers called for in CBP's own WSM. Without addressing the 3,700 CBP Officer shortfall, allocating adequate staffing at all ports will remain a challenge.

Opioid Interdiction

CBP OFO is the premier component at the Department of Homeland Security (DHS) tasked with stemming the nation's opioid epidemic--a crisis that is getting worse. According to a May 2018 report released by the Senate Homeland Security and Governmental Affairs Committee Minority titled *Combatting the Opioid Epidemic: Intercepting Illicit Opioids at Ports of Entry,* "between 2013 and 2017, approximately 25,405 pounds, or 88% of all opioids seized by CBP, were seized at ports of entry. The amount of fentanyl seized at the ports of entry increased by 159% from 459 pounds in 2016 to 1,189 pounds in 2017."

On January 26, 2019, CBP OFO made their biggest fentanyl seizure ever, capturing nearly 254 pounds of the deadly synthetic opioid at the Nogales port of entry. According to the Drug Enforcement Administration, just two milligrams of fentanyl is considered a lethal dose. From the January 26 seizure alone, it is estimated that **CBP Officers seized enough fentanyl to kill 57 million people.** That's more than the combined population of the states of Illinois, New York and Pennsylvania. The street value for the fentanyl was over $102 million. CBP Officers also seized an additional 2.2 pounds of fentanyl pills and a large cache of methamphetamine.

The majority of fentanyl is manufactured in other countries such as China, and is smuggled primarily through the ports of entry along the southwest border and through international mail and Private Express Carrier Facilities, e.g. FedEx and UPS. Over the past five years, CBP has seen a nearly 50 percent increase in express consignment shipments from 76 million to 110 million express bills and a 200 percent increase in international mail shipments from approximately 150 million to more than 500 million. Yet, according to CBP, over the last three years, there were only 181 CBP employees assigned to the five Postal Service International Service Centers and 208 CBP employees assigned to the Private Express Carrier Facilities. NTEU's funding request would allow for increases in CBP OFO staffing at these facilities.

Noting the positive impact of hiring additional CBP Officers, it is troubling that the President's 2017 Border Security Executive Order and his subsequent budget request did not ask for one additional CBP officer new hire. In 2017, CBP Officers at the ports of entry recorded over 216,370 apprehensions and seized over 444,000 pounds of illegal drugs, and over $96 million in illicit currency, while processing over 390 million travelers and $2.2 trillion in imports through the ports. Imagine what they could do with adequate staffing and resources.

Agriculture Specialist Staffing

CBP employees also perform critically important agriculture inspections to prevent the entry of animal and plant pests or diseases at ports of entry. Agricultural Specialists provide a critical role in both trade and travel safety and prevent the introduction of harmful exotic plant pests and foreign animal diseases, as well as potential ag/bio-terrorism into the United States. All ports of entry are currently understaffed relative to mission goals and workload requirements of

Agricultural Specialists. For years, NTEU has championed the CBP Agriculture Specialists' Agriculture Quality Inspection (AQI) mission within the agency and fought for increased staffing to fulfill that mission. The U.S. agriculture sector is a crucial component of the American economy, generating over $1 trillion in annual economic activity. According to the U.S. Department of Agriculture, foreign pests and diseases cost the American economy tens of billions of dollars annually.

Because of CBP's key mission to protect the nation's agriculture from pests and disease, NTEU urges the Committee to authorize the hiring of these 721 CBP Agriculture Specialists identified by CBP's AgRAM to address this critical staffing shortage that threatens the U.S. agriculture sector.

CBP Trade Operations Staffing

In addition to safeguarding our nation's borders and ports, CBP is tasked with regulating and facilitating international trade. CBP employees at the ports of entry are critical in protecting our nation's economic growth and security. **For every dollar invested in CBP trade personnel, we return $87 to the U.S. economy**, either through lowering the costs of trade, ensuring a level playing field for domestic industry or protecting innovative intellectual property. Since CBP was established in March 2003, however, there has been no increase in non-uniformed CBP trade enforcement and compliance personnel. Additionally, CBP trade operations staffing has fallen below the statutory floor set forth in the Homeland Security Act of 2002 and stipulated in the FY 2017 CBP Resource Optimization Model for Trade Positions. NTEU strongly supports funding for 140 new hires at the CBP Office of Trade through direct appropriations to support Trade Facilitation and Trade Enforcement Act implementation.

CBP Funding Sources

CBP collects Customs User Fees (CUFs) , including those under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 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 fees are deposited into the Customs User Fee Account and are designated by statute to pay for services provided to the user, such as 100% of inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. Of the 24,576 CBP Officers currently funded, Customs User Fees (CUFs) fund 3,825 full-time equivalent (FTEs) CBP Officers. Further, Immigration Inspection User Fees (IUF) fund 4,179 CBPO FTEs. **CUF and IUF user fees fund 8,004 CBPO FTEs or one third of the entire CBP workforce at the ports of entry.**

NTEU strongly opposes any diversion of CUFs. Any increases to the CUF Account should be properly used for much-needed CBP staffing and not diverted to unrelated projects. Unfortunately, while section 52202 of the FAST ACT indexed CUFs to inflation, it diverted this funding from CBP to pay for unrelated infrastructure projects. Indexing COBRA CUFs to inflation would have raised $1.4 billion over ten years—a potential $140 million per year funding stream to help pay for the hiring of additional CBP Officers to perform CBP's border security, law enforcement and trade and travel facilitation missions. **Diverting these funds has cost CBP funding to hire over 900 new CBP Officers per year since the FAST Act went into effect. These new hires would have significantly alleviated the current CBP Officer staffing shortage.**

In order to find alternative sources of funding to address serious staffing shortages, CBP received authorization for and has entered into Reimbursable Service Agreements (RSAs) with the private sector, as well as with state and local governmental entities. These stakeholders, who are already paying CUFs and IUFs for CBP OFO employee positions and overtime, reimburse CBP for additional inspection services, including overtime pay and the hiring of new CBP Officer and Agriculture Specialist personnel that in the past have been paid for entirely by user fees or appropriated funding. According to CBP, since the program began in 2013, **CBP has entered into agreements with over 149 stakeholders covering 111 U.S. ports of entry, providing more than 467,000 additional processing hours for incoming commercial and cargo traffic.**

NTEU believes that the RSA program is a band aid approach and cannot replace the need for Congress to either appropriate new funding or authorize an increase in customs and immigration user fees to adequately address CBP staffing needs at the ports.

