

Michigan MESSSENGER

APWA
APWU

Volume ??, Number ???
January-February, 2013

Affiliated with: American Postal Workers Union, AFL-CIO, APWU Postal Press Association, Michigan State AFL-CIO & Michigan Labor Press

INSIDE THIS ISSUE

NBA Report	Page 2
Editor's Report	Page 3
Area 9 Director's Report.....	Page 3
Turney Talks	Page 4
Area 7 Director's Report	Page 4
NBA Report	Page 5
Veteran's Report.....	Page 6
Retiree Involvement.....	Page 7
Women's History Month.....	Page 8
Why I Don't Fill Out The VOE Survey	Page 8

President's Report



by John Marcotte,
President

Snyder's Anti-Labor Agenda

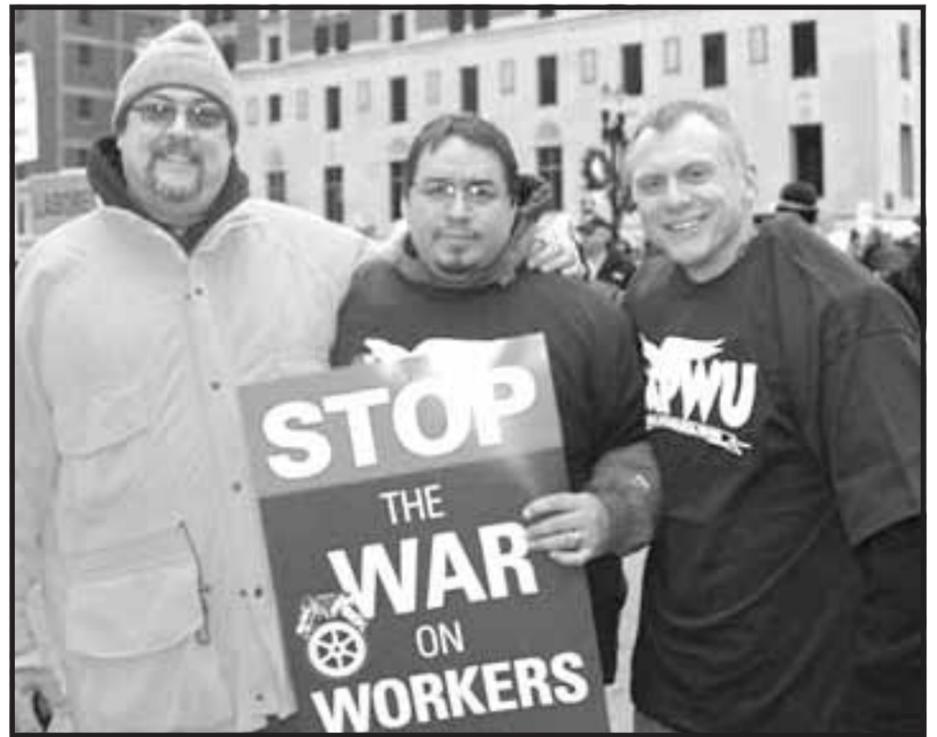
Recently Michigan Governor Snyder signed legislation making Michigan a right to work state. This, after many press conferences where the Governor stated that right to work is "not on his radar" and "too divisive an issue". After a right to work bill was passed by a lame duck Republican controlled legislature governor Snyder signed it immediately in the face of tremendous citizen protest. These facts most of you are aware of, here is the rest of the story.

Attending an AFL-CIO board meeting in 2010 the Republican-led effort to make Michigan a right to work state was first presented to me shortly after Snyder became elected. While most of the union leaders in the room respected the presentation it was hard to believe that the citizens of the "cradle of labor" would support making their home a right to work state. All Michigan knew of Snyder was his "one tough nerd" ads when he was elected Governor since he never held an elected office. When his first major act was to cut millions in taxes on corporations and pay for it by new taxes on pension and retirement income it was clear that Snyder was not the moderate he pretended to be during the election but a loyal member of the 1% crowd.

In the governors' defense prior to being elected he was an ex-CEO who

rode a golden parachute into early retirement. He behaved exactly like you would expect an ex-CEO to act. Labor leaders joined grass root efforts to place on the ballot a referendum that would guarantee Michiganders union rights in our constitution. Vast numbers of signatures in excess of the required amount were presented supporting union rights being placed into the constitution. Snyder led government autocrats decided to not place this question on the ballot. The AFL-CIO and others had to file a lawsuit and the courts had to force this question on the ballot. During the election Governor Snyder repeatedly made statements to the voters claiming right to work is not an issue strongly implying it isn't necessary to have union rights in our constitution. Meanwhile millions of dollars in out of state money from the Koch brothers and other anti-worker PAC's poured into ridiculous ads claiming among other things Proposal Two would allow teachers to be in class drunk six times and they couldn't be fired. This was an amazing amount of money to be spent on a state referendum issue. Proposal Two failed and within scant weeks Michigan was a right to work state even though polls indicate Michigan voters do not want Michigan to be a right to work state. Money and legal maneuvering defeated the will of the people.

I'm telling this story not only to educate but to warn. This was not isolated or accidental and it is only the beginning. The facts are clear. Forcing Michigan into right to work will not create jobs; it will lower wages; it will force more families on Medicare; it will force more families out of the middle class and into poverty. If the extreme right wing led by the super rich can force laws so obviously bad for the average voter down our throats nothing is off the table.



480-481 Area Local President Roscoe Woods, MPWU Legislative Director Jesus Gonzalez, and MPWU President John Marcotte in Lansing to protest "Right-to-Work" legislation.

Area 2 Director



by James Stevenson,
Area 2 Director

Ghost Clerks

Ghost Clerks are those Letter Carriers and Supervisors who perform clerk craft bargaining work without identifying on any clerk LDC operation. I would imagine with the upcoming retirements this prevalent violation will now be taken to an even higher level. In 2008 Detroit District Area Local President Christopher E. Ulmer and I won a "Ghost Clerk" award of \$90,000.00 which was split amongst 6 clerks at a single station. Many stewards fall into the trap of filing a grievance to recover a 1-15 hours of violations and become content with getting "something" out of the deal. If you have a persistent problem with 1.6 and 7.2 violations identify the violation as "An Ongoing and Continuing violation which includes but is not limited to the following dates

... Those "Ghost Clerk" hours have been devastating the clerk craft as crucial distribution, dispatch, cage operations, and non-revenue transactions are significantly impacted by the failure to capture these hours in the Function Fake, I mean Function 4, reviews. In your remedy you can request for the OTDL employees to be compensated at the overtime rate for the violations or if there is no OTDL for the award to be distributed amongst the available clerks. If there is not an identifiable employee as a last resort request for the local bargaining unit to be compensated as arbitral authority does permit this remedy in the absence of available employees. We must strive to preserve any and all available work for our members.

continued on page 5



A 4-legged ally in our struggle.



