

II. ARBITRATION AND LABOR RELATIONS IN THE POSTAL SERVICE: WHAT DOES THE FUTURE HOLD?

- Moderator:** Amedeo Greco, NAA Member, from Madison, Wisconsin
- Panelists:** Sam D'Ambrosia, Eastern Region Vice President and National Executive Board Member, National Postal Mail Handlers Union, Pittsburgh, Pennsylvania
- William Young, President of the National Association of Letter Carriers, Washington, D.C.
- Kevin Rachel, Manager of Collective Bargaining and Arbitration, U.S. Postal Service, Washington, D.C.
- Randy Anderson, Director of Labor Relations, National Rural Letter Carriers Association, Alexandria, Virginia
- William Burrus, President of the American Postal Workers Union, Washington, D.C.

Greco: Please allow me to introduce myself. I am Amedeo Greco. I will be the moderator for the postal panel today. As some of you know, we had an earlier session on disclosure. Sometimes it is very difficult to make a disclosure, but it is part of the recovery program I have taken, the 12 steps. At one time, well, . . . I am a recovering letter carrier. I delivered the mail for 7 years during college and law school at Christmas. I remember the job paid \$3 an hour in 1960, which was a lot of money, and I found out today those jobs still exist in case you know anyone who wants to work during the Christmas break.

Let me introduce our speakers today, four of whom are here, and one of whom, Bill Burrus, head of the clerk's union, is en route from O'Hare. We are going to have to start without him, and when he arrives, hopefully, it will be in a few minutes, I will introduce him to you.

Each speaker will make a brief presentation. I am going to ask some questions. Hopefully, we will get some answers. If you in the audience have any questions, you may ask at any time. The only thing I ask, if you have a question, is that you stand up and speak as loudly as you can so the people in the back can hear you.

To my immediate left is Sam D'Ambrosia, National Postal Mail Handlers Union; next is Bill Young, National Association of Letter

Carriers; next is Kevin Rachel of the Postal Service; next to him is Randy Anderson, National Rural Letter Carriers Association; and as I indicated, Mr. Burrus of the U.S. Postal Workers Union will join us momentarily. Each of the speakers will make a few remarks, and then I'll start the discussion with a few questions. Please go ahead, Sam.

D'Ambrosia: Good afternoon. I just flew in last night from Pittsburgh, on my 56th birthday. (Applause.) Thank you. Now, the ladies are saying he can't be 56, and the men are saying how does he do it? It is clean living. That's how I do it.

There are two somewhat unrelated topics I would like to cover today. First, most of the major postal unions, including my union, have worked with the Postal Service to adopt joint contract interpretation manuals at the national level. For the first time in the history of the collective bargaining, substantive agreements about appropriate ways to interpret the national agreements have been reached. This manual is almost 400 pages long.

To be sure, this manual has not resolved all work-related disputes, but it has helped the parties at the local and regional levels to narrow their disputes by concentrating on the facts underlying particular grievances or by focusing on issues that are not covered by the manual. Our manual, called the Contract Interpretation Manual (CIM) is binding on the parties and the arbitrators, and that's the point I wanted to make. As stated in the CIM itself, it makes it crystal clear that this manual comes from the top down and is binding on regional arbitrators.

From a practical point of view, the representatives of the parties are supposed to cite the relevant provisions of the CIM in all of the regional arbitrations. Even discipline arbitration should cite the CIM as the components of just cause or as set forth in the CIM under Article 16 of our national agreement. The CIM has been a great success. Arbitrators are routinely citing and using the CIM to decide cases, or at least to set the parameters of cases on which the CIM does not provide a definite answer.

Perhaps of greater importance, the CIM has been used *by the parties* to resolve thousands of disputes. Since the CIM was first issued in 2003, the number of grievances pending at step 3 has dropped by 49 percent, and the current docket for pending arbitrations at the regional level has now dropped by more than 52 percent. This overall reduction of pending cases helps all parties and will continue to have positive effects for many years to come.

But don't worry, the arbitrators in this room will always have work. The 52 percent drop in arbitration has lowered our dockets from 6,000 cases to 3,000 cases. So there will always be careers to be made with the arbitrators in the room.

The other unrelated issue that I wanted to talk about is arbitration with inexperienced advocates. Arbitration of contractual and disciplinary disputes is the touchstone of labor relations within the Postal Service. Arbitration is an excellent process. It is informal and adaptable. It recognizes unique postal environment and relationships. It lessens the time and expense of resolving disputes.