RSAs simply cannot replace the need for an increase in CBP appropriated or user fee funding—and make CBP a "pay to play" agency. NTEU also remains concerned with CBP's new Preclearance expansion program that also relies heavily on "pay to play." Further, NTEU believes that the use of RSAs to fund CBP staffing shortages raises significant equity issues between larger and/or wealthier ports and smaller ports.

NTEU Recommendations

To address CBP's workforce challenges, it is clearly in the nation's economic and security interest for Congress to authorize and fund an increase in the number of CBP Officers, CBP Agriculture Specialists, and other CBP employees.

In order to achieve the long-term goal of securing the proper staffing at CBP and end disruptive TDYs and excessive involuntary overtime shifts, NTEU recommends that Congress take the following actions:

- Support funding for 600 new CBP Officers in FY 2020 DHS Appropriations;
- Support funding for 721 new CBP Agriculture Specialists, as well as additional Trade Operations Specialists and other OFO support staff;
- Address the polygraph process to mitigate excessive (60%) applicant polygraph failures;
- Fully fund and utilize recruitment and retention awards, and other incentives; and
- Restore cuts in mission support personnel that will free CBP Officers from performing administrative duties such as payroll processing, data entry and human resources to

increase the numbers available for trade and travel security and facilitation.

Congress should also redirect the increase in customs user fees in the FAST Act from offsetting transportation spending to its original purpose of providing funding for CBP Officer staffing and overtime, and oppose any legislation to divert additional fees collected to other uses or projects.

Shutdowns, pay freezes, and proposed cuts to benefits, rights, and protections do nothing to help with recruitment and retention of CBP Officers. The employees I represent are frustrated and their morale is indeed low. These employees work hard and care deeply about their jobs and their country. These men and women are deserving of more staffing and resources to perform their jobs better and more efficiently.

NTEU is not alone in seeking increased funding to hire new CBP Officers at the ports. A diverse group of business, industry and union leaders have joined forces in support of legislation and funding to hire more Customs and Border Protection personnel and alleviate staffing shortages at the nation's ports of entry. The coalition – which includes leading voices from various shipping, tourism, travel, trade, law enforcement, and employee groups –sent the attached letter urging House appropriators to provide the funding necessary to hire at least 600 new CBP officers annually (see Exhibit A.)

Thank you for the opportunity to submit this statement for the record.

Exhibit A

May 1, 2019

The Honorable Lucille Roybal-Allard
Chairwoman
Subcommittee on Homeland Security
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Fleischmann
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Roybal-Allard and Ranking Member Fleischmann:

As stakeholders interested in the facilitation activities of Customs and Border Protection (CBP) at land, sea, and air ports-of-entry around the globe, we urge you to provide additional appropriations in Fiscal Year 2020 for at least 600 new CBP officers over the current staffing level to help the agency meet its current and future staffing needs.

With CBP's onboard data and most recent workload staffing model showing a shortage of over 3,700 CBP officers, current staffing levels fail to address the growing demands of travel and trade at our ports-of-entry. Providing additional CBP officers at this time of growing volumes of international passengers and cargo will both reduce lengthy wait times and facilitate new economic opportunities in communities throughout the United States.

Increasing CBP officer staffing is an economic driver for the U.S. economy. According to the Joint Economic Committee (JEC), "every day 1.1 million people and $5.9 billion in goods legally enter and exit through the ports of entry." CBP estimates that the annual hiring of an additional 600 CBP officers at the ports-of-entry could increase yearly economic activity by over $1 billion and result in the addition of over 17,000 new jobs.

While the volume of commerce crossing our borders has more than tripled in the past 25 years, CBP staffing has not kept pace with demand. Long wait times at our ports-of-entry lead to travel delays and uncertainty, which can increase supply-chain costs and cause passengers to miss their connections. According to the U.S. Department of Commerce, border delays result in losses to output, wages, jobs, and tax revenue due to decreases in spending by companies, suppliers, and consumers. The travel industry estimates long CBP wait times discourage international visitors, who spend an average of $4,200 per visit, from traveling to the United States. JEC research also finds border delays cost the U.S. economy upwards of $5 billion each year.

We share your commitment to ensuring that America's borders remain safe, secure, and efficient for all users, while enhancing our global competitiveness through the facilitation of legitimate travel and trade. Therefore, we request at least 600 new CBP officers in Fiscal Year 2020 to continue building on the staffing advances made in recent years.

Thank you for your consideration of this request.

Sincerely,

Airports Council International – North America
American Association of Port Authorities
National Treasury Employees Union
American Association of Airport Executives
Borderplex Alliance
Border Trade Alliance
Cargo Airline Association
Cruise Lines International Association
Federal Law Enforcement Officers Association
Fresh Produce Association of the Americas
Global Business Travel Association
National Association of Waterfront Employers
New York Shipping Association
United States Maritime Alliance
U.S. Chamber of Commerce
U.S. Travel Association
West Gulf Maritime Association