- President**John Marcotte
U&C (989) 619-1741
e-Mail: John.L.Marcotte@gmail.com
- Executive Secretary**Michael Long
U: (616) 977-1050; C: (616) 302-1409
e-Mail: mdlblong@gmail.com
- Secretary-Treasurer** Darren Joyce
W: (810) 257-1530; U: (810) 239-0931;
FAX: (810) 239-6879
e-Mail: fmail11@comcast.net
- Dir. of Edca. & Research** Lucy Morton
U: (248) 543-3262; C: (248) 660-3139
e-Mail: lucyapwu56@hotmail.com
- Editor**Paul Felton
U: (248) 543-3262; W: (248) 758-5786
e-Mail: pdf111@comcast.net
- Legislative Director** Jesus Gonzales
W: (517) 337-8753; C: (517) 528-9980
e-Mail: cmalprez300@yahoo.com
- HR/Injury Comp. Director** Ron Krumrie
W: (231) 946-9616;
e-Mail: Olcubman@aol.com
- Clerk Craft Director**..... Steve Wood
U: (248) 543-3262 (Ferndale)
U: (248) 758-5786 (Metroplex)
e-Mail: Swood@apwu480.org
- Maintenance Craft Director**Jason Rushing
C: (736) 634-9294; H: (736) 953-0581
e-Mail: jaysdeals@att.net
- Motor Vehicle Service Craft Dir.**Joe Wrobel
U: (248) 543-3262; W: (248) 546-7146
e-Mail: yrubnu@hotmail.com
- Veterans Director**John Smeekens
W: (248) 546-7146; U: (248) 543-3262
e-Mail: mpwuvetdirector@ameritech.net
- Area 1 Director (480/481)**Larry Moyer
W: (248) 619-1590; H: (810) 678-3479;
C: (810) 338-2659
e-Mail: apwu6723@bignet.net
- Area 2 Director (482)**.....James Stevenson
C: (313) 465-0757; U: (313) 964-1100
e-Mail: jstevenson1995@yahoo.com
- Area 3 Director (483)**.....Robin Ely
W: (734) 697-0047
e-Mail: relyapwu480-481@charter.net
- Area 4 Director (484/485)**Laura Bullock
W: (810)257-1567; U: (810)239-0931;
H: (810) 606-0465
e-Mail: fmail11@comcast.net
- Area 5 Director (486/487)**Joanna Atkinson
W: (989) 771-5718; C: (989) 295-5454
e-Mail: Joanna.atkinson2@sbcglobal.net
- Area 6 Director (488/489)**Mary Stephenson
W: (517) 337-8753; C: (517) 980-6125
e-Mail: mpwuarea6director@yahoo.com
- Area 7 Director (490/491)**Thomas Lothamer
U: (517) 677-6198; H: (517) 639-4873
e-Mail: tlothamer@msn.com
- Area 8 Director (492)**.....Wendy Kempke
W: (517) 263-5809; C: (419) 377-4595
e-Mail: kempke.wk@gmail.com
- Area 9 Director (493/494)**Jennifer Adkins
C: (231) 830-7140; W: (231) 722-1414
e-Mail: jadkins1978@hotmail.com
- Area 10 Director (496)**Ron Brown
W: (231) 933-1020; C: (231) 357-2618
e-Mail: Area10Director@yahoo.com
- Area 11 Director (497)** Richard Lamoire
C: 231-268-8239
- Area 12 Director (498/499)**..... Theresa Granquist
U: (906) 774-6303; C: (906) 396-6103
e-Mail: tgranquist@att.net
- P.O.W.E.R. Rep** Karen Hodges
H: (616) 453-7091; W/U: (616) 776-1489
e-Mail: kjhodmich@aol.com
- State Retiree Chpt. President**Al LaBrecque
H: (989) 736-8173
e-Mail: allab@sisna.com
- MPWU Aux. President** Vacant
- MPWU Historian**..... Vacant
- MPWU Advisor**..... Gary VanHoogstraten
H: (989) 894-2656
e-Mail: gvanhoogstraten@att.net w



by Lynn Pallas-Barber, National Business Agent

NBA Report

Developing And Documenting

It becomes ever more important that grievances are properly developed and documented. Management advocates continually object to new arguments and evidence that is presented for the first time in arbitration.

As stewards we are expected to comply with Article 15, Section 2, Step 2.d of the contract. This provision requires both parties to cooperate fully in an effort to develop all facts, including the exchange of all relevant papers or documents, and the contractual provisions relied upon. It is extremely important that the contractual provision relied upon be incorporated into the body of the Step 2 appeal. There have been arbitration hearings at which management has convinced an arbitrator not to listen to arguments that were never raised at Steps 1 and 2.

Documents must also be exchanged at the Step 2 Meeting. Often times documents that were never given to management are placed in the file by the steward. Management objects when the union advocate presents these documents in arbitration. Remember an advocate can only present in arbitration the case that was developed and documented at the local level. If an important document is discovered after the grievance was appealed to Step 3 or Arbitration, the steward should notify the NBA and also provide a copy to the USPS regional office.

PSES AND DISCIPLINE

As time progresses management has begun to discipline our PSEs. When you look at the PSE memo in the contract and pay attention to the Contract Articles that apply to PSEs, you'll see that Article 16 is not listed. There are managers who believe this means PSEs are not entitled to the steps in progressive discipline outlined in Article 16 (letter of warning, suspension, etc).

On page 290 of the contract however, it says PSE's may be disciplined or re-

moved for "just cause." Since PSEs are entitled to just cause, they must be entitled to some form of progressive discipline (to the extent that progressive discipline is an element of just cause). I suspect they may not be entitled to the same degree of progressive discipline as a career employee.

Stewards should look at the JCIM where "just cause" is defined. "Just cause" is a "term of art" created by labor arbitrators. It has no precise definition. It contains no rigid rules that apply in the same way in each case of discipline or discharge.

However, arbitrators frequently divide the question of just cause into six subsections and they apply the listed criteria to determine whether the action was for just cause. These six questions are listed in the JCIM and it is important to rebut management's discipline based on those questions.

When representing a PSE in discipline or removals it is not simply cut and dried. The contract says a PSE can be "disciplined or removed." So management does not necessarily have to go right to a removal. Yet the PSEs don't have the same Article 16 rights as career employees.

We used to have language in our contract similar to the NALC language on TEs - that "non-career employees are not entitled to progressive discipline but are only subject to removal." That language was *negotiated out of our contract* and that has to mean something.

There is a case in APWU SEARCH that stewards should look at: Case # E10C-1E-D 12230417, November 1, 2012, from Arbitrator Voss, Denver, Colorado. The Arbitrator supported the position that the grievant, a PSE, was entitled to progressive discipline. He held that the removal is-

sued to grievant was too severe.

EDITOR'S NOTE

After reading the Voss arbitration mentioned in Lynn's article, I feel it appropriate to quote a few paragraphs and make some additional comments. After quoting the contract language that PSEs can be removed "for just cause," Arbitrator Voss quotes the JCIM:

The requirement that discipline be corrective rather than punitive is an essential element of the just cause principle. In essence, this means that for most offenses management must issue discipline in a progressive fashion. This includes issuing lesser discipline (e.g., a letter of warning) for a first offense and increasingly severe discipline for succeeding offenses . . .

Voss goes on to say, "The concept of 'just cause' necessarily incorporates the notion that, except in the most egregious circumstances, discipline should be corrective in nature." I would add that the JCIM mentions theft and threats as examples of infractions that might merit removal for the first offense.