In part, these characteristics result from keeping lawyers out of the process. Arbitration advocates are usually not lawyers but, rather, are union or management representatives without any formal legal training. But to make matters even more challenging, many of these representatives are inexperienced, and some are not capable of presenting coherent arguments. This becomes especially troublesome as the issues raised in many postal arbitrations become more and more complex: statutory issues like FMLA (Family and Medical Leave Act), claims of discrimination, complex operational issues such as jurisdictional disputes over craft jurisdiction, and where management's employment of casuals is to the detriment of career employees. This leads me to the issue I wanted to address today.

All arbitrators should deal with inexperienced advocates without departing from the normal arbitral rules. There are, however, certain steps that a thoughtful arbitrator should take to ensure that the two parties in the room are being represented properly. My lawyer friends tell me that similar guidelines are used by judges faced with *pro se* litigators who are attempting to represent themselves in court. First, explain the process, explain the burden of proof, and the burden of presenting the evidence. Explain the kinds of evidence that may be admitted—testimony and exhibits—and how witnesses may be questioned for purposes of clarification. Seek clarification on the relief being sought, and ensure there is not excessive bullying in the process. I am not suggesting that the arbitrator treat the parties differently or that the outcome of the arbitration should not be dictated by the merits of the parties' positions, but I am suggesting that where inexperienced representatives appear, the hearing should be conducted in a somewhat different manner.

Examples: The burden on the union to prove a complex contract violation. Inexperienced union advocates argue or assert

the contract points but do not offer evidence. Should the arbitrator, either on his or her own motion or on the motion of the management representative, dismiss the case? Or should the arbitrator explain what is missing and give the union representative another opportunity—perhaps even another day to prove the union’s case? Stated another way: Is the arbitrator looking to make a decision based on the facts presented, or is the arbitrator looking to issue a correct decision? Thank you.

Greco: Our next speaker will be Bill Young. Bill?

Young: Good afternoon. I came here today for two reasons. Obviously, I was invited, but I also want to thank the arbitrators in the room for helping the parties at the national level. In May, I celebrated my 40th anniversary with the Postal Service. For as long as I have been presenting arbitration cases, arbitrators have been trying to convince the parties that we would be better served to resolve those issues at the lowest level, and I am delighted to tell you that in 1998, we carved out a new method of resolving our disputes.

In 1998, we had close to 27,000 cases pending regional arbitration in our 15 regions of the NALC. We are now under 1,200, and life looks good as the number of cases continues to decrease each year. I joked in Pittsburgh at my first appearance at a National Academy meeting that we had developed this program as the Arbitrators’ Reduction Act. Having said that, I thought I would not be invited back.

I was wrong. I was astounded to be invited back to the meeting in Puerto Rico. There, I mentioned two other issues causing great concern to my union, and I thought for sure that after I mentioned them, I would not be invited back, yet here I am again. The sad part is those two issues still remain, and now more drastic steps need to be taken, so I will just take a minute to identify them, and then if there are questions about them, I would be happy to field those questions.

We are having a significant problem with improper billing. Arbitrators under our contract are paid for a day’s hearing. That’s the same whether you hear one case, two cases, or three cases—you work the day. You don’t have to work 14-hour days. None of us are going to do that, and that’s not the point, but if the advocates can put on three separate cases in the same 6-hour day, then that’s what it is, three cases, and you get paid for one day of hearing. Some arbitrators are railing rather loudly against that, suggesting that it is a “speedup.” It is not. I believe in a fair day’s work

for a fair day's pay. I mean, that's the way it is. So you look at the contracts. You are more expert and more professional than I am about this. You signed the contract so you know what it says, and you know what I'm saying is true, and we are determined that we are going to police those contracts and enforce them the way they are written.

In Puerto Rico I also discussed study time. I have bills from arbitrators for 3 days study time on a stipulated award. What were they studying? If it is a stipulated award, it means the parties gave you the case and just asked you to memorialize it in writing. There is nobody who can justify 3 days study time under those circumstances, but I got a bill for 3 days. I didn't pay it, but I got it.

The last issue is very divisive. In your community, I am sure it is divisive. It has to do with the national arbitration award that the late Carlton Snow rendered many years ago on violence in the workplace. Carlton set out guidelines that the Postal Service, for their own reasons, never chose to challenge in court, and, in essence, he said that regional arbitrators had the authority to discipline managers under certain circumstances if they violated that joint statement. Now, I realize that not every case we bring to arbitration rises to the level of discipline for a manager and you are the ones that decide whether a particular case involves a violation of that statement.

It does not bother me if, on the basis of the merits, any arbitrator in this room rules against the NALC because we didn't produce a convincing case. That's what you are supposed to do. But it does bother me when some of you say, "I don't agree with Carlton Snow. I don't have that authority, and I won't do it." As regional arbitrators, you don't have the right to make that decision. You are regional arbitrators; you are not national arbitrators. So I will just let you know that in 2006 our National contract is up.

