



**TESTIMONY OF ANTHONY M. REARDON
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SEVENTEEN YEARS LATER: WHY IS MORALE AT DHS STILL LOW

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

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Chairwoman Torres Small, Ranking Member Crenshaw, 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) Office of Field Operations (OFO) employees, including 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 in Ireland, the Caribbean, Canada and United Arab Emirates airports. 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.

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. 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.

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.

Ongoing Morale Issues at DHS

Adequate staffing at CBP ports of entry is critical to our nation's economic vitality. In order to attract talented applicants, however, federal agencies must also recognize the importance of employee engagement and fair treatment in their workplace. Unfortunately, low morale has been a consistent challenge at DHS. For six consecutive years the Partnership for Public Service (PPS) *Best Places to Work in the Federal Government* ranked DHS last among large agencies surveyed. In 2019, PPS ranked CBP as 380th out of 420 component agencies surveyed with a drop of 2.1% from 51.6% in 2018 to 49.5% in 2019.

The *Best Places to Work* results raise serious questions about the department's ability to recruit and retain the topnotch personnel necessary to accomplish the critical missions that keep our country safe. If the agency's goal is to build a workforce that feels both valued and respected, these results show that the agency needs to make major changes in its treatment of employees. Widespread dissatisfaction with DHS management and leadership creates a morale problem that affects the safety of this nation.

Of particular concern to NTEU is the increase in suicides as the reported cause death of Federal employees. New data released by the U.S. Bureau of Labor Statistics (BLS) in the past month shows that Federal employee suicides are at their highest level in at least 15 years, with suicides accounting for 28% of the 124 Federal employee job-related deaths in 2018. BLS records the event as a job-related suicide if the suicide occurred at work or if it occurred elsewhere but can be definitively linked back to work. Since 2011, the number of self-inflicted intentional fatalities among Federal workers has more than doubled to 35, although the Federal workforce has remained approximately the same size.

Most suicides continue to involve Federal employees in work related to law enforcement, such as CBP. In 2016, 15 of the 16 reported suicides were by Federal workers employed at a national security related agency. At CBP, more than 100 employees died by suicide between 2007 and 2018, according to the agency itself. NTEU applauds CBP for seeking additional funding for their Employee Assistance Program (EAP). We also appreciate that CBP agreed to add NTEU representatives to a CBP workgroup that is working to address the unacceptably high rate of suicides among CBP personnel and develop a "Suicide Prevention Strategy." It is vital that this workgroup continue to include rank-and-file members' input as it develops a strategy to reduce the number of job-related suicides at CBP.

NTEU also strongly supports H.R. 1433, the *DHS Morale, Recognition, Learning and Engagement Act* or the *DHS MORALE Act*. The *MORALE Act* was approved by the full House last year and is awaiting action by the Senate. The bill directs the Chief Human Capital Officer (CHCO) to analyze government-wide Federal workforce satisfaction surveys to inform efforts to improve morale, maintain a catalogue of available employee development opportunities and authorize the designation of a Chief Learning and Engagement Officer to assist the CHCO on employee development.

H.R. 1433 also authorizes the establishment of an Employee Engagement Steering Committee comprised of representatives from across the Department, as well as individuals from employee labor organizations that represent DHS employees. Lastly, the bill authorizes the Secretary to establish an annual employee awards program to recognize non-supervisory DHS employees who have made a significant contribution to the Department. In our collective bargaining agreement with CBP, NTEU negotiated an extremely popular employee joint awards program. The Agency retains the discretion to determine how much of its budget will be allocated for awards, but 85 percent of the total awards budgeted are recommended by a joint union/management awards committee to be distributed proportionately among bargaining unit employees. NTEU recommends that DHS look at the negotiated CBP joint awards program as a model for an agency-wide program.

While a major factor contributing to low morale at CBP is insufficient staffing and resources at the ports of entry, the provisions in the DHS MORALE Act will help to address non-staffing issues that affect employee morale by improving frontline employee engagement and establishing a statutory annual employee award program. NTEU commends the Committee and the House for approving the *DHS MORALE Act* and urges the Senate to expeditiously do the same.