I would also argue that for attendance discipline, which is the most common discipline in the Post Office, management *must* begin with a discussion and then a Letter of Warning. Attendance is always a gradually accumulating infraction. An employee who deserves a removal now, at one point must have deserved a discussion, a letter of warning, etc. If management failed to point out the problem and try to correct it in the early stages, then they are being punitive, not corrective.

Mike O'Hearn's article (on page 5) lists six questions that form the basic criteria for Just Cause. In the case of PSEs, it is especially important to look at this one: "Was the Severity of the Discipline Reasonably Related to the Infraction Itself, and *in line with that usually administered?*" Managers who think PSEs don't get progressive discipline will likely be vulnerable on this point.

Back to the Voss arbitration, stewards will be interested in the actual award. A Notice of Removal was "set aside and replaced with a letter of warning." In addition, grievant was paid "the amount of wages he would have earned from the date of his removal until the date of termination of his appointment as a PSE, less any wages the grievant earned during such period." Presumably, clock rings of similarly situated PSEs were used to compute the back pay.

The Michigan Postal Workers Union proudly represents the Members at Large within the Great State of Michigan. The following locals have also affiliated with the MPWU for training, education and information sharing between their members, stewards and officers of their own local and others throughout the state and nation:

Alpena	Flint	Muskegon	Stevensville
Battle Creek	480-481	Pontiac	Traverse City
Central MI	498-499	Roger City	Troy Local
Cheboygan	Gaylord	486-487	Western MI
Detroit District	Jackson	Sault Ste Marie	
Farmington	Ludington	Southwest MI	

The MICHIGAN MESSENGER is published six times yearly, and is the official publication of the Michigan Postal Workers Union, American Postal Workers Union, AFL-CIO, also affiliated with the APWU Postal Press Association.

The opinions expressed in this publication are those of the writer and not necessarily those of the Editor, the MPWU, the APWU or the Postal Press. Articles and correspondence to the Editor may be sent to Paul Felton, PO Box 361342, Grosse Pointe, MI 48236. Articles must be signed to be printed (your name may be withheld upon request). Articles may be edited to fit the confines of this publication.

Editor's Report



by Paul Felton, Editor

'Right-To-Work' And Other Battles

I was among the 13,000 angry union members in Lansing last December protesting the so-called "right-to-work" law rushed through the State legislature. I saw plenty of APWU brothers and sisters that day. Postal workers understand better than most what this law really means – it is the Freedom to Freeload.

Make no mistake. This is an attack on the labor movement orchestrated by the Republican Party. They are not concerned with the "freedom" of the ordinary worker. Their dream outcome is that large numbers of workers will drop out of unions that are already being forced to take concessions and that the unions will shrivel up and die. At that point they can drastically cut wages and eliminate benefits of all workers – including those whose "right" not to join a union they pretend to be so concerned about.

The impact on postal workers will be indirect, but quite real. If the Republicans succeed in crushing the labor movement all around us, we will be totally isolated as we try to get legislation through Congress that brings sanity to the postal financial situation.

Fiscal Cliff: As I write these words a crisis over the so-called fiscal cliff was averted with a last minute deal. But the two month delay in spending cuts and the issue of the debt ceiling offer additional opportunities for Congressional Republicans to hold the nation's economy hostage while demanding cuts in programs that help working and unemployed people. They have no shame. They don't recognize that the American people voted against their brand of extremism in the 2012 elections. Why is this relevant to postal workers? Two reasons. Obviously, if the reckless behavior of the Republicans wrecks the economy, that affects our mail volume, and our TSP funds that are essential to the retirement income for those of us in the FERS system. Secondly, Republicans in Congress will adopt the same tactics regarding legislation to solve the postal crisis – a crisis Congress created by the 2006 law that requires USPS to

put 5 billion bucks a year into a fund for retiree health care benefits 75 years into the future. They created the crisis and will use it as an excuse to try to destroy the Postal Service. Like I said, they have no shame.

Deems Desirable: Management at the Metroplex is abusing language in the ELM regarding their right to require

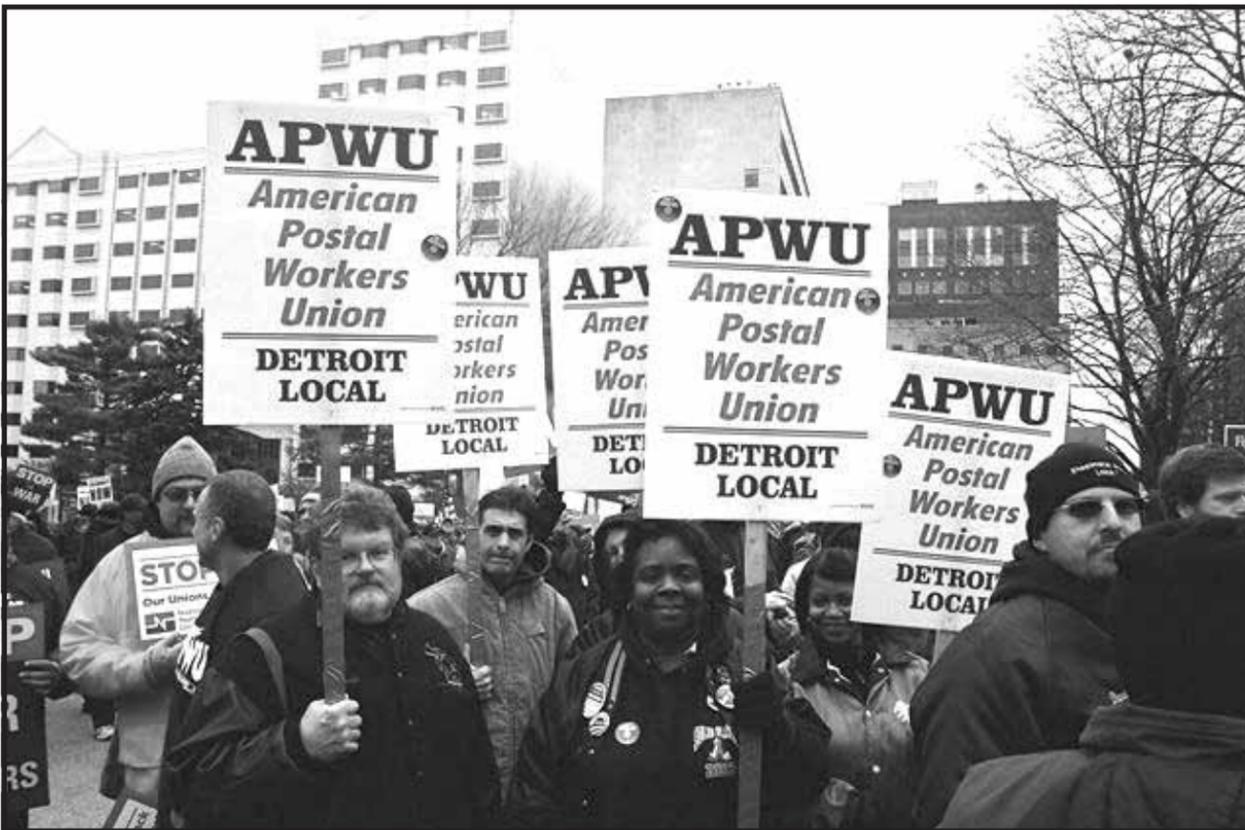
take another full-length article. (Note: after writing these words I received such an article from NBA Lynn Pallas-Barber.) But my big concern is that a PSE calls in, is unable to get in to see a doctor, is marked AWOL and issued a Notice of Removal. Local grievances are being filed to prevent this nightmare scenario from becoming a reality.

treat PSEs that way! Our problems all come from management, not from the PSEs. It is always easier to look down on or take your frustrations out on those who are in a less powerful position than you are. To do so makes you no better than management. It is a coward's way out. To challenge management means you might get some retaliation, subtle or otherwise. To pick on the weak and powerless seems so much easier.