There are four arbitrators who have continually stated that they do not have the authority to issue discipline to management and they will not serve on the NALC panel next time. I'm sorry, but the reality of the process is that national decisions are binding on both parties, and regional arbitrators do not have the discretion to ignore them.

So those are the discouraging things that I have to bring forward, and maybe they will generate a few questions. Thank you very much.

Greco: Our next speaker will be Kevin Rachel from the Postal Service.

Rachel: Good afternoon. I am the manager of collective bargaining and arbitration at the Postal Service. In that role, I oversee the collective bargaining process when we negotiate with any of the unions. In addition, I have direct responsibility for the national arbitration program and more limited oversight of the field arbitration issues. Although that is limited, I do actually sign everybody's appointment letter. We go through a lot of paperwork in that regard, and it is reflective of how much we in the Postal Service depend upon you.

Now, I appreciate Sam's and Bill's remarks in terms of the initial theme that they brought forward about how the parties have worked together and actually reduced a number of disputes and reduced the numbers pending arbitration. It is progress that we—the Postal Service as well as the unions—take pride in. It reflects to a great extent a commitment on the part of all four unions and the Postal Service to seek to reduce the level of disputes and reduce the level particularly that have to be heard in arbitration.

I can't quite let Bill's comments on joint statement cases pass without some comment. We do have a dispute with the NALC, particularly over the issue of remedy in those supervisor discipline cases. There are remedies that the NALC has sought that we do not believe can be imposed legally. I cannot begin to talk in terms that would allow a full explanation or discussion of that. But I simply want to note that there are some disagreements about authority on the remedies in these cases. There are some issues with regard to what we believe an arbitrator can legally impose, and those are complicated issues. There have been more of those cases than I would like to have seen. I will leave it to your careful thought and consideration when those cases come before you. Thank you.

Greco: Randy Anderson from the Rural Letter Carriers.

Anderson: Good afternoon. I am very pleased to be here. This is my first opportunity to appear at the NAA annual meeting and I am privileged to sit at this table.

I am going to depart just a little bit from the previous speakers. I have one disclaimer before I make a few comments. I do not want anyone to mistake my comments that I am making right now or anything I say later as the work of scholarship. I know Sam and Bill weren't here yesterday, so that's probably lost on them, and I will explain later. Today I may quote some folks, and I may give credit to certain individuals, and if I am wrong, I am wrong. (Laughter.) But I reserve the right to be wrong.

On the topic of the letter that I got, it had this very “narrow” question: “Arbitration and labor relations in the Postal Service—what does the future hold?” I said, “Good God almighty, couldn’t they have made it a little broader?” (Laughter.) I don’t know the future and I don’t think anybody up here knows. That’s my opening comment about the topic at hand.

Second, the Rural Letter Carriers have disagreements and differences with the employer on occasion, but as Mark Anthony—I am not talking about Jennifer Lopez’s latest love interest; I am talking about the Mark Anthony of a couple thousand years ago—I believe he said, “I come to bury Caesar not to praise him.”

Well, I did not come here to bury *or* praise the Postal Service necessarily. I hope that we can have a very objective dialogue on whatever topic we may discuss. I have been a representative at one level or another for the Rural Letter Carriers since 1976 when I became a local steward and lost my first grievance. That’s how I got started.

Another reference I have is, “It is the best of times, and it is the worst of times.” Of course, I have said that for the last 10 years whenever I have spoken at any group, and that’s the way I feel. I feel at times that we have made great progress, but then something inevitably happens that sets things back a little bit.

We do not at this stage have what Sam with the Mail Handlers refers to as CIM. It is something we have talked about. We may have it in the future, but I believe, through the grievance arbitration process, particularly with some of the step 4 settlements and some of the letters of clarification and mutual understanding, we have clarified a lot of the contract language. That does not mean, however, that something akin to CIM or JCAM would not be useful for our craft, also.

Yesterday there was a topic about the family and how that should be considered in the workplace, and I know that I heard the word “mushy” being used a couple times, and I saw all the eyes rolling and heads thrown back, “Oh, my God, here we go again, bleeding heart liberal stuff,” but I must say, when you are talking about the future, whether it is labor relations or anything in the workplace, there has to be some recognition by the employer that employees are people.

I know that there are some things employers have a right to expect. They have the right to expect the employee to show up. They have the right to expect the employee to do a pretty decent

job, but I think it is baloney to expect the employee to leave his or her personal life at the door. That's crazy. How can you tell a human being who just found out his or her 16-year-old daughter is pregnant, or whose son just wrecked the car last night, or whose dog just died—how can you tell him or her to leave it at the door? To come to work and act like nothing happened? So I think there has to be some recognition and sensitivity to the fact that people do have lives other than what they have in the workplace. The Postal Service sometimes seems to do the craziest of things but I know Kevin probably has the same thoughts about the union on occasion. What we are looking for from our organization is that they use some common sense once in a while. Again, I am going to quote either Voltaire or that great philosopher, Muddy Waters, who said, "The most uncommon commodity is common sense."

