

NTEU CHAPTER 164
NEWSLETTER
2ND QUARTER 2014, VOL 1, ISSUE 6

*Honoring and Remembering all those
who have made the ultimate sacrifice*



Do your job well

Dear Fellow Bargaining Unit Members:

I encourage all of you to do a thorough and complete job in your inspections, or whatever work it is that is expected of you. This is not a trite or hollow advisement. We have been entrusted with safeguarding the security of the United States. We should always be thorough, diligent, and complete in our work.

And it is also in the best interests of your career to be this way. Too often, employees want to hurry to get a job done, sometimes with good intentions, but too often simply for expediency's sake. Sometimes, employees will cut corners to get work done, or, sadly, to try to please a manager who is interested in expediting some process or saving overtime. You must resist this temptation. Too often, I have seen employees get into trouble because they cut a corner on a work process, even if the effort was sometimes with good intentions. When it comes time for a disciplinary review, upper management probably is not going to be impressed that you made a mistake because you were hurrying because it was busy, or it was a Friday, or because you were tired. All those previous reasons will melt away, and you will be left with the sad reality that you cut a corner. Don't do this. We are paid by the hour, not by the piece. There is no legitimate reason to take an ill-advised short cut. Some people will take short cuts because it is busy, and they know that a particular manager might be impressed by the ability of a person to "clear the lobby," or "clear the lanes," or complete some review or regulatory process. Don't do it. Whatever favor you think you might be currying with whatever manager will not mean much when it comes time for a senior manager to determine the appropriate level of discipline for whatever infraction you committed. No first-line manager is going to admit that he encouraged his employees to cut corners in order to expedite whatever process, even if it is true.

There is another, very important reason not to take short cuts. The staffing situation will never improve if we make management think that we can perform more work with less people. This is a fantasy. But it is a fantasy of our own making if we take shortcuts. Inspections on primary and in secondary should be thorough and complete. Examinations of vehicles should be meticulous. The performance of administrative tasks should be exacting. If we always get the work done, even though it is not being done very well, management will never believe that we need more staffing, or will never believe that we need more overtime funding. Don't be your own worst enemy. Do a thorough job, and force management to realize that they need more staffing, or need more overtime funding.

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Do your job well (con't from page 1)

Lastly, only by doing a good job will we find violations. But if we never find a violation, some bureaucrat will eventually think that we do not need additional staffing or funding, and may even determine that our positions can be reduced, or eliminated. We have it in our power to prevent this, but we have to be diligent in our jobs, and we need to find violations of law. If a manager ever tells you not to enforce a particular law, ask that manager to put it in writing. I have never once seen a manager willing to do so.

So it is in the best interest of the nation, the Service, and your own career, to do a thorough job. Don't cut corners. I have never seen an employee successfully disciplined for being too slow, but I have seen many employees disciplined for not properly following procedure. This is especially true given that CBP often seems more interested in the process than the results. We always have the time to do a good job.

Sean Albright
President, NTEU Chapter 164



Blaine Area Suggestion Program;

How to make it work for you.



As a result of the joint human capital resource survey conducted by the Seattle FO Labor/Management Relations Council, the Blaine Area Port implemented an area suggestion program. The program was specifically designed to address feedback from the field whereas a large majority of employees felt that their input was either not welcome or they had no reliable method by which to make their input known.



The Blaine Area program is structured so that both management and the union have visibility on all suggestions; so none can be ignored or denied out of hand. A process has been established so that all suggestions are reviewed and routed to the appropriate management official for action; be it approval and implementation or denial. But, even with a denial, feedback to the suggestor is required so at least if a suggestion can't be implemented the person making the suggestion will know why.



While this program has been in place for a number of months now, it does not appear to be getting much use. As for the publishing of this newsletter, only two individuals have submitted suggestions; and one of them is this author. So, if you have a suggestion or an idea to improve things use this tool. Nothing will ever change if you don't put your ideas forward.

The suggestion site is located on the Blaine AP SharePoint site. Look on the links bar on the left hand side, put your cursor on the "LMRC" button about a half or two-thirds of the way down, and then click the "Suggestion" link that appears.

Get those ideas out there!

Food for thought

During the summer when working and often having limited time to eat, it is important to eat something to keep your body and mind strong; quick foods when there is no time to sit and eat. We all know how busy it gets when working primary lanes and working secondary inspections. Here are some food items that may help when there is no time to eat or you have to eat in a hurry.