Retirement: I will retire, along with so many of my coworkers, as of January 31. I will remain as Editor for the remainder of my term but will not run for another term. Hopefully someone else will step up to take the position next year. The printer the Messenger uses makes the whole process very simple. Mike Long can tell you if you don't believe me.

A Post Office Novel: I am excited to announce that a novel I wrote about the Post Office will be released by Hardball Press on March 15th. It is a murder mystery. A steward is accused of the murder of a postal manager. This format

allows me to describe the outrageous management behavior that causes tension at so many post offices as well as the role of a steward in fighting for justice on the workroom floor, all the while keeping the reader guessing about the final outcome of the story. There will be more information in the next issue of the *Messenger*.



The Detroit Local had a strong presence in Lansing at the December 11 protest against "Right-to-Work" legislation.

documentation for an absence of three days or less when they deem it *desirable* for the protection of the interest of the Postal Service. This language was intended for a particular suspicious absence. Yet in talking to a supervisor about a particular PSE, it came out that 34 out of 38 PSEs in the Pay Location were placed in a "deems desirable" status for a two-month period (the other four were new to the Pay Location). I looked at the attendance records of these 34 people and they ranged from outstanding to good to (in a few cases) not as good as you'd hope to see. But none of their records justified skirting around the provisions for Restricted Sick Leave outlined in the ELM. By the way, while I'm addressing the PSEs, another steward discovered that most of the career employees on Tour 3 are in a "deems desirable" status as well. The reason I'm concentrating on PSEs is the next item . . .

Progressive Discipline: Management has taken the position that there is no progressive discipline for PSEs. They believe they can move straight to a removal for a PSE with an attendance issue. To refute this would

Attitudes: A career employee transferred into the Metroplex and some of his coworkers treated him like crap. He couldn't understand why. It turns out these coworkers thought he was a PSE. When they found out he is a career employee with over 20 years' seniority, his treatment improved. All I can say is shame on those employees who



Area 9 Director

by Jennifer Adkins, Area 9 Director

Back To The Grindstone

Hope your holidays were great. Now we are back to the grindstone. I just want to take this time to encourage all the AO stewards to get hopping on the cleaning grievances with the contractors that are no longer able to clean in the small offices with less than two hours of cleaning. Be sure you are asking for staffing packages that will include 4839, 4852, 4851, 4869 and nothing less along with any and all 4776's. Most of the time management will tell

you they don't know where they are, but they always come up with it by the second info request. Also you can pull Employee Everything Report instead of TACS reports; it tells you their bid assignment along with the hours they actually worked. I have found these reports to be more helpful. Also I know things might be a little stressful at times but ALWAYS remember what might not be important to you is important to someone.



by Linda Turney, National Business Agent

Turney Talks

Failure To Disclose

When you read, you empower yourself. When you write, you influence others.

At the Arbitration Table recently, Management's advocate attempted to enter a special "Confidential Report" into the record through their very important witness. This was all new information that could have and should have been given to the Union in advance of Arbitration. I presented to the arbitrator three information requests and put the steward on the witness stand. It was clear by the testimony and the documents that the experienced steward put into the case file that the "Confidential Report" should not be considered by the arbitrator. The information was relevant to the case on making the decision to remove an employee. If the Union had received this information, we may have reacted differently in the face of document provided.

Request your information in writing under Article 15, 17 and 31 and keep a copy of your dated requests. If management fails to provide you with

the requested information, ask again in writing and keep a copy of the dated requests and put copies in the case file. Arbitrators have decided that even if the relevancy of the evidence is not an issue, management must still provide the information.

Arbitrator Villano (E00T 4ED 04043651) states:

"... the relevancy of the evidence in question is not even an issue. This is a removal case. An employee's job is at stake. Considering the nature of the allegations against her, so is her reputation in the community. To its credit, the Postal Service appears to have conducted a thorough investigation prior to making a decision to remove Grievant from service. At the same time, it repeatedly failed to disclose the evidence relevant to its decision, as required under Article 31.3 and Article 15.2 Step 2 (d) of the national Agreement and has offered no justification whatsoever for its failure to do so. Given the totality of circumstance, the Arbitrator cannot allow these materials to be admitted without sending the message that compliance with Article 15.2 Step 2 (d) is optional rather than mandatory."

Linda DiLeone Kline (C98T4CC01024669) is specific about making information available to the Union. Article 31.3 is clear by using the word "will" meaning that management is expected to or is required to give us the information.

After carefully evaluating the evidence presented at the hearing, the Arbitrator finds that the Postal Service violated Article 31.3 of the National Agreement by refusing/declining to provide the information sought by the Union in the aforementioned written requests. Pursuant to Article 31.3, the Employer "will" make available to the Union "all relevant information" needed to determine whether to file a grievance and whether to continue the processing of a grievance. The language is clear regarding all relevant information needed to enforce the Agreement and to process grievances; these are functions of the Union, therefore, the Union has the right to seek information which it deems relevant. This interpretation is reinforced and supported by the last sentence of Paragraph 1 of Section 3; "Upon the request of the Union, the Employer

will furnish such information", subject to reimbursement for costs. Pursuant to this language, when the Union makes a request, the Employer will respond by furnishing the referenced information.

Arbitrators do not take lightly management's refusal to disclose at arbitration. Arbitrator Buckalew (B94T 1B C 98002674) in a failure to disclose states:

The Union's subcontracting grievance must be allowed due to the failure of the Postal Service to meet its obligations to provide information when requested under Article 15, Article 17 and Article 31.

It is important to include information requests in the case file. In the event your case comes to the arbitration table, we want to be clear that the information was requested and either received or not received. This is easily done through the dated information request in the case file and the testimony of the steward.

If your case involves medical records, be sure you are following the requirements of the EL-806 and the Privacy Act.



by Thomas Lothamer, Area 7 Director

Area 7 Director

The Clone Wars

Article 15 Section 2(b) Collective Bargaining Agreement states, "In any such discussion the supervisor shall have the authority to settle the grievance. The steward or other Union representative likewise shall have the authority to settle or withdraw the grievance in whole or in part. No resolution reached as a result of such discussion shall be a precedent for any purpose."

This is right out of our contract and

yet the majority of the time the response I get is "I don't have the authority sustain that." Man I tell you, what the hell is your title. I know the Post Office is a mean political machine and it seems easy to get ate up but really, this contract says that we can discuss matters within these pages and resolve them without costing either side very much money and time. Yet denied, denied, denied is what we are getting in this area and by the sounds of it across the Nation and this is ridiculous.