I am going to close by saying that the future of labor relations in the Postal Service will depend on many things including automation, external pressures that the Postal Service faces, competition, and potential "reforms" of the Postal Service by the Congress. The Letter Carriers and most of the other unions have supported this effort because if the Postal Service is going to be required to act like a business, then the Postal Service has to be unshackled to have pricing flexibility and to get rid of this God-awful rate case process that takes 10 months. That's absurd. The local grocery store can go in overnight and put a different price on the can of tomato soup, and if we are going to be held to the business model, we have to be able to operate with that same advantage that real businesses have.

Finally, I want to mention the "F-word"—"Fair." I get a lot of ribbing from my Postal Service counterparts in labor relations. What has "fair" got to do with it? It sounds like Tina Turner. "What's love got to do with it?" But fairness in my mind has everything to do with it, and I make no apologies for feeling that way because any country, any organization, any business, any human being that doesn't have fairness as one of the core principles is doomed to failure. And with that upbeat message, I thank you Amedeo.

Greco: Randy said something to me at lunch that I didn't realize. Close to half of his members are female, whereas the membership of Bill Young's Letter Carriers Union is about 25 percent female. Why the difference? One of the main reasons is the Rural Letter Carriers generally drive, and the Letter Carriers generally walk. In addition, the Rural Letter Carriers have a set produc-

tion schedule—a fixed route. When they get done, they go home. There is a built-in work-time flexibility for his union members and perhaps this is reflected in the gender mix of the membership.

I want to ask Kevin my first question: What are the major issues facing the Postal Service, and how do you see them being addressed in the future?

Rachel: Randy alluded to what I want to address on that topic. First, though, I will say, Randy, officially on behalf of the Postal Service, we are strongly in favor of common sense, and I commend that to everyone at all decisionmaking levels.

The major issue facing the Postal Service is one that has been debated for quite a long time. The question is what the Postal Service is going to be in the future with the changing mix and volume of mail. The alternatives started a long time ago with the telephone. More recently it has been the fax and now it is e-mail. There is not the volume of first class letters that we used to have, and first class letters historically have been the bread and butter of postal revenue. For the record, the Postal Service does live off its revenues and isn't subsidized by tax revenues in any way.

There are a couple of alternatives that flow from that. The consensus is that declining revenue from first class mail will not be reversed. People are not going to stop using e-mail and start mailing letters again. So the question is whether you can make up for the lost revenue elsewhere. Perhaps.

On the one hand, there are standard mail and packages, but those are very competitive product lines. On the other hand, can the Postal Service slim down and get smaller? There has been some of that in our processing operations, but the size issue is tied into the discussion of legislative reform and the President's Commission. The bill before Congress, as Randy mentioned, focuses on restructuring the Postal Service business model. We need pricing flexibility particularly on the competitive lines like packages, and we need a Postal Service structure that will enable us to succeed.

How does all that impact on labor relations and collective bargaining? It will have a huge impact. It will not be a direct impact because the legislation is not necessarily going to change the rules of collective bargaining in any dramatic way, although we may see some minor changes. The main point is whether the legislation will succeed in doing what it is supposed to do—allow the Postal Service to thrive, or at least be viable in a competitive way. We can all imagine the difference in the collective bargaining context

with a Postal Service that is growing or at least holding its own and doing well financially as opposed to a Postal Service that is withering on the vine and losing money.

It is really in that grander scheme that we will see the real impact on collective bargaining, on those points that Randy mentioned, and the impact will be felt across all the unions, the NALC and the Mail Handlers. Although we do not see eye to eye perfectly on what the new legislation should be, I think there is a fundamental consensus on the need for change and the need for flexibility and a change in the business model. The unions have been supportive. There has been some significant cooperation because we all have one thing in common. We all want to see a successful United States Postal Service.

Greco: Let me ask the same question of the union representatives. Sam, what's the biggest issue as far as the Mail Handlers are concerned?

D'Ambrosia: I started in the Postal Service in 1967. That's a long time ago, and there are changes. And we make no bones about it. I think that Jack Potter has been up against it since 9/11. He has had to overcome a lot of issues—Anthrax, the reductions in the mail volumes—and we try to understand that.

On the other hand, our employment is down, and it doesn't mesh with us. I work on the floor also, and the outcry every morning is do more with less. Well, that's fine. But that can come only so far. After a while, you have a very tired, disgusted, and distraught group of workers. And they are looking for some kind of answer. The labor relations climate is always going to be strained in a lot of our jurisdictions given the challenges we are experiencing. This is not so much the case with my sister unions at the moment. The Letter Carriers are not at risk right now, but they very well may be as customers close plants and as consolidation occurs. That will all come to you as arbitrators because we are not going to sit down and allow that to happen without filing some kind of grievance. So I think we do understand some of the problems. I would say that we don't understand all of the problems.

