

# American Postal Workers Union, AFL-CIO

## Memorandum

Telephone  
(202) 842-4246

1300 L Street, NW  
Washington, DC 20005

From the Office of WILLIAM BURRUS  
President

August 2, 2010

TO: National Business Agents

SUBJECT: USPS/OIG Agent

An unnamed postal inspector forwarded the attached to my office. It reflects the personality of someone who has an ax to grind with the internal system. However, I am sharing it with you for your consideration for use in arbitration. In many cases involving removal, the inspectors are the principle witness for management but you may have the opportunity to question their credibility since their compensation is based in part on the outcome of the case.

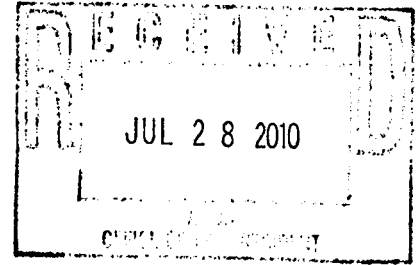
I invite you to read the letter to determine if the agent's internal process creates opportunities for our defense.

Enclosure

WB:RB:hjp//opeiu#2/afl-cio

*William Burrus, President*

American Postal Workers Union  
1300 L Street, NW  
Washington DC 20005



Mr. Burrus:

I am an agent with the USPS-OIG, and I'm writing to you to expand upon those thoughts offered by Arbitrator Cannavo during his regional arbitration award (case number H06C-4H-C 08135990) involving the alleged theft of \$5.00 by an APWU employee and subsequent arrest by USPS OIG agents. Arbitrator Cannavo is absolutely correct when he concluded that the integrity of the grievance procedure is really at issue in the grievance. I believe he is also partially correct when he stated that the "conduct of the OIG was motivated by malice." The purpose of this letter is to explain the reasons why Arbitrator Cannavo is correct in his assessment. The reasons are most alarming and may impact hundreds of OIG (arbitration and non-arbitration) cases across the country.

Without knowing the reasons behind the agent's actions, it is easy to blame only the agent for his/her actions in this particular case. By the time you finish reading this letter you will better understand the motives behind the agent's actions and better able to place the blame on the responsible parties. I ask, why would any OIG agent say that he/she was not happy to see a three-decade employee of the Postal Service with an impeccable record reinstated? Why would any OIG agent say that he/she is not obligated to comply with any contract or agreement between the Postal Service and the APWU? Why would any OIG agent say that the Postal Service (the agent's ultimate employer) has no control over the OIG? Agents in the field believe that these sentiments are shared and communicated by our OIG leadership in headquarters.

The biggest reason for the actions of the OIG agent in the above-referenced case is most disturbing, and is directly linked to our newly implemented pay-for-performance ranking system. The agents in the field believe that the conduct of the OIG agent was motivated more by money than by malice. As I will attempt to explain in detail, the OIG operates strictly on a commission-based performance ranking system as it relates to bonuses and base salary increases to employees on a yearly basis. Assistant Inspector General for Investigations Bill Siemer has implemented a system that ranks in chronological order not only the individual Area Offices (1 to 8), but all the employees (for everyone's viewing) based on how well one does in achieving some of the following results: "high impact cases", "removals, retirements, resignations", "convictions", "category 1 cases", and "fines, restitutions, recoveries". The straight ranking determines the agent's bonus and/or annual percentage increase to pay. Therefore, the higher the ranking the more money you will receive in bonuses and/or salary increases. The question that needs to be asked with this type of ranking system is, does the commission-based system change the agent's job from impartial, independent fact gatherer to a less objective, less impartial, and less independent investigator? We overwhelmingly believe in some instances that the agent becomes more personally involved and less objective than he/she would normally be as a result of the pay-for-

performance ranking system. Please note that the managers in each field office place a tremendous amount of importance on the rankings since it determines their bonuses at the end of the year. In some cases, the agents operate out of fear, intimidation, and harassment to improve on their own rankings to help improve the office rankings at the end of the year.

