

# NTEU Chapter 164 Newsletter

2nd Quarter 2015, Vol 1, Issue 10

*For the strength of the Pack is the Wolf, and the strength of the Wolf is the Pack.*

- Rudyard Kipling

## President's Corner: Overtime - Know your Rights

Dear Fellow Bargaining Unit Members:

Summer is here, and along with picnics, swimming, and vacations, comes CBP overtime. Overtime is a fact of life for most un-  
formed employees in CBP. Some people love it, and take all they can get. Others hate it, and avoid it at all cost. Most people are  
somewhere in-between these two extremes. Fortunately, NTEU has negotiated a series of rules on how overtime is to be as-  
signed. These rules can be found in Article 35 of the Collective Bargaining Agreement.

In general, overtime is assigned to volunteers first, by order of earnings, then to non-volunteers, by reverse order of earnings. Of  
course, it gets more complicated than this, but CBP is contractually bound to assign overtime in a fashion consistent with the con-  
tract. For example, employees who have been granted an excusal are generally exempt from overtime on their Fridays, or during  
periods of RDO or A/L, unless there is no one else left. Even then, management must pay callback/commutes before forcing an  
officer to work on his/her Friday or RDO or period of A/L. Further, employees should not generally be required to work overtime

if they worked 16 hours on the previous day. Also, all employees who are  
trained to do the job in question should be considered in the "pool" for over-  
time assignments. Again, all of these negotiated protections can be found in  
Article 35 of your Collective Bargaining Agreement. These are not protections  
bestowed upon you by law, or by a sympathetic CBP management struc-  
ture. Rather, these protections were negotiated and won at the bargaining  
table, by NTEU.

If you are aware of management not abiding by the terms of Article 35, please  
contact a union steward, and consider filing a grievance. It is only through the  
vigorous enforcement of the contract that employee rights are maintained.

And as always, these protections were secured by your union, through the  
efforts of attorneys and negotiators employed by NTEU, with the use of mem-  
ber dues money. Nothing is possible without members, so like I frequently say,  
ask a non-member to join today.

In solidarity,

Sean Albright  
Chapter President  
NTEU 164

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## Kelley: OPM Must Cover More Federal Employees Immediately

- NTEU National

Washington, D.C.—The Office of Personnel Management (OPM) must extend credit monitoring and identity-theft protection to federal employees whose files may have been compromised by the second cyberattack discovered on June 8, the head of the National Treasury Employees Union (NTEU) said today.

“NTEU is very concerned that employees affected by the second breach have not been notified or given the opportunity to sign up for services nearly two weeks after the breach was discovered,” NTEU National President Colleen M. Kelley said. “OPM should allow all federal employees to access these services without delay. In fact, that should already have been done.”

OPM said credit monitoring and identity theft protection services are being offered to 4 million people who may have been targeted in the first cyberattack disclosed on June 4. The second breach—which OPM disclosed to federal agencies on June 8 and notified the public four days later—affected many more federal employees and retirees and their family members than the original 4 million. Just how many more is unknown at this point.

Since some 2 million federal employees are already being offered these services as part of the first OPM reported breach, it should be a relatively small number of additional employees who need this coverage extended to them, Kelley said.

OPM has not said who was targeted in the second attack, what information was compromised and to what extent.

“OPM should support maximum relief and protection for federal employees and their families, take responsibility for the breach and employ all of the government’s resources to put a plan in place to ensure a catastrophic event of this

nature never occurs again,” President Kelley said. “Federal employees, who must supply their most personal information as a condition of employment, deserve the highest level of protection from their government. Clearly, they have not gotten it and that must change.”

Kelley also urged OPM to quickly resolve customer service problems at CSID, the private firm hired by the agency to provide credit monitoring and ID-theft protections.

NTEU members say CSID is telling them they can sign up only online and not over the phone. Callers are experiencing long waits to talk to operators and some notification letters are being sent to the wrong addresses, according to the NTEU leader.