Many of the sources of ongoing employee morale issues at DHS are longstanding, but some are recent developments. A more recent cause is the lack of Senate-confirmed leaders at the top of the agency and among many of the components.

Between 2003, when the agency was formed, and April 2019, there have been six Senate confirmed DHS Secretaries. In November, the Administration named Chad Wolf as Acting Homeland Security Secretary, the third person to hold the department's top job since April. The agency also has no official Deputy Secretary, and multiple components—including Immigration and Customs Enforcement, Customs and Border Protection, Federal Emergency Management Agency and U.S. Citizenship and Immigration Services—lack a permanent leader. As you know, without Senate confirmation, agency leaders' ability to effectively carry out the duties of a cabinet official and component head is compromised.

Keeping an acting official in an important position can be interpreted as a signal that the Administration may not care much about that agency or that the acting agency head does not have the President's full support. Morale takes a hit when senior positions go unfilled. Such conditions can lead to poor productivity and a weakened chain of command. NTEU urges Congress to insist that the Administration stop the practice of filling DHS leadership vacancies with personnel operating in an "acting" capacity and send up nominations for confirmation by the Senate.

A second source of uncertainty that undermines morale at CBP are the Administration's workforce proposals that roll back existing civil service protections and benefits and Executive Orders (EOs) that severely disrupt labor and employee relations in the federal workplace.

NTEU believes in and strongly supports the Merit System Principles, which ensure that individuals are hired to work for the federal government based on merit, without regard to their

race, age, gender, political views, or relationship with the hiring official. NTEU also fully supports the application of veteran's preference in hiring decisions as part of our obligation to help those who have worked so hard to defend our nation and our freedom. DHS, in particular, has stated that it is committed to providing employment opportunities for our veterans and service members returning home from active duty and that it is the ideal employer to maximize the skills and training veterans have acquired while serving our country, as well as the commitment to serve and protect our nation.

At the same time, NTEU recognizes that the process used to hire new employees can be onerous. However, in our experience, some of the things that make the process onerous are the complicated extra steps that agencies include in their hiring process due to long-standing practice or fear of future litigation rather than requirements directly tied to the statute. For example, over the years NTEU has had significant concerns about the slow pace of hiring CBP Officers, some of which was due to concerns over how the polygraph test was being administered. While CBP has been making progress in reducing CBP Officer vacancies, they still struggle with a lack of funding to address ongoing staffing shortfalls.

Furthermore, despite ongoing congressional efforts to provide additional flexibilities to agencies to improve the hiring process and the time it takes to hire a new employee, agencies rarely use more than a few of the multiple tools available to them. It is critical that any effort to improve the hiring process include sustained and comprehensive training for all agency Human Resources (HR) professionals and opportunities for HR professionals in various agencies, not just the CHCOs, to meet with each other and experts at the Office of Personnel Management (OPM) and share best practices and challenges they are facing.

Proposals to ensure that hiring managers and subject-matter experts are part of the hiring process from the beginning and requiring part of a supervisor's performance evaluation to be based on personnel management, recruiting, hiring, and human capital responsibilities also have merit and can help in reducing the time to hire.

However, NTEU remains concerned with proposals to expand noncompetitive eligibility and hiring authorities such as that proposed in draft legislation that DHS provided to the Hill entitled, the *Department of Homeland Security Enhanced Hiring Act*. History has shown that agencies have abused such flexibility; using these programs as the only method of hiring, which undermined veterans' preference and civil service protections. Sweeping exemptions to hiring rules and regulations are extremely concerning as it could undermine the very principles that ensures that the civil service is non-partisan, based on merit, and reflects the citizenry it serves.