Yogurt comes in individual containers and there are many brands and flavors. Hard-boiled eggs can be ready in a few seconds after boiling and make for a great fast way to hold off the hunger pains during the day. Sandwiches, a little pre-planning at home and you could have a Dagwood style sandwich that you can eat on all day. String cheeses make for a quick snack and are fun to eat. Nuts such as almonds are a good snack when there is no time to sit and eat, I like mine smoked or wrapped in chocolate which are not the healthiest, but taste great. Fruit is also great for a quick pick up and during the summer there are a lot of choices. Lastly if you find yourself not happy with your eating habits at work search the internet (off duty) for better eating habits.

*Ray Chapin
Sumas Chief Steward*



Management has the right to assign work, sometimes these two items compete with each other. Do I get a break when we have people in the lobby... By Federal Law, "meal periods" are unpaid, so if eating time is more than a reasonable rest period it could be that we will be given an unpaid lunch time. We shouldn't be fixing a 5 course meals at work. People who act in this fashion jeopardize everyone's right to reasonable rest periods. Also we need to police ourselves if we don't want management to monitor the lunch room. We can take a rest period to grab a quick bite to eat if there are not more people in the lunch room than are on the floor in secondary. Just be mindful of your coworkers and eating so that everyone gets time to take care of their needs.

*Ray Chapin
Chief Steward, Sumas AP*

Election Time

NTEU Chapter 164 will be holding an election for chapter officers this year. The offices that will be available are;

Chapter President: To perform as administrator of the affairs of Chapter 164 in accordance with the provisions of the NTEU National Constitution and Chapter Bylaws. (Among other duties).

Chapter Vice-President: To perform the duties of the President when the President is incapacitated and unable to discharge his/her responsibilities. (Among other duties).

Secretary: To record and keep the minutes of all Chapter Meetings and the Executive Board Meetings. (Among other duties).

Treasurer: To receive and deposit all funds of the Chapter in a depository approved by the Executive Board. (Among other duties).

These officers make up the Executive Board for Chapter 164. If one of the offices is empty (no one is nominated or volunteers to run for an office) the President will appoint a person to the unfilled office. We cannot send chapter election information out over the government email, so everything will be sent to your mailing address. The Chapter will get a mailing list from the National NTEU Office and this is the address that information will be sent to. So, if your address is incorrect you will not receive that mail. It is important that you log into the NTEU web site (www.nteu.org) and confirm your address is correct by clicking "Union Office" in the menu bar on the left, then look for the "Update Your Profile" button in the upper right hand corner.

Break Time!

Article 34 SCHEDULING, Section 16. Rest Periods.

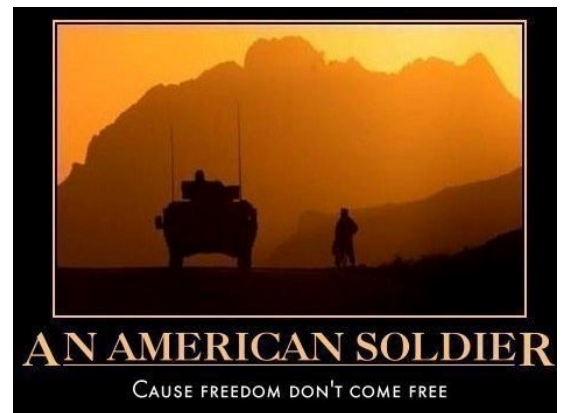
- A. The Employer will ensure employees are provided rest periods during the work day for the purpose of attending to employee personal needs.
- B. Such rest periods will be of reasonable duration and will be permitted at reasonable times during the work day, to include work performed on an overtime basis, consistent with the Employer's right to assign work and workload demands.