Greco: Bill, what are the biggest issues for the Letter Carriers, and how do you want them resolved?

Young: Whatever they are, I don't want them resolved by Congress. I don't want them resolved by Kevin. We must resolve them together, otherwise, we will not get an acceptable result.

Clearly, the Postal Service has to change. They have lost \$2 billion in revenue from the decreases in first class mail volume for 3

straight years since 2001. There is no indication that will change. We've lost 91,000 jobs in the Postal Service in the last 5 years. That's not insignificant.

But I have been in the Postal Service for 40 years and I have seen this cycle repeat itself five to eight times during those 40 years. When finances get bad, the Postal Service's answer is the same: Cut hours. They claim that 80 percent of all of their revenue is spent on wages, and that includes the wages of managers, as well, I might add, but that doesn't matter. Eighty percent of every dollar is spent on wages. What would you expect in a service industry? So their immediate answer is to downsize, to reduce the hours, to put more pressure on their managers who put more pressure on the Letter Carriers, the Clerks, and the Mail Handlers and everybody else who is involved. At some point, that stress becomes so great it becomes counterproductive, and it has often showed up as a reduction in the quality of service to the American public. I think our responsibility, all of us at this table, is to find a way to continue to provide the quality of service that the American public needs. I see the Postal Service as far more than just a delivery company. It is something that binds and holds this nation together.

I am not a person who is going to rail against technology. People are going to use the best technology they can get. I have 15 national business agents across the United States. When I need to communicate with them, I use e-mail. I don't send them letters. It just makes sense. I think we have to face up to that.

The Anthrax affair was a fine example of how working together is a good thing, allowing the right thing to happen. It was our employee members who were endangered, and I am proud that Jack Potter did everything he could do to keep those employees safe. I am also proud that he reached out to all of us in the organizations. We had weekly, sometimes daily, meetings on the latest developments with CDC. My point is this: We have to find a way to deal with our challenges *together*. There has to be the will to sit down together as reasonable people to determine together what it is that we are trying to do and how we are going to get there. If either the unions or management try to work in a vacuum, it is going to end up counterproductive. It is going to end up chaotic, and the only ones that might take advantage of that situation are the arbitrators in this room because they surely will be called upon as others have suggested to resolve the disputes. It is not that I don't respect your ability to do that. I do. But we are going to get

the best result if we sit down and do it together, and I pray to God that that is what happens, and I see encouraging signs in some areas that it is, in fact, happening.

Greco: Go ahead Randy, what are the most important issues that you see for your union?

Anderson: At this stage, I don't know that there is much value for me to reiterate some of the things that have been said already. We all know about the Presidential Commission, the report that the committee issued, and the legislative efforts that are going on now. We all know that the Postal Service is under a spotlight and that it is trying to find other sources for the lost revenue that Kevin was speaking about. There is a concern about cutting costs; the unions feel that there is an obsession with cost cutting, and it creates some of the issues that Bill and Sam mentioned.

Of course, all of us at this table want the Postal Service to be wildly successful, but within that we have our own interests that we have to be cognizant of and concerned about. In a global sense, the issue that concerns me most in our craft right now is the pay system and, by the way, we are under a unique pay system, one that's different from any of the other craft employees in the Postal Service. We have an evaluated pay system, and it would take me the good part of this afternoon and this evening to give you all the details. One aspect is that if we have a 9-hour a day workload, and we finish in 7, we go home. We don't have to fill out a slip for 2 hours of leave or sit on a stool until the time has gone by.

On the other hand, if on a particular day I have 10½ hours of work to do, I don't get paid any extra either. Now, there are some things in the Fair Labor Standards Act that do come into play. The one thing that bothers us in the rural craft is this very unusual scrutiny with rural hours these days. It is causing managers to look at our time sheets and insist that many of our people will be back at a certain hour, notwithstanding the fact that the contract acknowledges that our days can vary. They can be up or down. You do not necessarily have a 9-hour day and you do not have to punch out within the 9 hours. That's one thing that concerns me greatly with this pressure that is coming down.

Also, in the good old days, a rural carrier went to work in the morning, put the mail up, cased the mail as we call it, put it in sequence of delivery, went out on the route, came back, did some closing out or maybe cased some more mail, and went home. It was all predicated on one trip. These days, because of some of the initiatives of the employer, we are not just completing one trip on

the route. As the Postal Service struggles to find ways to increase revenues, they are offering more and more products, if you will, or initiatives to the public. Some of you may be aware of “carrier pickup.” That’s where you indicate you have a parcel or Express Mail to be picked up and the next day the letter carrier will pick up those parcels. So we are trying to replace some of the lost revenues with some parcel business, and that causes me great concern because no longer are we guaranteed one trip.