Let us take a closer look at case number H06C-4H-C 08135990, and some of the factors that may have influenced the agent in this case. The case agent is investigating a financial fraud case that involves the alleged theft of money by a postal employee inside a post office. The agent is very cognizant of the fact that he/she is being ranked based on his/her ability to work "high impact" cases as well as obtain an administrative and criminal outcome. In order to achieve "high impact" on this case, the case agent needs to achieve a criminal statistic to include a conviction, guilty plea, pre-trial diversion, or judgment in order to receive a point total of 220 or more. A point total of 220 points or more defines a "high impact" case in this particular program area. If the case is worked in a timely fashion, and the employee is removed or resigns or retires, and is subsequently required to pay the \$5.00 (restitution) he/she allegedly stole, the agent will still not achieve "high impact" on this case based on the number of points he/she will receive for each of the outcomes listed. The agent still needs to obtain a criminal outcome to get to the 220 point level. It's important to note that the highest point totals are achieved through obtaining a criminal outcome (potential 102 points) and then followed by an administrative outcome of removal/resignation/retirement (potential 75 points).

Based on the system, the agent lost 75 points toward the 220 points needed to get the "high impact" when the employee was reinstated, and the agent lost the administrative outcome statistic which is also used to rank the agent and office, and thus may explain the agent's bizarre response that he/she was not happy that the (innocent) employee had been reinstated. Why would the agent care whether the employee had been reinstated if the agent is simply an impartial fact gatherer in this case? More importantly, why would the agent seek the arrest and conviction of an employee over an alleged \$5.00 theft particularly since the employee was just reinstated to his position? What you need to know is that based on the system, the agent can still achieve "high impact" if only he/she is able to get a criminal outcome in the case. By not getting the criminal outcome and administrative outcome in this case, the agent is unable to move up in the rankings among his/her counterparts, and therefore is in jeopardy of receiving less money at the end of the year. As important, the agent does not contribute to the overall office success in terms of rankings. Remember, the agent's bonus and salary increase is tied directly to the individual and office rankings.

In addition, based on the point system, the agents tend to decline to work cases that will not result in a high administrative outcome (75 points) which is dictated by a removal, retirement, or resignation (which usually include lower priority cases). The question now becomes, how does the agent determine whether the case will result in a removal, resignation, or retirement? In some cases, the agent will ask the employee's direct supervisor prior to gathering any of the evidence in the case if the employee is likely to receive a notice of removal if the allegations are proven true. In some cases, the agent will inform the supervisor that he/she will not investigate the allegations unless the supervisor agrees to issue the employee a letter of removal if the allegations are proven true through the

investigation. To make matters substantially worse, OIG management has directed OIG employees to meet with postal managers and labor relations managers/representatives to inform them that we (OIG) are not pleased when the letter of removal is not issued (as promised) or is later rescinded during the grievance process. In other cases, agents have voiced their disagreement directly with postal service management's decision during the grievance process when the initial action is reduced or rescinded because it adversely affects the agent's ranking among his/her peers.

It's important to understand that those employees who rank low are also subjected to embarrassment and humiliation among their peers since the rankings are visible to all employees in the agency. In addition, low rankings can not only result in less pay to the agent but also result in poor employee performance evaluations and possible discipline. The OIG has intentionally circumvented the entire grievance-arbitration process, and we believe they were fully aware of the consequences prior to the implementation of this commission-based ranking system because they were forewarned.

### **Organizational Knowledge**

As reflected in AIGI Siemer's newsletter dated November 2009, AIGI Siemer indicated that he had received negative feedback on the ranking system during the ASAC conferences in Dallas and St. Louis in October 2009. Specifically, AIGI Siemer stated that one of the concerns voiced during the conference was having "performance data visible to everyone, especially the rankings of the offices in each performance measure, may have a negative impact on morale and performance." He further stated that the feedback reflected a concern that "we're creating an unhealthy competitive environment and folks will become completely focused on their own individual PFP potential. I suppose that's possible." However, Siemer then goes on to argue his own perspective in light of the negative feedback. He concludes that "our PFP system is based on scores being awarded to teams first and individuals second. If a team (an Area office) doesn't do well, then individuals have less chance of getting high scores. And if individuals can't see how well or poorly their team is doing, then they have no idea whether their own performance is helping or hurting their team." AIGI Siemer appears to be the architect of this system, and refuses to acknowledge the problems when using a commission-based ranking system for law enforcement agents despite fierce opposition from the field.

In the aforementioned newsletter dated November 2009, AIGI Siemer stated that "representatives from each Area office attended a performance management seminar in Pittsburgh hosted by DSAC Rob Lapina and ASAC Ken Cleevely. It's important to note that we have been told that Ken Cleevely (Eastern Area) had lectured on a system he had developed that would enable the manager to determine what type of cases the office could investigate without adversely affecting the office rankings. For example, we were told that Ken Cleevely's system enabled the office to determine how many non-category one cases the office can open without adversely affecting the office's category one ranking, and how many cases can be opened regardless of the scorecard outcome to maintain a certain percentage of "high impact" cases. AIGI Siemer further stated in his newsletter that "No other office analyzed their data better than the Eastern Area did last year ..." "I expect the training we're giving to all the offices in data analysis will help everyone achieve the same kinds of success."