District won't let me, the POOM won't let me, Labor won't let me, and

it really feels that we are spending our time and money chasing down clones with the answers we are getting. We have tried their way on the large scale, how about we try this, management cowboys up, complies with this excerpt from the contract and we accomplish the impossible, we negotiate and we resolve on a local scale. Some of this stuff is so simple and we are all trying to do a good job.

Article 1.6B page 23 of the Joint Contract Interpretation Manual says "Beginning June 1, 2012, clerk craft employees will not be utilized in 204b details to supervisory positions except in situations involving an absence or vacancy of a supervisor of 14 consecutive calendar days or more. Normally, the usage of a 204b in this exception will be limited to not more than 90 days. Exceptions to this 90 day limitation would only be appropriate in very limited situations (e.g., supervisor on 4 months maternity leave; supervisor on 6 months military leave; or similar situations)."

This language we need to be look-

ing at and contacting us about as your stewards, there is a lot of this going on and this adds to the clone wars because it is all the same. You clerks out there in "higher level" need to adjust your clock rings to reflect level 7 lead sales and service associate pay. This will put you in compliance with this language and credit the proper amount of clerk hours in these small offices, eliminating violations of the global settlement which spells out the limitations of management performing bargaining unit work in our small associate offices under article 1.6b.

You see, this isn't so hard but yet the people above the Postmaster are pulling the strings and the Postmasters are resolving absolutely nothing when it comes to the Collective Bargaining Agreement.

So it is time we call you out, let's resolve some of this stuff and put an end to this and focus our sights on our future as a business. We can work towards a common goal but you have to have the authority to do this. My Union has given it to me, so let's talk.





by Michael O'Hearn, National Business Agent

NBA Report

Just Cause

The second sentence of Article 16 states in part, "No employee may be disciplined or discharged except for just cause..." What does "just cause" mean? How do we define just cause? It certainly does not mean just because management wants to discipline an employee. Some say that just cause is an artful term that is difficult to define. However, for our contract just cause is not so mysterious a term. You can find a very specific definition for just cause in the Joint Contract Interpretation Manual (JCIM). In Article 16 of the JCIM, there are six questions that must be answered in the affirmative if the discipline is to be for just cause. The six questions are "Is there a rule?", "Is the rule a reasonable rule?", "Is the rule consistently and equitably enforced?", "Was a thorough investigation completed?", "Was the severity of the discipline reasonably related to the infraction itself and in line with that usually administered, as well as to the seriousness of the employee's past record?", and "Was the disciplinary action taken in a timely manner?". You will notice that none of these questions have anything to do with the innocence or guilt of the employee. It is my experience that 90% of the time the employees are guilty of the charge leveled against them. That is right. We are usually defending guilty people. Our defense usually revolves around the manner in which management issued the discipline. Therefore, it is important to become familiar with how just cause is determined.

The first question about "Is there a rule?" is plainly significant in disciplinary actions. A rule must have been violated by the employee and the employee must have been aware of the rule and its disciplinary consequences. For example, if management disciplines someone for a "bad attitude", you would question what rule was violated. Where is the regulation that a "bad attitude" is a disciplinary situation? Did the employee know that a bad attitude could result in discipline? This kind of discipline would be reversed by a good arbitrator.

The second question about "Is the rule a reasonable rule?" relates to the reasonableness of a rule in relation to business operations. Therefore, management can't discipline employees because they are mean to their spouse or family. These activities have no bearing on their work activities. The exception about activities being irrelevant outside of work activities is in Article 16.6 "Crime Situations". Here an employee may be disciplined where the employer

has reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment can be imposed. This can be a crime that has no connection to the Postal Service. Here a whole separate set of arguments can be made which we do not have space to discuss here.

The third question concerns favoritism or disparity of treatment. Management cannot discipline one employee for an infraction and ignore another employee who commits the same infraction. This creates a violation of the just cause principle. For example, if one employee has six unscheduled absences in a three month period and another employee likewise has six unscheduled absences in a three month period, management would be hard pressed to discipline one and not the other. Also, this question does not allow management to ignore enforcing a rule and suddenly without warning start disciplining employees concerning this rule. Management in this case would have to put employees on notice that they intend to start enforcing this rule. For example, if management allowed employees to take items from the Undeliverable Bulk Business Mail for years with full knowledge of this activity, they would have to announce that this practice must cease by a certain date and future violations will result in discipline. Also, they would have to announce what type of discipline the employee could expect to receive.

The fourth question is about management's investigation of the infraction. The investigation must be thorough and objective. Here we usually are talking about the pre-disciplinary interview (Pre-D). Did

one occur? Was it a proper Pre-D? Was the employee given a clear explanation of the charges pending against him/her? Was the employee given a reasonable opportunity to defend themselves? All this must occur before the decision is made to discipline the employee. I remember a case where the issuing supervisor gave the employee his Pre-D and immediately after the Pre-D without anyone leaving the room, the supervisor pulled the discipline letter out of a desk drawer and gave it to the employee. The letter already had the reviewing and concurring official's signature on it. Needless to say, the arbitrator threw this discipline out because the decision to discipline had been made before the Pre-D. There are other aspects of the investigation that might be incomplete or faulty. For instance, if there were clearly multiple witnesses to an event that led to discipline and management only interviewed one or two of these witnesses and ignored the rest, this would be an incomplete investigation and violate just cause principles.

The fifth question is about severity and other factors. The question is "Was the severity of the discipline reasonably related to the infraction itself and in line with that usually administered, as well as to the seriousness of the employee's past record?" Boy! That's a mouthful. Here we are looking at several lines of investigation. The principle of progressive discipline is indicated here, that is issuing lesser discipline first in an attempt to correct the problem. Also, the principle of disparity is indicated here. Management cannot issue a different level of discipline for two employees who committed the same offense and

have similar past records of discipline. The employee's history is considered here. This is commonly called mitigating factors. Was the employee a long term employee of ten years of service or more? Was the employee never issued discipline before? Was the employee an honorable discharged Veteran with long term service to his/her country? Did the employee have awards for service to the Post Office? Did the employee have letters of commendation in his/her file? These factors should have built up a bank of goodwill that management should have considered before issuing the discipline. Was the employee undergoing a stressful time in his/her life? Could the employee's actions be explained as accidental or not his/her fault? All these factors should be fully documented.

The sixth question is about timeliness. However, this is not the same as our time limit of fourteen days to file a step 1 grievance. This is a hard nut to crack. Arbitrators will allow management ample time to investigate before issuing the discipline. Typically, arbitrators will allow management months to complete their investigation. You will have to prove that somehow management unnecessarily delayed the investigation. Also, you will have to show that the delay somehow harmed the union's investigation or the grievant's ability to recall the events surrounding the discipline.

Remember, if any one of the six questions above is answered with a "No", the discipline is not for just cause and must be rescinded. I hope this information gives you a better understanding of just cause.