So far, OPM has offered protections only to affected individuals in the first breach for 18 months. NTEU wants OPM to extend the coverage beyond 18 months. In addition, if the investigation into the second hack finds that data about federal employees’ spouses and children was compromised, the administration should extend coverage to federal employees’ families as well, the NTEU president said.

President Kelley’s comments came as the House Oversight & Government Committee held its second hearing into the cyberattacks on OPM databases.



## NTEU Chapter 164 Leaders

### Chapter President — **Sean Albright**

Day Shift on Monday & Thursday and

1600-2000 on Fridays 360-332-2640

Swings on Weekends 360-332-5707

### Chapter Vice-President—**James Pettaway**

Midnights Wed.—Sun 360-332-6091

360-332-2640

### Chapter Treasurer— **James Henderson**

Swings Monday - Friday 360-332-5707

### Chapter Secretary— **Kana Carman**

Days 360-332-8511

### Sumas Chief Steward— **Rayme Chapin**

Days Monday—Friday 360-988-2971 x240

### Oroville Chief Steward— **Clint Faulkner**

Days Monday—Friday 509-919-7206

### Vancouver Chief Steward— **Gary Ferrell**

604-278-7422

## TEPAC:

### *Influential and Impactful*

- NTEU National

The Treasury Employees Political Action Committee (TEPAC) is a critical tool in NTEU's legislative program.

TEPAC is how NTEU contributes to pro-federal employee candidates for Congress. As required by law, TEPAC draws its entire support from the voluntary contributions of NTEU members. Voluntary donations to TEPAC allow NTEU to support members of Congress who work to protect and defend the rights of federal employees and retirees.

NTEU's spring training conferences provide an opportunity to recognize and thank TEPAC high donors for their commitment to the program. High donors are those who have contributed at least \$150 per year to TEPAC, and each is recognized at a private reception with President Colleen M. Kelley and National Executive Vice President Anthony Reardon.



## Retiring Soon?

### *It could be worth thousands of dollars to remain an NTEU member*

- Sean Albright

If you are retiring soon, you might think that your time with CBP, and thus NTEU as well, is drawing to a close. While the former might be true, the latter need not be, and it could in fact be worth a lot of money to you to remain a member (retired) of NTEU.

Dues for retirees are just \$42 per year. NTEU lobbies Congress on behalf of federal retirees, addressing such issues as the cost of prescription medicine under FEHBP and Medicare, the amount of COLA (cost of living adjustment) to be given to retirees, the amount that retirees must pay for Medicare coverage, and a whole host of other issues of great importance to federal retirees. NTEU retirees also remain eligible for all the negotiated discounts and coupons that NTEU provides to its members, such as discounts on rental cars, moving services, amusement parks, etc. And remaining as a member (retired) allows you to continue to receive the NTEU Bulletin, e-mail notices from national CBP, the right to vote in local union elections, and the right to stand for office in the local NTEU Chapter.

But there is another very important reason to remain a member of NTEU after you retire. In the event of a grievance pay-out, resulting in lost wages being paid to former federal employees, the former employing Agency does not have to send out the proverbial St. Bernards to find people. According to the Regs, your former employer only needs to attempt to contact you at the last address/phone number that they have on file for you, from before the time you retired. If you happen to move after retirement, it is quite possible that your former employer will not be able to contact you to inform you of your eligibility to receive a payment from any settled grievances filed by NTEU.

Most of us know that there are several large national grievances out there, grievances where CBP has been ordered to pay many millions of dollars in back pay. These cases include the Goldstein case (bid and rotation violations), the Vaughn case (changes to inspectional assignments without negotiation), the Gootnick case (Title 5 scheduling violations), and several others, depending on your legacy Agency affiliation. CBP has appealed all of these cases, and in many instances, their available appeals are running out. But if your former employer can't contact you, you could

very well miss out on any eventual settlement or pay-out.

An excellent way to guard against such an unfortunate event is to remain a member of NTEU. If you are a member, and have provided a current and valid e-mail address to NTEU, the union will endeavor to inform all members when pay-outs are imminent, or have been made. This could very well prove the difference between receiving tens of thousands of dollars in grievance back pay, or receiving nothing.