We settled some cases prior to arbitration recently, national cases, where in some instances carriers can be required to go back out on the route. With this carrier pickup program we are considering what to do about second and third trips because of mail that we are picking up, not that we are delivering. So that’s something that is facing us down the road. My concern is that our membership may get to the point where they feel the current system has been so perverted that they want to abandon it and go to a time clock like the other crafts use. Then it does not matter how long it takes me to walk up to the door, or how long it takes me to get out of my vehicle and lock it up if I am going to be out of sight. So this is a real concern to us and to me personally.

Greco: I want to thank Bill Burrus for joining us. Let me recap for him what I’ve asked the panelists to do. Tell us about the most significant issues facing your union and how you would like to see them resolved and share with us any general comments you might have.

Burrus: Thank you, and specifically, thank you for giving the American Postal Workers Union the opportunity to address this auspicious group of arbitrators. We appreciate your service and your professionalism. We have grown a lot over the past 35 years—certainly your profession has, as well as the postal unions interacting with the Postal Service under the concept of arbitration in lieu of the right to strike. We began in 1971, new to this process, and we continue to evolve. We have come a long way and we are on the brink of entering the next phase of labor relations in the United States Postal Service.

The last 35 years have been relatively contentious as we each stumbled to find the appropriate mechanisms to resolve the disagreements that occur in our workplace. In the APWU we once had more than 100,000 grievances pending arbitration, often delayed for years and years, some as many as 15 years from step one to arbitration. We have successfully reduced those numbers. Postal headquarters management and our national representatives have tried

many different approaches. We finally seized on a process that works. The other unions led in this—NALC, Rural Letter Carriers, and the Mail Handlers. They all reduced their grievances years before us. But we have reduced our backlog now to fewer than 30,000 and are heading toward 20,000 nationwide. With members in 38,000 facilities, I believe a realistic target is to get our backlog down around 15,000. We represent approximately 230 different job descriptions with employees working three shifts, 24 hours a day. It is only natural, with all good faith, that we are going to have some disagreements.

Let me tell you briefly about some of the concerns that I have with the arbitration process. In general, as you can expect, we like to win. But we are mature enough to know that we are not going to win every one. We are not even going to win all the ones we think we should win. However, the delayed decision is one of our biggest concerns. Delayed decisions lead to a lack of trust in the process. Decisions have been delayed for 6 months, a year, and some as many as 3 or 4 years before a final award. One can imagine that the losing party might have some suspicion as to whether or not the record led to the decision. That breeds suspicion. Then too, an old decision is obviously based on notes and the written record. Certainly, the testimony is not fresh in the mind of the arbitrator. That also causes concern.

A moment ago I said that we have matured. But we have not matured to the level that we can go from contract to contract with the same panels. Invariably, our national agreements permit the parties to renew or to expunge an arbitration panel. Inevitably, my Postal Service field representatives are keeping score cards. We all have computer programs that spit out the analysis of the decisions, and we react to that. We have not yet become comfortable with arbitrators who read the contract applying their best intellect and training, their best experience, and come in with a decision that at least one of the parties doesn't understand. That happens because of inconsistency.

We would like to get to the point where, if we get 10, 12, 15 decisions on an issue, we can feel comfortable that that issue has been put to bed. What disturbs us to no end is to have 10 or 15 decisions going one way, and then all of a sudden, with the same facts, the same language, the sixteenth decision goes the other way. That gives both parties, not just the loser in that case, the idea that the door is never closed. Any issue is always worthy of another try.

The problem is that on the union side, we are a democratic institution. We are elected by our membership, and politics plays a role in the decision to appeal or not to appeal. If there is a sliver of hope, if there is 1 decision out of 20 that went the other way, there is a good possibility that our representative who is facing that kind of case will make the appeal.

So it doesn't serve us, even if we are on the prevailing side, it does not serve the interests of APWU to win 1 out of 20 because that only encourages our representatives to go forward. We have five regions with 430 advocates. We have 65 elected officers. They are all arbitrating cases, and those individuals will seize upon that 1 out of 20 and go for it. And who am I from Washington, D.C., to tell them to apply my judgment in place of theirs? So inconsistency does not serve either party well.

Let me conclude that side of my remarks about your service to us. We are most appreciative. We have computerized our operation to the extent that I believe we are fairly prompt in compensating you. There are those isolated circumstances where we believe that there are too many study days attached to the case. But in general, that has not been a problem.