Now, let us fast forward to the Cannavo award. Just recently, our Assistant Special Agent-in-Charge shared a memo from AIGI Siemer dated April 22, 2010 where AIGI Siemer attempts to distance himself from any responsibility for the ranking system he created and implemented. He stated, in part, "we developed the ability to rank and compare data in all of our offices and among our agents. Our expectation was that people would evaluate new allegations for potential impact to postal and assess whether it was a 'good case' to work." Why would he expect that to happen? He was informed that the agents would evaluate the potential impact to themselves based on the ranking. AIGI Siemer clearly admitted that in his November 2009 Newsletter. It's also important to note that prior to the Cannavo award, AIGI Siemer always used the term "high impact" case as opposed to "good case". We are not ranked on "good" cases but rather "high impact" cases. He further stated in his email, "What I'm discovering is that allegations are being evaluated purely on their impact to the overall office ranking and whether working one more Cat 3 case is going to drop them from 1<sup>st</sup> to 5<sup>th</sup> in the rankings." This is exactly what Ken Cleevely's (Eastern Area) system was intended to do, and is the system Ken Cleevely relied heavily upon in the Eastern Area. This is the training AIGI Siemer claimed would "help everyone achieve the same kind of success" as experienced in the Eastern Area.

AIGI Siemer further admitted in his email that he has "even heard that some agents are telling postal managers that they can't open a particular allegation because it's Cat 3 and will impact their PFP, without any consideration for whether the case is worth working or not." The reason agents decline to work category 3 cases is because it adversely affects the agent's and office's rankings in a number of performance measures (and therefore adversely affects their bonus and salary)—percentage of category one cases opened; unable to obtain a removal, resignation, or retirement; and unable to obtain a criminal statistic. Furthermore, in AIGI Siemer's newsletter dated May 2010, AIGI Siemer stated that "It seems as though PFP has become the focus and that field offices have stopped reviewing cases in terms of their value on the Postal Service and more in terms of how a given case might allow them to statistically gain ground within the rankings." When AIGI Siemer states that agents make decisions that allow them to statistically gain ground, one must ask what benefit occurs by gaining ground. Based on the commission based system, it means a number of things to include but not limited to: (1) more money in your pocket; (2) better performance evaluation; (3) escape possible humiliation; and (4) not perceived as the person jeopardizes pay increases and bonuses to the other agents in the office. The agents feel as if AIGI Siemer is blaming them for the system he created, and has subsequently thrown them under the bus to save his career and/or credibility. It's not until the Cannavo award that AIGI Siemer finally acknowledges that he needs to "come up with a different approach this year that isn't a straight ranking of the offices." Although it's refreshing to hear that AIGI Siemer has finally recognized the dangers and harm that his system has caused the entire organization, we must now assess the damage his system has caused the organization over the first nine months of this fiscal year. AIGI Siemer's admissions alone serve as evidence that many of the cases investigated this fiscal year could be tainted to some degree.

There is no doubt that the pay-for-performance commission-based ranking system has undermined the integrity of the postal service grievance process. Many of the agents in the field can attest to that fact,

and would come forward but for being fearful of losing their jobs. We believe that many of the administrative decisions made by postal service managers during this fiscal year (at a minimum) may have been unduly influenced and/or coerced by the OIG in order for OIG agents and OIG executives to achieve personal and financial gain as reflected in the commission-based performance ranking system. We believe this is an issue that needs to be reviewed by your organization and by the National Labor Relations Board, and an issue that could affect the outcome of hundreds of OIG cases throughout the country that currently reside within the administrative and criminal process. To better understand the system, you may need to request the following information:

- Performance Measures
- Summary Card (Defines "High Impact" Cases)
- Report reflecting the ranking of agents and offices
- AIGI Newsletters

Please note that several U.S. Attorney Offices have declined prosecuting some of our cases based strictly on the fact that we use a commission based performance ranking system. According to one senior official from the U.S. Attorney's Office, he stated that his office would be hard pressed to defend a commission based system if the defense attorney argues that the agent could be tempted to destroy or not provide evidence that supports the defendant.