Despite the challenges in onboarding, changes to the hiring process will be of little help if the government cannot recruit and retain talented individuals. Government shutdowns, unnecessary forced relocations and proposed agency closures, disparagement by government leaders who refer to federal employees as bureaucrats or swamp creatures, pay freezes, threatened cuts to employee benefits, elimination of key work-life balance benefits such as telework, and ongoing efforts to roll back employee collective bargaining and due process rights and protections all make it harder to recruit a new generation of civil servants and have led talented federal employees to leave federal service.

Furthermore, recent OPM *Employee Viewpoint Survey* results show a drop in employee engagement scores, nearly 15 points below that of the private sector. Importantly, employee engagement is an outcome that depends on the actions of an organization, particularly the actions driven by leadership, managers, and those responsible for recruitment, onboarding, and other human resources functions. The extent to which employees feel passionate about their jobs and are committed to the organization has a direct link to the ability of agencies to recruit and retain skilled employees, improve performance, and meet their missions.

Federal Employee Pay and Benefits

Federal employee pay also plays a significant role in improving morale and the government's ability to attract and retain top talent. Unfortunately, according to the President's Pay Agent, years of below-market pay raises and pay freezes have increased the pay disparity between the federal government and the private sector to 32.71 percent, despite a 1990 federal law aimed at reducing the pay gap to 5 percent. This has a significant impact. While many federal employees believe in government service and agency mission is often listed as the number one reason they work for the federal government, massive pay disparities with the private sector undermine morale and efforts to recruit and retain skilled individuals who are drawn to public service.

While the President's FY 2020 budget request called for another pay freeze, NTEU is pleased that the President reversed course and, that in the end federal employees received an average 3.1 percent increase, comprised of a 2.6 percent across-the-board raise with 0.5 percent for locality pay, in the final FY 2020 funding agreement. Federal employees, like all other Americans, face rising food, utility, college, and health care costs. Adding to employees' concerns over pay are the Administration's proposals to slow the frequency of within grade step increases and limit the distribution of awards.

Last year, the Administration also proposed plans to issue guidance to agencies to change the way they allocate performance awards so that they are given to their most critical employees with the best performance instead of to all employees, regardless of occupation, that perform outstanding work. By focusing on the "most critical employees" for pay increases, we fear that agencies will focus on high demand skill sets, but ignore critical jobs needed to make agencies work. Employees in all jobs, at every level, are critical to an agency's success and by denying opportunities for awards and pay increases, agencies risk an increase in the number of career federal employees who leave the government and take their institutional knowledge with them. A pay system that limits compensation to randomly selected occupations will prohibit agencies from executing a whole-of-government approach to operations and will threaten agency performance and adversely impact recruiting and retention.

It is important to note that when CBP was created in March 2003, it was decided that all CBP Officers and Agriculture Specialists would be placed under one compensation system both for base pay and for overtime and premium pay. The Customs Officers Pay Reform Act (COPRA) is a critical part of the CBP OFO pay system. Under COPRA, overtime hours are directed (i.e. specifically assigned) and are user fee funded. COPRA has been extremely

effective in ensuring that international ports of entry have overtime funding to staff ports during high-volume periods and where needed to ease wait time due to staffing shortages. COPRA ranks high on employee satisfaction surveys and is critical to employee morale at the ports of entry. NTEU would strongly oppose any changes to the COPRA pay system.

The Administration's FY 2020 budget proposal also included several proposals to cut federal employee and retiree benefits that, if adopted, would exacerbate the existing hiring and retention challenges. Once again, federal employees were being asked to pay for unrelated funding decisions by paying more for their benefits while simultaneously reducing the value of those benefits.

NTEU opposes proposals that would negatively impact federal employee retirement benefits, including proposals to: (1) significantly increase Federal Employee Retirement System (FERS) employee contributions by about 1 percentage point each year until they equal the agency contribution rate, resulting in a 6 percent pay cut for most employees (2) base future Civil Service Retirement System (CSRS) and FERS retirement benefits on the average of the high five years of salary instead of the current high three, thereby lowering the value of the benefit (3) **eliminate the FERS supplement which approximates the value of Social Security benefits for those who retire before age 62, including for those, like CBP Officers, who must retire early due to their law enforcement work** (4) eliminate the annual cost of living adjustments (COLA) for the pensions of current and future FERS retirees and significantly reducing the COLA for the pensions of current and future CSRS retirees by about 0.5 percent annually, and (5) reduce the G Fund interest rate under the Thrift Savings Plan (TSP), thereby lowering the value of this TSP option.