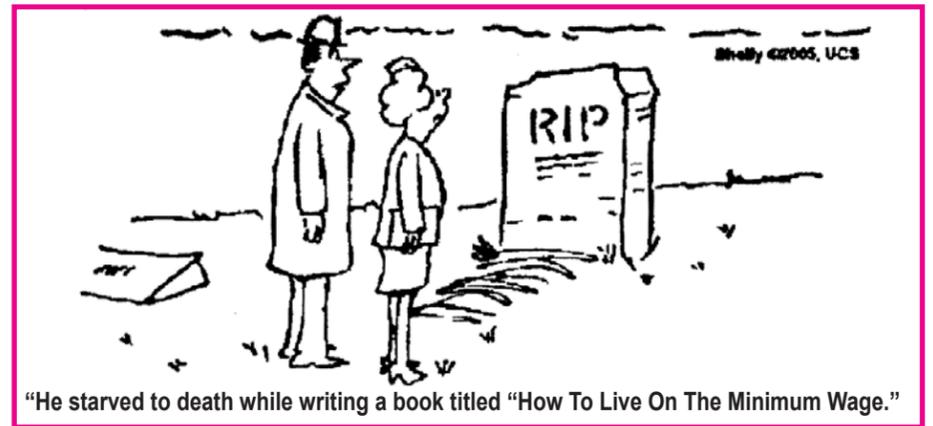
Ghost Clerks

continued from page 1 NTFTS AND THE OVERTIME DESIRED LIST

Although the new CBA converted former Part-Time Regular employees to full-time and redefined the definition of full-time there are still limitations for clerks holding a NTFT which has a schedule of less than 8 hours in a day. JCIM page 59 question #29 "Can employees in NTFT duty assignments sign the Overtime Desired List (s) ? Response : Yes, however, on days when the regular NTFT duty assignment is less than 8 hours, these employees would be considered **unavailable** for overtime." It would be a violation for the OTDL for employees in the above referenced category to work overtime without maximizing the OTDL. The limitation does not only apply to

working overtime as it is also a violation for a NTFT employee with less than an 8 hour schedule to work in excess of their Form 50 hours. If a NTFT assignment has an official scheduled time of 30 hours a week which should be reflected on the employee's Form 50 any and all hours

worked beyond the 30 hour limitation is a violation. JCIM page 60 question #35 states in part, "Normally the employee in a NTFT duty assignment should not work more than the number of hours (daily and/or weekly) identified in their bid assignment, except in an emergency . . ."



Veteran's Report

Vassar Welcome Home



by John
Smeekens,
Veterans
Director

Army Staff Sergeant Travis Mills had been a lot of places since he lost his four limbs in Afghanistan. He finally returned to his Michigan hometown of Vassar, to serve as grand marshal of his old High School's Homecoming Parade. He stood in the back of a jeep, smiling and waving his left prosthetic arm as people screamed out his name. Occasionally he yelled out a name of someone he recognized on the parade route which was lined with hundreds of Flag waving friends, neighbors, and residents who had jammed the streets of downtown Vassar. His wife Kelsey and their one year old daughter Chloe, were also Grand Marshals with him. Quadruple amputees usually take about 2 1/2 years of recovery and rehabilitation to become self sufficient, but Sgt. Mills has assured everyone that he will do it in half that time. Before returning back to Walter Reed, Sgt. Mills planned on spending some emotional time with his family and friends in Vassar. We're here for you Brother. **THANK YOU FOR YOUR SERVICE & WELCOME HOME!**

IMPORTANT NEWS

From the US Department of Veterans Affairs. Please disseminate widely. VA Warning: "Veterans Affairs Services" Organization Not Affiliated, Getting Vet IDs.

The Office of the Secretary of the Department of Veterans Affairs (VA) has requested dissemination of the following: An organization called Veterans Affairs Services (VAS) is providing benefit and general information on VA and gathering personal information on veterans. This organization is not affiliated with VA in any way. VAS may be gaining access to military personnel through their close resemblance to the VA name and seal. Our Legal Counsel has requested that we coordinate with DoD to inform military installations, particularly mobilization sites, of this group and their lack of affiliation or endorsement by VA to provide any services. In addition, GC requests that if you

have any examples of VAS acts that violate chapter 59 of Title 38 United States Code, such as VAS employees assisting veterans in the preparation and presentation of claims for benefits, **USE EXTREME CAUTION!!!**

PURPLE HEART HALL OF HONOR

Are you one of the nation's 1.7 million Purple Heart recipients? Well if you are, it's time to enroll in the National Purple Heart Hall of Honor, in New York. So far over 170,000 recipients have already done so. Enrollment is free. All you need to do is provide verification of receipt and a photograph of yourself to get an enrollment form. Go to www.thepurpleheart.com, to get more information or call 1-877-284-6667 ext. 29, or by mail contact Anita Pidala, Director, National Purple Heart Hall of Honor, P.O. Box 207, Vails Gate, N.Y. 12584.

TWO BILLS AWAIT APPROVAL

Late December, the Senate passed two bills that we are all hoping will be quickly approved by the House and sent to the President for his signature. H.R. 4057, the *Improving Transparency in Education for Veterans Act*, will improve consumer awareness and provide improved fraud protection for veterans as they choose where to use their Post-9/11 GI Bill. The second bill, S. 3303, contains several provisions, including: funding for the improvement and transfer of Clark Cemetery in the Philippines to the American Battle Monuments Commission, a *Burn Pit Registry*, and a pilot program for off-base Transition Assistance Program briefings. I will attempt to keep you informed as these bills and others, hopefully move forward in the new days of the 113th Congress.

ELIMINATING RED TAPE

The Department of Veterans Affairs announced it is eliminating the need for an annual Eligibility Verification Report. Eliminating the annual report reduces a burden on veterans, their families and survivors who previously had to return the routine reports to avoid a suspension of benefits. Under the new initiative, VA will work with the IRS

and Social Security Administration to verify continued eligibility for pension benefits. The new initiative also allows VA to redirect more than 100 employees to work on eliminating the claims backlog.

BIG WIN

A U.S. Postal Service employee who was fired for "excessive use of military service" when he tried to return to work after four years on active duty with the National Guard must be reinstated with over \$2 million in back pay, benefits and attorney fees, a judge ruled recently. The decision to fire Sgt. Maj. Richard Erickson in 2000 has been ruled a violation of the Uniformed Services Employment and Re-Employment Rights Act, or USERRA. The law prohibits civilian employers from terminating or otherwise penalizing part-time servicemembers who leave their jobs for military service for up to five years. The Honorable Garry Wade Klein, the administrative judge from the Merit Systems Protection Board, ruled Erickson must be reinstated and compensated no more than 60 days after the decision becomes final Jan. 14 pending no further legal action by USPS, **which will have to follow the order even if it decides to appeal.** The legal proceedings have dragged on for years as USPS continued to pursue the case even after Erickson won two decisions before the U.S. Court of Appeals for the Federal Circuit. When the USPS refused to reinstate Erickson in 2000, the father of three from Fort Meyers, Fla., re-enlisted in the National Guard and deployed to Afghanistan as part of a Special Forces team. He has received over 35 medals and decorations, including three combat distinguished valor awards and the Purple Heart. The legal battle cost hundreds of thousands of dollars in legal bills for Erickson, though under USERRA, the USPS will pay his legal bills.