So NTEU encourages you to remain a member of NTEU after you retire. We can supply you with the form that you have to submit, along with your remittance, to be a retiree member. Each October, you will receive a bill from NTEU for \$42, but your first year is prorated based on what month in the year you retire. You can also set up a convenient direct withdrawal from your checking account, or credit card, to dispense with the yearly paperwork.

Please speak to an NTEU steward for more information. It will be well worth your time.



# Blaine Area Port

## Grievances/Issues

- Forced movement from Cargo to other work units. Step 3 written grievance decision pending
- Improper Assignment of “hold-over” overtime assignments, where the contractual definition of a hold-over has not been met. Instead of going through the Article 35 call-out order, management is simply extending the tours of employees already on-site. Individual Step 3 grievance meeting to be held on 7/6/15. Larger, chapter-wide arbitration is pending in September.
- Management in Blaine unilaterally made changes to employee parking procedures. Step 1 grievance grievance decision is pending.
- Management has started offering TDY, without lodging reimbursement. This is a violation of contract and law. Step 1 grievance held on mid-June. Step 1 written response pending.
- Goldstein national grievance over Bid and Rotation. After a favorable decision from Arbitrator Goldstein, management presented its numbers to NTEU purporting to describe the monies it thinks it owes to individuals for improper reassignments to other work areas. After weeks of research, NTEU countered with its proposed numbers. Agreement could not be reached. A series of hearing will be held, with Arbitrator Goldstein, to try to work out the differences. A hearing addressing the situation in Vancouver was held in early June. The hearing to address Whatcom County ports is still pending. To date, CBP has paid no monies on this case, even to locations where agreement on the numbers was initially reached. An enforcement action through the FLRA and on to federal court is likely.
- Negotiations on the new Nexus Enrollment Center have stalled, as management will not commit to further discussion dates, or to the request of NTEU to meet with a mediator. A referral to the FSIP seems likely.
- Two arbitrations pending over CBP’s tendency to move employees out of their awarded bid schedules. One arbitration will address change in RDOs, the other will address change in shifts.
- Grievance recently settled concerning an employee facing personal discipline.
- Chapter stewards continue to represent 3 employees in personal discipline cases
- Chapter officials were in the process of helping an employee get a hardship reassignment to another port, with arbitration pending, when CBP allowed an unconventional employee swap to settle the case.
- Chapter officials are monitoring the situation concerning repromotions for CBPOs who took a downgrade to transfer from another location, and for accelerated promotions for employees who used to be BP Agents. Other locations in CBP have been more generous in granting these requests. If the trend continues, a grievance is likely.



*Northbound Rocky Mountaineer passing Peace Arch*

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# Weingarten Rights Turn 40

- NTEU National

One of the most important rights you have as a federal employee is the right to have a union representative during an investigatory interview. This year marks the 40th anniversary of this crucial protection for workers.

Weingarten rights, named after the 1975 Supreme Court case that gave rise to it, have helped many employees avoid potential problems and pitfalls during investigatory interviews. Consider this: an investigator is likely to give a more accurate account of the interview if a union representative is present.

Another advantage of having a witness is preventing management from intimidating employees to agree to things they otherwise would not agree to.

The 1975 private-sector case, *NLRB v. J. Weingarten, Inc.*, involved a clerk being investigated by the Weingarten Company. The Supreme Court found that the right to union representation was inherent in employees' right to organize for mutual aid and protection. Initially, the right to union representation was only available to private sector workers. When the 1978 Civil Service Reform Act was passed, Congress made Weingarten rights an explicit right of federal employees represented by unions.

3 things you should know

## 1. REQUEST

You must ask for representation. Although NTEU's contracts typically require it, do not assume your agency's managers will tell you about your Weingarten rights before the meeting or interview. It is up to employees to know their rights and ask for representation in discussions or interviews that could lead to discipline.