The average federal employee cannot absorb the six to seven percent pay cut most would receive with the increased retirement contributions and annuitants need their COLA to keep up with the cost of living when on a fixed income. Federal employees are predominantly middleclass workers who cannot afford a retirement benefit that fails to keep up with inflation and will require them to work long into their senior years.

NTEU also opposes the Administration's proposal to change the Federal Employees Health Benefits Program (FEHBP) by significantly modifying the government contribution rate by tying it to each plan's performance rating. For many FEHBP enrollees, this would mean that the government's overall contribution rate would be lower than it is now, requiring enrollees to pay significantly higher premiums. Such a change would force employees to drop coverage or move to cheaper plans that provide less coverage and fail to meet the health care needs of their families.

According to the 2017 OPM Federal Benefits Survey, employees expressed that their TSP, FERS/CSRS and FEHBP benefits were extremely important to them (96.1%, 94.2% and 90.6% of respondents respectively). In fact, not only is the availability of a retirement annuity important to employees, the benefit has been shown to play a key role in recruiting and retaining them.

The FEHBP also has a significant impact on recruitment and retention. In 2017, 71.2 percent of survey respondents reported that the availability of health insurance through the FEHBP influenced their decision to take a federal job to a “moderate” or “great” extent, while 80.9 percent of respondents reported that the availability of health insurance through the FEHBP influences their decision to stay with their job to a “moderate” or “great extent.”

Given the popularity of these critical retirement and healthcare benefits, efforts to reduce them will have a significant impact on the ability of the federal government to recruit and retain skilled workers at CBP and other agencies and NTEU urges Congress to oppose such efforts.

Federal Employee Rights and Protections

Another significant cause of CBP employees’ concern are recent EOs that undermine federal employee unions and our ability to operate in federal workplaces. These EOs are currently being implemented at the bargaining table for agencies that are engaged in negotiations with their respective unions but are being challenged in the courts. Federal law clearly states that the right of employees to organize, bargain collectively, and participate through labor organizations in decisions which affect them safeguards the public interest and contributes to the effective conduct of public business. Front-line employees and their union representatives have ideas and information that are essential to improving the delivery of quality government services to the public. Through the collective bargaining process and the use of pre-decisional involvement, employees can have meaningful input resulting in better quality decision-making, more support for decisions, timelier implementation, and better results for the American people. It is important that these rights are maintained, and employees continue to have a voice in their workplace.

However, the Administration has engaged in an all-out assault on employee rights and protections—ignoring requirements to bargain in good faith, gutting collective bargaining agreements, imposing one-sided contracts, undermining employees’ rights in the grievance process, giving greater deference to agency management in disputes, and eliminating opportunities for employees to have a voice in their places of work. NTEU opposes all efforts to roll back the limited rights provided to federal labor unions, including limits on our ability to represent employees to ensure they are treated fairly and have a voice in the workplace. Such changes eliminate opportunities for employees to feel engaged and comfortable working with their agency leaders, thereby impacting retention.

Moreover, we oppose changes to employee due process rights, such as shortening the length of certain notice and response periods, limiting the ability of the Merit Systems Protection Board to mitigate penalties, and providing agencies with additional flexibility to use longer probationary periods, making those employees essentially at-will. These efforts can be used to intimidate workers into silence out of fear of retaliation for disclosing waste, fraud, and abuse.