Management has the right to assign work, sometimes these two items

Blaine Area Port

Grievances

- ◆ During the Beyond the Borders Cargo Preclearance Pilot last Summer and Fall, management forcibly shifted many employees out of their normal work schedules. NTEU believes that the contract was violated by CBP not soliciting for volunteers to fill the vacancies of those selected to staff the actual program. Arbitration held in April, waiting for a decision from the arbitrator. (grievance prosecuted by Albright)
- ◆ CBP has begun to force bid winners to take rotations through midnight tours. NTEU believes this to be a violation of Article 13; and Article 34, depending on how much advance notice is given. The Step 2 grievance hearing is pending for 2 individuals; more are starting the grievance process. (grievance prosecuted by Albright and Henderson)
- ◆ Missed Overtime. CBP “mistakenly” skipped a volunteer for an overtime assignment, and instead forced a non-volunteer to work the job. Employee grieved. CBP admits the error, but despite numerous similar grievances from around the country, and an FLRA decision on this topic, CBP Blaine refuses to make the employee whole with lost wages. Step 2 grievance filed. (grievance prosecuted by Albright and Henderson)
- ◆ NTEU recently represented an employee who was charged with unprofessional conduct for allegedly being involved in an off-duty mishap. Employee was proposed to be fired. NTEU 164 convinced DFO Michele James that the charges were without merit, and the case was dismissed. (case handled by Gillespie)
- ◆ Oral reply to proposed removal submitted for a member. Waiting for a decision (case handled by Chapin)
- ◆ Waiting a response to an info request related to the proposed removal of a member. (case being handled by Henderson)
- ◆ Reasonable medical accommodation sought by NTEU for a member who has been proposed to be fired. Waiting for a response (case being handled by Chapin)
- ◆ For Thanksgiving of 2013, CBP apparently violated the contract by not excusing certain Cargo employees. Instead, it forced them to relocate to Passenger Processing. Issue could not be resolved in the grievance process. Arbitration scheduled for August. (case handled by Albright)
- ◆ Grievance contesting a letter of reprimand. (case handled by Pettaway)
- ◆ Oroville Chief Steward Cooper is current assisting two employees from Blaine who have had their requests for hardship transfer denied. NTEU believes that adequate proof of the applicable medical condition has been provided with the initial filing. One grievance is awaiting the Step 3 response, while at the Step 1 of the other the agency agreed to allow the employee to provide more information before issuing it’s substantive response.



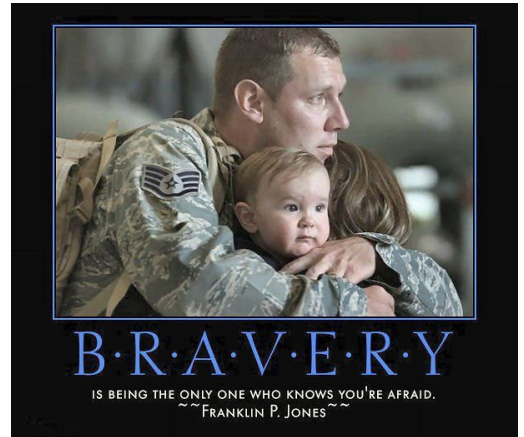
Negotiation

- ◆ New Nexus Enrollment Center at Birch Bay mall. Formal bargaining proposals submitted. Waiting for response from CBP. (case handled by Hassebrock and Albright)
- ◆ Bellingham Office Move. The Port of Bellingham to build a new office for CBP Bellingham ,but the refuse to allow CBP to conduct marine operations out of the facility. NTEU engaged in pre-decisional input discussions with management, where we expressed our displeasure with CBP 's decision to send maritime work to the new Nexus Enrollment Center office. NTEU waiting for formal notice on the move from CBP. (case handled by Chapin and Albright)
- ◆ Friday Harbor AWS. CBP has stalled this for months. We are still trying to get a meeting date to discuss our proposals,, originally submitted in December of 2013! Management still insists on including non-contractual provisions that would grant them scheduling flexibilities not contemplated in the contract. (case handled by Barnes and Albright)
- ◆ Pacific Highway midnights AWS. The parties are in the process of negotiating a pilot project AWS to run for 60 days. Similar to Friday Harbor, CBP management , with LER advice, demands scheduling flexibilities not contemplated in the contract. Management has apparently ceased communicating with NTEU on this issue so NTEU is awaiting advice from NTEU counsel. (case handled by Casey and Albright)

Issues and Grievances

Sumas Area Port

- ◆ NTEU continues to seek information from management regarding the take down / gun grab that occurred at the Sumas POE. A formal request for information was filed, but the agency has yet to respond.
- ◆ Options are being reviewed for an AWS at the Lynden POE; the pilot program at Sumas will be reviewed for lessons learned for both Sumas and Lynden.
- ◆ There were no new grievances or negotiations at Sumas this past quarter.



