



## **Postal Police Officers Association Member Update**

**April 9, 2017**

Greetings:

### **NEGOTIATIONS:**

The current CBA expires on April 14, 2017. A short review of the process:

Work rules (contractual language) are negotiated prior to discussion of economic proposals. The Union and the Agency both submit proposals. The parties then negotiate over these proposals (where we are, at present). If settlement cannot be reached on work rules, discussions can continue or the parties can declare impasse.

If proposals are withdrawn, current contractual language remains. If impasse is declared on work rules and/or economics, the Union and management are mandated to proceed to either non-binding mediation or binding interest arbitration.

We recently concluded our second round of work rule negotiations. A number of proposals submitted by the parties have been or will be withdrawn. Several proposals will result in tentative agreements (TAs)(as part of an entire negotiated work rule and economic package). These settlements (language changes) will be presented to the Executive Board (EB) for a vote. That's Step 1.

Step 2. Once work rules TAs are reached, we begin economic negotiations--the process being similar to work rules with one major difference--the Union will likely not withdraw or greatly amend its initial financial proposal. We know what the members deserve and expect. More importantly, only DUES PAYING MEMBERS have the important function of ultimately accepting or rejecting any tentative agreement (therefore, you the members will decide whether we proceed to interest arbitration)--that is unless, of course, the Agency puts forth a position similar to that of 2012, when their last, best, and final

economic offer to PPOs was a delusional and offensive 5% pay cut (we didn't need a membership mandate on that stupidity).

The bottom line is this--the Union yields significant bargaining leverage (evidentiary and testimonial) and we intend to utilize this leverage for a long overdue, reasonable, and warranted salary increase. Put simply, a lot of hard work went into building a position of strength, but rest assured, the Union is where it needs to be going into economic negotiations.

Step 3. To repeat--if the Union and Management reach a financial tentative agreement, the membership votes to ratify. Notice, the word "membership"--scabs have no say and no vote (nor do they contribute a red cent to the fight). If the membership ratifies, a new CBA will be the result. If the membership chooses not to ratify, we can attempt to renegotiate the terms of the settlement or declare impasse.

We sincerely hope to achieve a negotiated Agreement. That being said, rest assured that should the Agency again decide to economically insult the PPOA and the PPOs it represents, we will be content to proceed to binding interest arbitration.

### **LYING/FALSIFICATION:**

The easiest way to get fired is by lying to management or falsifying documents. The Union implores you--DO NOT LIE OR FALSIFY ANY DOCUMENTATION. If you are required to submit a report or documentation of any kind, you are much better off--not doing so--than falsifying information. For example, you're assigned a patrol which requires some sort of documentation. For whatever reason, you don't do a patrol. In this case, do not fill out a patrol sheet. Instead, hand in nothing. If asked, where's the patrol sheet? --You say "I guess, I never handed one in," or "I forgot to hand one in" or "I don't know." The point is--whatever your answer is, as long as it's true, management will have no grounds for removal. On-the-other-hand, lie or falsify documents and you just made things much worse.

### **KNOW YOUR RIGHTS:**

All PPOs have the right to Union representation during investigatory interviews conducted by Postal Police management, Postal Inspectors or OIG agents. It is important to understand your rights in any of these situations, but it is critical to understand the different types of warnings a postal inspector or an OIG agent may issue when an investigatory interview crosses over into the realm of a possible criminal investigation.

The 1975 U.S. Supreme Court decision in NLRB vs. J. Weingarten gives each PPO the right to representation during any "investigatory interview which he or she reasonably believes may lead to discipline." These rights are commonly referred to as Weingarten rights. The Postal Service is not required to inform you of these rights. A steward cannot exercise these rights for you. If you are asked a question by management that you believe could lead to discipline, you are responsible for requesting your shop steward.

Management can request that the interview continue but you do not have to agree to it. Instead, insist that you want a union steward. Management is required to provide a steward upon request.

Once a steward has been provided, you have the right to a private discussion with the steward before the interview continues. You also have the right to a steward's assistance, not just a silent presence. The employer would violate your Weingarten rights if they refused to allow your representative to speak, or tried to restrict the steward to the role of a passive observer.

When an investigatory interview is being conducted by postal inspectors or an OIG agent, an employee may be read warnings. The most well-known warning is Miranda.

As we all know, once this warning is given, anything you say can be used in a court of law to try to prove guilt. If you are given a Miranda warning, you should consult with an attorney before answering any questions. In plain English, you need to SHUT UP and request a lawyer. Postal inspectors and OIG agents often present a PS Form 1067, "Warning and Waiver of Rights" and request that employees sign it. By signing this form, a PPO would waive their Miranda rights. NEVER sign this form without consulting an attorney.

Unfortunately, ELM Section 665.3 requires that all postal employees must cooperate with postal investigations. Therefore, the Postal Service can take disciplinary action against you if you refuse to cooperate during a normal investigatory interview. This would appear to put the employee in an impossible situation; either answer the question and risk criminal charges, or refuse to answer and risk the possibility of discipline for "failure to cooperate" in an investigation.

This dilemma was resolved by the federal courts in the Kalkines and Garrity decisions.

The Kalkines warning requires employees to make statements and cooperate, even if it could lead to being disciplined or discharged, but provides criminal immunity for their statements. An example of a Kalkines warning, though the exact wording may vary, could read something like this:

"You are being questioned as part of an internal and/or administrative investigation. You will be asked a number of specific questions concerning your official duties, and you must answer these questions to the best of your ability. Failure to answer completely and truthfully may result in disciplinary action, including dismissal. Your answers and any information derived from them may be used against you in administrative proceedings. However, neither your answers nor any information derived from them may be used against you in criminal proceedings, except if you knowingly and willfully make false statements."

This warning means PPOs must be truthful, but can do so without their answers being used against them in criminal proceedings.

A Garrity warning advises employees of their criminal and administrative liability for any statements made, but also gives the PPO the right to remain silent. An example of a Garrity warning, though the exact wording may vary, could read something like this:

You are being asked to provide information as part of an internal and/or administrative investigation. This is a voluntary interview and you do not have to answer questions if your answers would tend to implicate you in a crime. No disciplinary action will be taken against you solely for refusing to answer questions. However, the evidentiary value of your silence may be considered in administrative proceedings as part of the facts surrounding your case. Any statement you do choose to provide may be used as evidence in criminal and/or administrative proceedings.

The Garrity warning allows Inspectors and OIG agents to use your statements against you in both administrative and criminal investigations. If you are given a Garrity warning, you should remain silent and consult with an attorney before answering any questions.

The bottom line is this. We are police officers. Be professional. Be above reproach.

We welcome your thoughts and suggestions.

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and

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