



M 00586

CHIEF POSTAL INSPECTOR
Washington, D.C. 20260

March 19, 1979

Mr. Vincent R. Sombrotto
President
National Association of
Letter Carriers
100 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Mr. Sombrotto:

This replies to the inquiry made to the Regional Chief Inspector, Northeast Region, by Mr. John C. Allione, Northeast Metro Regional Administrative Assistant, National Association of Letter Carriers, in connection with the Inspection Service's investigation of a possible fraudulent compensation claim by a letter carrier. In particular, Mr. Allione requested our view as to the role of union representatives in Inspection Service interrogations and asked what could be done about the "disrespect" shown by Inspectors to union representatives.

The Inspection Service recognizes that a bargaining unit employee has a right to have a union representative present during the course of an Inspection Service interrogation if the employee so requests. In our view, the union representative's purpose, or role, in such interrogations is to safeguard the interest of the individual employee who perceives a threat to job security and to protect the interests of the entire bargaining unit. With respect to the individual employee, we believe that a union representative may attempt to clarify the facts, suggest other sources of information, and generally assist the employee to articulate his/her explanation. At the same time, exercise of the employee's right may not interfere with legitimate Inspection Service prerogatives, and the Inspector has no duty to bargain with any union representative. An Inspector may properly insist upon hearing only the employee's own account of the matter under investigation and need not listen to the representative's version of what has transpired.

Generally, we believe that such interviews should not be adversary contests. We recognize, of course, that the potential for conflicts and misunderstandings is inherent in such interrogations because of the nature of the confrontation between Inspector and employee

and additional factors such as the interplay of personalities, misunderstandings as to proper roles, and the parties' sense of competing obligations. With respect to the latter, the Inspector is obviously motivated by a desire to fulfill his sworn duty to conduct a complete and objective investigation, while the union representative is moved by his obligation to safeguard the interests of employees in his bargaining unit.

With respect to proper roles, there appears to be a lack of understanding as to the distinction between attorney representation and union representation. All postal employees are required to cooperate in investigations, including those conducted by Inspectors in the performance of their duties. In criminal matters, employees are entitled to exercise their Constitutional rights against self-incrimination by remaining silent or refusing to answer questions except in the presence of their attorney. Before conducting a custodial interrogation of an employee during a criminal investigation, the Inspector must advise the employee of the procedural safeguards articulated in the Miranda case to secure the employee's privilege against self-incrimination. Included is his/her right to the presence of an attorney, either retained or appointed. The presence of a union representative does not discharge the Inspection Service's obligation required under Miranda. In short, some union representatives have interpreted their role during an interrogation as that of an attorney. However, a union representative should not and cannot properly assume an attorney's role. The employee is entitled to the presence of both.

Notwithstanding the factors noted above, we recognize that a knowledgeable union representative can assist the employer's inquiry and thereby promote the interests of a fair and just resolution of the matter. In sum, the interests of all can be protected and furthered if both union representatives and Inspectors approach such interrogations in a good faith effort to deal fairly and reasonably with each other. In this regard, please be assured that the Inspection Service does not condone disrespect by Inspectors in dealings with any individuals and requires that Inspectors comply fully with the letter and spirit of the National Agreement, including the provision pertaining to union representation. And I am confident that you will not condone disrespect by union representatives in their dealings with Inspectors and that union representatives will likewise comply fully with the Agreement. Although the handling of interrogations will necessarily depend upon the particular circumstances in each case, we are endeavoring to clarify the issues and correct the misinterpretations raised in the past.

We are not unmindful of your obligations as a collective bargaining representative and trust that you appreciate the obligations and responsibilities of the Inspection Service as the law enforcement arm of the U. S. Postal Service. If you have any suggestions as to how the Inspection Service and your Union may foster a better understanding of each other's responsibilities and a more cooperative relationship in this area, I would welcome hearing from you.

Sincerely,

C. Neil Benson

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Chief Postal Inspector