Imposing anti-worker policies that eliminate fair and equitable treatment and instead create a culture of fear and mistrust is no way to attract and retain talented workers. NTEU is strongly opposed to these EOs and asks that Congress move to protect federal employee collective bargaining rights. Recently, 24 Senators introduced S. 3146, legislation that mirrors

provisions in the House-passed FY 2020 Financial Services and General Government Appropriations bill (H.R. 3351), that would prohibit agencies from implementing any collective bargaining agreement that was not mutually and voluntarily agreed to by all parties or the result of binding arbitration. NTEU strongly supports these efforts that would help address the Administration's assault on collective bargaining rights and ensure that agencies fulfill their statutorily mandated responsibilities to bargain in good faith.

NTEU also seeks the passage of H.R. 1316, the *Federal Labor-Management Partnership Act of 2019*, which would bring frontline employee voices and representatives back to the table at federal agencies, allowing employees and management to collaborate on workplace solutions and improvements.

CBP Staffing Shortages at the Ports of Entry

Finally, ongoing staffing shortages at the ports of entry continue to undermine morale at CBP. NTEU was pleased that the final FY 2020 funding agreement provides \$104 million for 800 new CBP OFO positions, including 610 CBP Officer and CBP Agriculture Specialist new hires to help address the FY 2019 onboard staffing shortage of 2,700 CBP Officers and 721 CBP Agriculture Specialists. NTEU strongly supports the funding level for CBP OFO employees in the FY 2020 DHS final funding agreement and urges Congress to increase these numbers in FY 2021 to address ongoing staffing shortages at the ports of entry. According to CBP onboard staffing data, even with the FY 2020 funding for CBP OFO new hires, there remains a shortage of approximately 2,000 CBP Officers at the ports of entry.

Due to the ongoing current staffing shortage, CBP Officers nationwide are working excessive overtime to maintain basic port staffing. 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.

The U.S. agriculture sector is a crucial component of the American economy, generating over \$1 trillion in annual economic activity. CBP Agriculture Specialists play a vital role in both trade and travel safety and prevent the introduction of harmful exotic plant pests and foreign animal diseases, and potential ag/bioterrorism into the United States. Unfortunately, even with FY 2020 funding for new hires, there remains a shortage of Agriculture Specialist at the ports of entry as determined by CBP's own Agriculture Specialist Resource Allocation Model.

To address the shortage of Agriculture Specialists who protect our food supply and agricultural industries at the border, legislation has been introduced in both the House and Senate. S. 2107 and H.R. 4482, the *Protecting America's Food & Agriculture Act of 2019*, would ensure the safe and secure trade of agricultural goods across our nation's borders by authorizing the annual hiring of 240 Agriculture Specialists and 200 Agriculture Technicians a year until the workforce shortage is filled. S. 2107 was recently approved by the full Senate and its companion bill, H.R. 4482, is awaiting House action. Because of CBP's mission to protect the nation's agriculture from pests and disease, NTEU urges the Committee to quickly consider and approve this important legislation

NTEU Recommendations

Ensuring that DHS can recruit and retain the best and brightest is essential for the safety and security of all Americans. In order to achieve the long-term goal of improving employee morale and securing the proper staffing at CBP, NTEU recommends that Congress take the following actions:

- **Support passage of H.R. 1316, the *Federal Labor-Management Partnership Act*, which would bring frontline employee voices and representatives back to the table at federal agencies, allowing employees and management to collaborate on workplace solutions and improvements;**
- **Support legislation and other efforts to preserve collective bargaining rights for federal employees;**
- **Encourage passage of H.R. 1433, the *DHS MORALE Act* by the Senate;**
- **Support FY 2021 funding for 1,200 CBP Officer, 240 Agriculture Specialist and additional mission support new hires at CBP OFO;**
- **Approve H.R. 4482 to authorize the funding of CBP Agriculture Specialist new hires up to the number specified in CBP's own Agriculture Specialist Resource Allocation Model; and**
- **Introduce and enact legislation to authorize the funding of CBP Officer new hires up to the number specified in CBP's own CBP Officer Workload Staffing Model.**

Thank you again for the opportunity to share NTEU's views on how DHS can build the most effective workforce, attract skilled and talented individuals, and engage federal employees throughout their careers.