## 2. WAIT

The interview must be delayed for a reasonable time while you secure representation.

## 3. BE PREPARED

You have the right to consult with your representative before and during the interview.

What does an NTEU representative do?

If you get a call or an email for an investigatory interview, whether you are the subject of the interview or not, contact the union. NTEU chapter officials are trained on Weingarten rights and on how to prepare for investigatory interviews. The presence of NTEU stewards not only prevent coercion, but can facilitate the discussion.

NTEU can:

- Help employees during the interview by clarifying questions or answers.
- Help the employee provide favorable or extenuating facts.
- Object to intimidation tactics or confusing questions.
- Advise the employee on how to respond to questions.

What makes a meeting an "investigatory interview?" I want to know if I can use my rights. In order to ensure coverage by this statutory right, the following elements must be present:

- The meeting must involve questioning that the employee reasonably believes may lead to discipline.
- The questioning must be by a representative of the agency.
- The employee must ask for a representative



# Blaine Area Port

Continued from pg 5

## Grievances/Issues

- Unfavorable arbitration decision recently received concerning a personal discipline case. The arbitrator did agree that CBP could not use information against the employee that was either years old, or had never been presented to the employee.
- Chapter officials continue to pursue options to address CBP's improper decision to allow a passenger train to bypass inspection in Blaine. We believe this to be a violation of 19 CFR 123.11, and 8 CFR 235.2.
- Personal discipline case, including a firearms removal back-pay claim. The chapter has had great success with these in the past, as CBP continues to fail to follow its agreements with NTEU, and its own policies.



*Alaska bound cruise ship steaming past Fort Casey State Park, Whidbey Island. Olympic Mountains in the background.*

## Leave Flexibilities for New Parents in Effect

- NTEU National

Across the government, federal agencies are implementing leave options for new parents as directed by President Obama's executive order issued earlier this year.

NTEU worked with agencies to ensure they would implement as quickly as possible the executive order, which directed agencies to grant leave requests from employees for the purposes of childbirth, adoption and foster care to the extent permitted by law. Agencies had until June 15.

Employees may request up to six weeks of advanced sick leave, which may especially benefit new employees who have little or no leave accumulated. NTEU is

still focused on moving through Congress legislation that would provide paid parental leave when welcoming a new child into the family.

The executive order also covers other forms of parental leave. Employees may now take Family and Medical Leave Act (FMLA) leave to bond with their child. Employees may also request leave without pay (LWOP) to be absent from work for purposes related to pregnancy and childbirth.

# Beware: Venomous Port Tenants

- Clint Faulkner

Recently, nearly all officers in the Blaine AOR attended 6 hours of ASHI first-aid training. This training, which NTEU pressured the Agency to conduct for the last two years, fulfilled a long overdue requirement that each port have at least one qualified first-aid trained individual on each shift.

I attended one of the training sessions in Eastern Washington in May. Our instructor was an EMT from the Seattle area who had a good command of the various first-aid and CPR topics covered in the training. As well as teaching first-aid topics like the care of wounds, broken bones and burns, our instructor also spent time discussing the various venomous spiders and snakes of particular concern in our area. As anyone who has spent time in Eastern Washington can attest, we have at least a couple venomous pests to watch out for; namely the Western Rattlesnake and the Black Widow spider.

As our instructor pointed out, most hospitals now stock the appropriate anti-venom for snake and spider bites, so trying to remove the venom by sucking it out with your mouth is not recommended. Like most things we see in the movies, this is yet another instance of Hollywood modelling the wrong behavior. If you are bitten by a venomous spider or snake, you should remain calm and call 911 immediately.

To illustrate the point that we should remain vigilant while working at the ports, I share the following story:



The sixteen (16) black widows found around the Danville POE in just one day last October.



Not long ago, while working primary inspections at the Danville Port of Entry, I was alerted by a traveler that there appeared to be a couple spiders nestled into the track of the primary window. I looked closely at the spiders, who had apparently been mere inches from my hand for the majority of the morning, and I could see the tell-tale red “hourglass” shape on the underside of their torsos. Black Widows.