"For me, this case was a matter of principle," Erickson said, according to a statement from his attorney. "I am a veteran and I was disgusted by the Postal Service's callous actions." "The good news for other servicemen and women is that Erickson's perseverance in this case not only afforded him his old job, back-pay and benefits, it has strengthened countless servicemembers' rights under USERRA by setting judicial precedent." said Erickson's attorney. You don't really want my opinion, do you???

SECOND SERVICE

The saying goes like this "When we

assumed the Soldier, we did not lay aside the Citizen." A writing from George Washington. This last election has drawn quite a few Iraq and Afghanistan Veterans to seek Political Office. There were even a few from earlier Wars. 42 new Veterans ran for elected office, winning 16 positions nationwide, and a record number of Females were sworn in. Michigan's District 11 has a new Representative, Vietnam Veteran, Mr. Kerry Bentivolio. **WELCOME HOME BROTHER!**

OUR FEMALE VETERANS

The VA is there to help you. One of the biggest areas of concern right now concerns Women Veterans and mental health. Fifteen percent of our current military forces are made up of Females. And NO they're not all nurses. Many of these young Women are shouldering weapons and going out on patrols just like their male counterparts. They are in harm's way, to protect the Freedoms that we all enjoy. Studies have shown that Females returning from Iraq and Afghanistan are more likely to be diagnosed with a mental disorder than their male counterparts. Roadside bombs and IED's have made those serving in Iraq and/or Afghanistan increasingly prone to PTSD. VA stats have shown that over 20,000 Females have been diagnosed with a mental disorder with about 8,500 of them having PTSD. A 2010 ruling change has made it easier for Women as well as men to receive benefits for PTSD. MST (military sexual trauma), is the term used for Women that were exposed to experiences of sexual assault or repeated, threatening acts of sexual harassment. The actual definition, U. S. Code 1720D of Title 38, is as follows; "MST is a psychological trauma, which in the judgment of a VA mental health professional, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the Veteran was serving on active duty or active duty for training. Sexual Harassment is further defined as "repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character." Do you experience; sleep disturbances, emotional instability, fear and/or anxiety feelings, impaired concentration, intimacy or other interpersonal relations, or flash-backs? **GET HELP. YOU'VE EARNED IT. DON'T WAIT, DO IT NOW! THE VA IS THERE FOR YOU. DON'T KNOW WHO TO CALL, I'LL GET YOU THE NAME AND /OR PHONE NUMBER TO GET YOU STARTED!!! WANT IT CONFIDENTIAL, YOU GOT IT! I'VE GOT YOUR SIX!!!**

DEADLINE

The deadline for articles for
the March-April issue of the
Michigan Messenger is

March 29



by Al LaBrecque, Retiree's Chapter President

Retiree Involvement

Right-to-Work Is Wrong

Quote: "...Michigan voters voted down Prop 2 on securing collective bargaining for public employees. That's a bite that just might embolden the Right-To-Shirk proponents in the GOP Legislature."

Who said that?! I did, in the Nov./Dec. Retiree Involvement column. Never have I wished more to have been wrong. Michigan! Cradle of the modern labor movement a right-to-work state, heretofore inconceivable. The GOP blitzkreig exceeded even my worst fears. Obviously, the DeVos-Koch Bros. cartel orchestrating the GOP right wing was poised to strike at labor's heart in the 2012 lame duck session, slap it on the "reluctant" lying sack nerd Gov. Snyder's desk and signed into law under the cover of night like a thief! Merry Christmas, Happy New Year to corporate control!

This is deeply personal with this son of a UAW Pioneer. My thoughts went directly to the historic Dec. 31, 1936-Feb. 11, 1937 great Sitdown Strike, to my parents and those courageous souls who laid it all on the line to make life better for us as a middle class. We dishonor that legacy whose roots are in the very fabric of my hometown Flint and State of Michigan. I say "we" because "we" allowed this supreme insult to happen; Organized Labor, the Michigan Democratic Party, and the voting public, all asleep at the wheel. My generation failed! It began with the 1981 firing of PATCO by Ronnie Reagan. Flint's controversial son, Michael Moore, hit the nail on the head in the chilling read of his; "The Day The Middle Class Died", in reference to Reagan's assault and organized labor's retreat, and we've been in retreat ever since; this being the final insult!

My first conscious thoughts as I awoke the next morning was to imagine in my mind's eye that the bronze statues in the impressive, moving Sitdown Strike Memorial Park adjacent to Flint UAW Region 1-C, wept that night; their tears falling on the bricks surrounding the base of the monument engraved with the names of those UAW Pioneer Sitdowners, including my Dad's. And, at the feet of the monument honoring the wives,

mothers and sweethearts who were the Women's Emergency Brigade, like my Mom. Shame on us all for allowing this ultimate disrespect to happen that our children and grandchildren will bear.

Congratulations & Welcome! The final date for eligible APWU represented employees to opt for the Voluntary Early Retirement (VER) with a 2-phase \$15

Retired Americans (ARA), are in the forefront of protecting and preserving our EARNED benefits. In case you haven't been watching; there's a powerful lobby in Washington determined to seriously diminish our FEHBP health insurance benefits, the formula to calculate Cost-Of-Living-Adjustments, privatization of Social Security and Medicare, all of which directly affect our fixed incomes.

in 1971 continued to collect his father's money until his own death in 2008 . . . If payments of a deceased pensioner continue, don't pocket the money; you'll probably have to pay it back." (Not to mention penalties likely to be involved).

Birds of a Feather: Doesn't it somehow seem fitting that the United States Postal Service virtually poured \$\$ down a rat hole, as a "proud" funding sponsor of the disgraced Tour de France cyclist; lying, cheating Lance Armstrong . . . guess they really DO flock together!?

Numbers Game: 2013 COLA 1.7% X gross annuity and Social Security income, minus federal income tax due to the COLA increase, minus \$11.54 APWU Health Plan premium(**) increase, minus \$5. Medicare premium increase from \$99.90 to \$104.90 monthly, and what's left is ours, but don't go wild spending it all in one place! (**)

Note that BC/BS health insurance premiums only increased \$3.59 per month . . . BUT, the 2013 BC/BS monthly premium is \$433.63. The APWU Health Plan premium is \$300.10 for comparable or better coverage and a savings of \$133.53 (based on APWU High Family & BC/BS Standard Family). I've a long-standing policy that I "sell" Unionism, not insurance, but I'm just saying. . . New retirees will note some sticker shock upon realizing that their FEHBP premiums are considerably higher than that for active employees. When you're on a fixed income; a penny saved is a penny earned takes on new meaning.

Requiem: Dayton OH Retiree Chapter President, Lamon "Tree" Ogletree, passed away in early January. Brother Ogletree was a personal friend and consistent, loyal supporter of our major Retirees' Dept. initiatives. We last had the privilege of reconnecting with Brother Tree at the Nov., 2012 Conference/National Convention in L.A. He was a true gentleman whose support and friendship will be greatly missed. Our sincere condolences are extended to the Family, friends, and Sisters and Brothers of the Dayton Local and Retiree Chapter. "Eternal rest grant unto Tree O'Lord, and let Perpetual Light shine upon him. Amen."

Be Strong!