Let me turn to a subject that was addressed earlier—postal reform. Other unions will speak for themselves, but in general, APWU understands and accepts postal reform as we perceive it—as an effort by the mailing community to reduce postal cost. About 80 percent of postal cost is wages, which means postal reform is equivalent to a reduction of wages for postal employees. If I had the political influence on Capitol Hill, I would not have proposed postal reform. Standing in the way of a flood, however, I would have had no influence whatsoever on the outcome of the legislation, and could not have stopped it if I had opposed it.

So APWU has not openly opposed the legislation, but it is a bad bill for Americans. It is a bad bill for postal employees. Postal reform will not add one letter to our volume. Our system is dominated by the large mailers, very large mailers. It is not you and I writing to each other. It is the large mailers that mail 10 or 20 or hundreds of millions of letters per year. They want to reduce their costs. They view us, those who represent postal employees, as their costs, and their effort for reform is aimed at reducing that cost—reducing wages, benefits, conditions of employment that add cost. That is what postal reform is about. It is not to save the system, unless one views getting rid of people as “saving the system.”

We have 428 mail processing plants. Postal reform is about closing many of those plants. When these plants are closed, you take the income out of the community. We have been successful in elevating postal salaries to a level that it adds significantly to the tax rolls in many communities. Whether it is 1, 2 or 5,000 jobs, elimination of jobs will have its effect.

We have successfully placed in our contract “no layoff” protection for the employees, but included in postal reform legislation is a recommendation that we be denied the opportunity to provide that type of protection. APWU has been engaged in the discussions to modify the legislation to make it less onerous to postal employees.

We have been focusing primarily on subcontracting because more mail is now being processed in the private sector than in the post office. There are more processing plants operated by private employees earning \$8 to \$9 an hour, with no benefits, than is being processed by the Postal Service. Some of the large contract companies, for instance, Pitney Bowes, have found that there is more money to be made in processing mail than there is in manufacturing equipment. So we interjected into the legislation controls on subcontracting.

Aside from postal reform, what are the most pressing problems and issues APWU would like to resolve? What APWU wants is stability. That is our principal goal. We are accessing reassignment and the differing policies and processes used by different managers. There is a lack of stability. The employees I represent cannot go to work tomorrow and be confident that there will be the same work environment they had yesterday. There is no stability. With instability, there is uncertainty, confusion, and distrust. It causes hostility within the work force.

So unlike past years when mistrust between management and labor might have been the number one issue, the issue has changed. We have moved beyond that. Now, I would point to management and say that they should be consistent in their decisions. Our objective today, if we had a list of wishes that would be granted for us, our principal issue would be stability for the employees.

Greco: Sam, if you had to give the arbitrators who are here any advice on how to interpret the contracts, what would it be?

D’Ambrosia: Again, I go back to the CIM manual. It assists us in contract interpretation. That’s why I wanted to speak regarding the new advocates presenting cases. I think that arbitrators have

to recognize that we aren't lawyers. I came up through the ranks. I was in front of Nicholas Zumas in my first case on two removals. I had never been trained. They just threw me in the ring and said "Go at it." From that, I've grown, and now I teach advocacy. We try to teach our representatives to prepare. We ask the arbitrators to listen to what the files say, what the contract says.

As far as contract interpretation is concerned, I go along with Bill Burrus. There are too many times we will have six wins on a subject and all of a sudden whack, there is a loss, and we can't figure out why. Where we want to put something to bed, we can't because there is one that goes the other way. It is a tough question to put on the arbitrators themselves. I think that they have to look at what is presented, what the contract language means to them, and the history. Each craft has a different history.

Greco: Bill?

Young: Before I comment on contract interpretation, I just want to comment on something else that Bill Burrus mentioned. I will just give you some facts: In 2000, the Postal Service delivered 103 billion first class pieces of mail. In 2004, the Postal Service delivered 98 billion first class pieces of mail, a decrease of 5 billion pieces of mail.

Now, as far as the arbitrators plying their trade, I think you do it in a professional manner. I don't have any real complaints with the way that you do it, and when I have been confronted with the problem that my brother over here mentioned, and Bill also mentioned—the different results on the same issue—it has been my experience, speaking only about the Letter Carriers, when I get different decisions in NALC cases, either the arguments made or the facts presented were different.

It might be the same Article VIII violation, but in one case, somebody made one argument, and in the next case, they didn't make that argument, and the result is different. Or in one case, there was one fact that was present, and when I look at the next case, that same fact wasn't present or maybe three others were. So I am pretty much satisfied that the arbitral community is serving in a professional manner.

Greco: Kevin?

Rachel: Thank you. First of all, I just want to say how comfortable I feel, caught in the middle between the unions as I usually am. (Laughter.) In terms of advice to arbitrators, I need to give a little disclaimer to begin with—the arbitration decisions that I

see are not representative. The ones I see are the ones where our managers in the field have the most problems. My desk is where managers send awards recommending we go to court to vacate.