Issues and Grievances

Vancouver Pre-Clearance

- ◆ Vancouver NTEU was successful in obtaining thousands of dollars that were due to an officer for travel and temporary quarters following relocation to Vancouver Preclearance. A step two grievance was filed with the Port Director for CBP's violations of Article 16, section 13, paragraphs A, of the National Collective Bargaining Agreement governed by CBP Travel Handbook CIS HB 5300-13A.
- ◆ Arbitration has been invoked regarding CBP's failure to follow the National Collective Bargaining Agreement, namely Article 40, Section 6, Paragraph D regarding Preclearance Return Procedures by failing to place a CBP Officer at one of the requested locations where there is a vacancy consistent with the officer's prioritized list. During the time that Preclearance headquarters had received the officers notice of intent to return from preclearance (NOI), a Job announcement was posted in USAJOBS.Gov for a 1895 position at the port of Las Vegas (the officers number one prioritized selection). CBP refused to assign the officer to the open vacancy at the Step one through step three progressions. Arbitration was requested and has been invoked.
- ◆ A response to remedy a STEP 3 grievance as per the Collective Bargaining Agreement Article 27, section 12, Paragraph B is pending regarding CBP's violation of Department of State Standardized Regulations, section 260, Separate Maintenance Allowance. CBP violated the Department of State Standardized Regulations by failing to pay a CBPAS the Separate Maintenance Allowance that he was entitled to while his dependents remained at his previous duty location. NTEU believes that the CBPAS Separate Maintenance Allowance (SMA), was not paid through no fault of his. The CBPAS filed the correct paperwork, SF1190, and sent it to Headquarters for the Preclearance Director's signature through the appropriate channels and in a timely manner. Preclearance Headquarters failed to have the Preclearance Director sign the SF1190, which resulted in the CBPAS failing to receive his SMA payment. NTEU is seeking to have CBP compensate the CBPAS for the SMA money he was entitled to, and did not receive. Update: Just prior to publication, NTEU and CBP settled this case at the 3rd Step with the grieving employee being made whole through the payment of all lost funds.



Oroville Area Port

Grievance Updates:

- ◆ NTEU received mixed results from the arbitrator regarding the issue of officers from the Oroville POE being tasked to work at the Ferry POE. While the arbitrator found in favor of NTEU's argument that due to the conditions set by, and the actions of, the agency the officers were due overtime, he also ruled that the compensatory time the officers had received was adequate enough to make them whole. The arbiter's ruling on the compensation contradicted statements he made in his own summary and NTEU has removed him from the list of approved arbitrators.
- ◆ Regarding the two oral replies referenced in the last edition of this newsletter, the agency issued decisions to discipline both individuals; one for an incident which is over 4-years old and where the DFO herself stated in her decision letter that there had been no other issues with this officer. NTEU has invoked arbitration on both of these cases.
- ◆ The Stewards at the Oroville POE successfully grieved the schedule for the rotators at that port and obtained for them a very favorable schedule; probably the most favorable in the entire area.



CBPO Armando Tirado carried the American Flag during Oroville's 80th Annual May Day Parade. CBPO Tirado is a member of American Legion Post 84 and was part of a joint Color Guard with the Canadian Legion post in Osoyoos, BC.

New Grievances:

- ◆ While not rising to the level of a grievance, NTEU Chief Steward Cooper raised the issue with APD Arrigoni of Supervisors working within the operational schedule NOT performing the full range of duties as would be expected of other officers. In this case, a manager relieved a bargaining unit officer on primary on two separate occasions to perform secondary functions which had been referred to them from primary (one RPM alert and one Parole). While management wanted to argue the specifics of each incident, Steward Cooper pointed out that in 2012 the DFO had committed to the practice that Supervisors "working the line" would be expected to perform all the duties of any other line officer. While this discussion did not end in any specific resolution, no additional incidence of this nature have been brought to NTEU's attention. Bargaining Unit members are urged to contact their representative(s) when/if such a situation occurs again.
- ◆ NTEU has filed a grievance regarding a manager who demanded a medical certification from an employee who called in sick. The employee has a known job related injury and called in sick due to that injury on two consecutive days. The manager first claimed that they had been directed to ask for the medical certification, then claim that a certification could be demanded if it was "deemed necessary". While the contract does use the "deemed necessary" language, CBP HB 51600-01B (Leave Handbook) limits the reasons a manager may ask for a medical certification to when the employee takes more than 3-day of sick leave and/or when there is a suspicion of leave abuse. Since the agency HB is not in conflict with the contract, but is in fact more restrictive on management, NTEU's position is that the HB governs in this case. The Step 3 is scheduled for August 15.
- ◆ Another issue that did not reach grievance status involved officers from Oroville going TDY to work at Metaline Falls who wished to take their own vehicle instead of a government one. NTEU's position was that an employee has the option to use their POV in lieu of a GOV when the use of the GOV wasn't required for the assigned task. Furthermore, Steward Cooper pointed out that the Federal Travel Regulation, in Section 301-10.310, states that if an employee is authorized the use of a GOV but instead uses a POV they will be reimbursed based on a constructive mileage rate limited to the cost that would be incurred for use of a Government automobile. This "constructive mileage rate" is generally implemented through the "gov't vehicle refused" mileage rate which is intended to be roughly equal to what it would cost to operate the government vehicle for the intended trip; making the cost to the government the same no matter which the employee chose. Though Oroville management refused to concede these points, they did make the decision that employees would have the option of taking their own vehicle at the reduced mileage reimbursement rate.