Part of the massive crowd in Lansing on December 11th

Grand before taxes incentive is history. So are the 19,000 APWU members who decided to get while the getting was good. I pray your ride into the sunset will be all you hope it to be and in good health! Expect to receive organizing materials from the APWU Retirees' Dept. Don't just set it aside. Sign up today! Next to my Sunday offertory envelope, Union dues are the best monies I spend, with ten-fold in returns. Three bucks per month, \$36 per year, is a bargain considering the benefits of belonging.

Retiree members now have a voice and vote in electing the APWU leadership and department officers directly affecting retiree membership in addition to electing our own Retirees' Dept. Director and regional Retiree Delegate to National Conventions. The Retirees' Dept. is the second largest APWU department after the Clerk Craft. Michigan retiree members are automatically affiliated with the MPWU State Retiree Chapter, and likewise if your Local Union has a Local Retiree Chapter, at no additional dues. It's important to understand that just because you're retired, you're NEVER out of the arena!

The Retirees' Dept., in concert with the APWU Legislative/Political Dept. and in affiliation with the Alliance for

FERS retirees have the added issues the economy has on the value of TSP accounts in the various funds it's invested. \$3 monthly dues is pretty cheap insurance to support our retirement security.

Notice: "Auto City Flint Facts" will now be published quarterly and the mailing list sharply reduced, the victim of a loss of membership due to excessing, attrition, affecting revenue and operating capital, painful but unfortunately necessary. Active and retired members of the Flint Local and Retiree Chapter will remain on the mailing list. If you currently receive a complimentary copy of the "Facts" and wish to remain on the mailing list, it's suggested that you notify the Editor at: 810-239-0931, or via e-mail: fmaleditor@comcast.net

AARP Blurb: ". . . A new report finds that the Social Security Administration failed to properly record the deaths of 1.2 million Americans on a list that federal agencies and private companies use to determine when to stop pensions and other benefits . . . Other probes have found similar problems. Last year, the Office of Personnel Management found that the Civil Service Retirement and Disability Fund had paid deceased workers \$120 million annually over the previous five years. One man whose father died



Women's History Month

by Karen Hodges,
POWER Rep.

JOIN APWU POWER

March is Women's History Month, and we celebrate the whole month long. For us postal workers we have a women's committee, APWU POWER.

Just what is APWU POWER? APWU POWER (Post Office Women for Equal Rights) is the women's committee within the American Postal Workers Union. It unites women, with their special concerns, yet works within the framework of the nation APWU organization.

When Was It Founded? POWER was founded in St. Louis, Missouri on April 28, 1979. The APWU National Constitution was amended to include POWER at the American Postal Workers Union's National Convention in Detroit, Michigan in August of 1980.

Why is APWU POWER Necessary? In the United States, women make up nearly 50 percent of the workforce. In the Postal Service, they constitute approximately 48 percent of the workforce. The same percentage describes the membership in the Ameri-

can Postal Workers Union. Paralleling the women's movement in our country, the women of the APWU recognized that their involvement and active participation had not kept pace with their membership. In the late 1970's a women's movement in the APWU developed, designed to raise consciousness among the rank and file women of the union. Out of the movement came POWER.

Statement of Purpose The following is the Statement of Purpose adopted at the founding conference of POWER:

- To establish an APWU national women's committee, to be incorporated within the structure of one of the present APWU national Departments.
- To establish APWU local and state women's committee.
- To establish a viable communications network for APWU women throughout the country to exchange issues, problems, and solutions: and to initiate and support educational programs.
- To organize the unorganized workers in our workplace.
- To promote affirmative action pro-

grams in the APWU; to assist women in achieving leadership roles with the ultimate goal of equalizing participation in leadership positions.

- To join and become fully involved in the Coalition of Labor Union Women (CLUW).
- To enhance harmony within the realm of the National APWU Executive Board.
- To work in cooperation with other groups and individuals where possible and appropriate
- To promote women's rights and advance the labor movement.

We espouse "a woman's place is in her union, "and will constantly endeavor to make the above quotation a reality.

How is APWU POWER Structured? POWER committees exist on four levels: local, state, regional and national. A national Steering Committee consisting of one coordinator from each of the five regions, assists in local, state, and regional committee operations and communications.

How Do I Join APWU POWER? If you are a female member of APWU, you are automatically a member of POWER.

How Do We Form a Local

POWER Committee? If you are interested in forming a local POWER committee, first contact your Local Union President for assistance. Then contact your regional POWER coordinator, who will provide further assistance and materials.

Where Do APWU POWER Committees Obtain Funds? Your local may assist your POWER committee, as it does any other APWU committee. In addition, funds can be raised by various means, such as: dinners, bus rides, sales of items, (bumper stickers, buttons, t-shirts, etc.), garage and yard sales and raffles. Ideas on profitable fund-raising activities can be obtained through your POWER coordinator.

How Do We Plan Meetings? First, set a convenient meeting place, time and date. Remember, many members have family and union responsibilities; make arrangements for child care. Provide a sign-in sheet at the meeting. Let members introduce themselves. Circulate a questionnaire that will elicit insight into members' interests. Plan educational programs that encourage member participation, based on results of the questionnaires. Display POWER posters, literature and related materials. Invite interesting speakers.

Join! To obtain additional information contact the Central Region POWER Coordinator and her name is Carolyn J. Watson from the Chicago Area.

Why I Don't Fill Out The VOE Survey

by Dennis Reetz,
Nevada State APWU

At least once a year every employee is handed a "Voice of the Employee" survey. It was my turn recently, and I was given the option of filling it out on the clock or taking it home and mailing it in the prepaid envelope. I tore it up and threw it away. Why? Because three strikes and you're out.

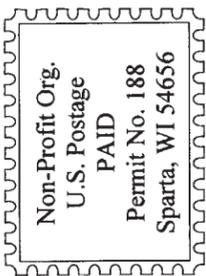
The first strike came in the late 1980s. I filled out my survey and handed it back to the supervisor. Months later the Postal Service used the survey results during national contract negotiations. They stated employees feel their pay and benefits are good; therefore they don't need a pay increase. I felt betrayed and thought that was a hit below the belt. That was strike one.

A decade went by and I decided to fill out another VOE. I handed it in to my supervisor. Some time later an injured letter carrier cleaning out the office came to me with a paper in her hand and asked if it was mine, as

it had my name on it. It was a copy of my VOE survey. Someone had made a copy of it, written my name on it, and filed it in the office. So much for your responses being anonymous and confidential. That was strike two.

Another decade goes by which puts us in a new millennium and there is a new Postmaster. The Postmaster and his team have diagrams explaining the most recent survey results. I was impressed that someone was actually looking like they cared and would do something with the results of the survey. However, the results came in a stand-up talk given by a 2040B. She tried to explain the results but got frustrated when clerks kept asking her questions. Finally she said, "The survey shows that employees believe that management is not holding all employees accountable for their work and actions, therefore that gives us the right to start issuing more discipline." That was strike three.

I have not looked at a VOE survey in some time. I don't care how innocent and harmless the questions seem to be, the answers will come back to bite us one way or another.



Return to APWU/MPWU
c/o Paul Felton, Editor
P.O. Box 361342
Grosse Pointe, MI 48236
Address Service Requested