Not long after, we asked management to spray the perimeter of the port facility and buildings for unwanted pests, to include venomous spiders. While attempting to communicate to GSA the urgency of the situation, one of the officers collected 16 black widow spiders in a few hours from port grounds and sealed them in a plastic bag. He sent a picture of the black widows to management along with a note explaining where they had been found and, in a very short time, the port was sprayed.



## Issues and Grievances

# Sumas Area Port

- To date, the Agency has provided no official notice for the new office in Friday Harbor. Bargaining will begin once we receive official notice and NTEU National .
- NTEU recently advised management of an incident of unprofessional behavior by a supervisor. A resolution concerning the incident is currently being worked on by NTEU and management.
- A step one grievance concerning too many lights being turned on is being held until the Agency receives a report from GSA. GSA tested the “foot candles” of the lights but has not submitted the report to the Agency yet. This issue arose as a result of a supervisor who kept turning every light on at the port claiming that there was a minimum foot candles requirement at all port facilities. NTEU believes that fewer activated lights meets the minimum requirement.
- The Goldstein Arbitration is still ongoing.

*Our labor unions are not narrow, self-seeking groups. They have raised wages, shortened hours, and provided supplemental benefits. Through collective bargaining and grievance procedures, they have brought justice and democracy to the shop floor.*

—John F. Kennedy

## Issues and Grievances

# Vancouver Pre-Clearance

- A missed OT grievance was filed concerning missed overtime for a total of 41.5 hours. The grievance has worked itself through the third step of the grievance process. NTEU has requested full monetary payment for the missed overtime hours. NTEU is currently awaiting a response from the Agency.
- NTEU is currently assisting an employee in their hardship transfer request.
- Goldstein Arbitration is still ongoing. A hearing with Goldstein was held in mid-June to try to work out the differences between CBP’s numbers and NTEU’s numbers. We are currently awaiting the decision.
- The Chapter continues to pursue issues related to legal coverage for officers working in Canada, in locations that are outside the Preclearance Agreement. I.E., the cruise ship terminals, the train station, and Victoria. A new pending Agreement between Canada and the U.S. might fix some of the problems, but right now there is no coverage at the locations mentioned.

# Oroville Area Port

## Grievance Updates:

- ◆ Arbitration was recently scheduled over management's failure to adhere to the provisions of the call-out order in Article 35 when assigning OT to TDY officers. A pre-arbitration agreement is currently in the works.
- ◆ Arbitration has been scheduled concerning a grievance which was filed in response to CBP Internal Affairs violations of the CBA and long-standing past practice when they denied union representation to Third Party witnesses.
- ◆ A grievance was settled concerning Oroville management's denial of an officer's requested excused absence on a holiday.
- ◆ A grievance was filed over management's retroactive change to the 2015 Leave Draw procedures. As a result, an agreement was reached whereby each officer within the Blaine AOR, except Blaine, Oroville and Frontier, will be allowed to request and be granted up to 4 separate, consecutive leave requests (leave must be consecutive and not exceed a total of 14 days) in round #4 of the Annual Leave draw process.

## Negotiations/Issues Update:

- NTEU represented an officer who was involved in a personal discipline case stemming from an off-duty incident. The officer was cleared by the Agency of any and all wrongdoing in that case.
- NTEU is currently representing an officer in a personal discipline case who has been charged with a violation of CBP policies. The oral reply in that case is upcoming.
- While the Goldstein Arbitration decision is not applicable in Eastern Washington due to its focus on Work Unit assignment, the Gootnick Arbitration decision is applicable and is ongoing.

## New Grievances:

- ◆ A grievance has been filed over management's failure to post a temporary assignment at the Oroville POE. The grievance in that case is currently at the Step-1.



Stewards' training in Colville, Washington. Back Row L-R: Chris Haddad, Clint Faulkner, Ken Boltz, Dave Alumbaugh. Front Row L-R: Sean Albright, Gabriela Potter, Barbara Renne.