Let me also say upfront, the number that I receive is small, and the number that we take to court is far smaller still. But it is perhaps useful to mention an opinion that is kind of formed from seeing some of those cases, and this goes to the issue of remedy. In some of the ones that I've seen recently, the decision on the merits may have caused some irritation but it was probably correct—not being a source of any real problem. The remedy, however, is where the real problem arose. Some were not thoroughly explained and it was not self-evident why the remedy was what it was.

Bear in mind, the remedy is what we are going to have to do. Often the remedy will flow in a self-evident, customary, noncontroversial way. The cases I am thinking of were not discipline cases; they were contract cases. When you have those kinds of cases, it may be equally important to explain the remedy with the same thoroughness that you would normally apply to the merits. I would like to commend that thought to your attention, particularly in a case where remedies are not so self-evident.

In addition, it doesn't come up very often, but time limits and late awards can be an issue. When it gets to my desk, it is usually a request that the arbitrator be removed from the panel. I get those requests from postal management personnel and more often from one of the representatives of these unions. So those time limits are taken seriously by the parties, and I really do urge you to follow them.

Greco: Randy, I will ask you for a comment. The question is: What would you tell arbitrators about writing decisions?

Anderson: No. That's a different question.

Rachel: No. I just had a different answer. (Laughter.)

Anderson: Okay. I think all of us want consistency. I think we are united in that. We want to know what the lay of the land is. Now, in our craft we do not have very many cases of a contractual nature go to regional arbitration. We usually settle those at steps 1, 2, and 3. Our difficult contractual issues almost always go to the national level.

I would like to go back to a point made by Bill Burris. We have about 113,000 active carriers in our union. The APW has more than 300,000. So you would expect there would be a difference in the number of grievances, but it is not proportional. I hear my brothers up here talking about 60,000 with Bill saying he believes

15,000 was probably about as low as it is going to go. In our craft a couple years ago, we had what we thought was a tremendous spike in the number of step 3 appeals. I can't tell you the number of grievances that were settled at Step 1 and 2, but we thought that we were just overwhelmed with 1,300 or so appeals, and our highest ever was about 1,800 appeals to step 3.

On the disciplinary front, we do not have the democratic process that some of the others may have in place. Ours is between a representative government and a benevolent dictatorship because in our union, our director of labor relations is the one that determines if a case is going to go to regional arbitration or not. For a case to go to national arbitration, the whole national board is involved in the decision. Last year, for instance, we actually got to hearing with an arbitrator's award forthcoming on about 28 cases. Now, we resolved many removal cases that had been scheduled even on the day of the hearing. So, relative to the City Letter Carriers and the APWU, we not only have smaller numbers, but we have a different process.

As far as the consistency issue is concerned, I am going to have to be "me, too." We have some complaints about what arbitrators do or don't do. We are also concerned sometimes with delays, but fortunately have not had the delays that Bill was referencing earlier. If we have an arbitration hearing and we don't get anything within 45 days, we are starting to look for it to come in the mail. And it does come in the mail. We won't accept it coming otherwise. So we have some instances where things go 2, 3, maybe 4 months, and that troubles us greatly.

I guess my biggest complaint, if you will—and I don't have too many—and it is something I am going to have to talk to my counterparts at the Postal Service about soon—is that when we select arbitrators, we send out a contract and we ask that you give us 2 days a month. Well, sometimes we get 2 days and sometimes we don't. Recently, an arbitrator gave us 1 day a month and indicated that at least 3 weeks prior to each date that he wanted to know whether we would use the date and, if so, what case he would hear. Well, that is impossible. So we are going to have to have a joint discussion with that arbitrator because we just can't live with that. I have been concerned that some of you perhaps don't read carefully the contract that we send out that says we want 2 days a month—not 1, or 1 day every other month.

Generally speaking, we have a fine relationship with our arbitrators and we just want consistency. Whether you deny the grievance

or sustain the grievance or you put somebody back to work with no back pay, we do want consistency, and we want to be able to feel like we had a fair hearing. That's all we ask.

Greco: I have two more questions, one of which I am going to ask both Bill Young and Bill Burrus. But this one is for anybody: How do you select arbitrators? What is the process for selecting arbitrators?

Young: In the NALC, I have 15 national business agents representing 15 geographic areas across the United States. Our labor agreement requires that each arbitrator be on the American Arbitration Association panel, and the arbitrator's contract is for the life of the labor agreement plus 6 months. The process we use is for the 15 business agents to meet with their labor relations counterparts at the regional level. They agree first on the number of arbitrators they need, and second they agree on the panels that they will use—expedited and regular. Finally, they determine whether they can agree to continue the current arbitrators. Either party has a unilateral right to say no, and when that happens, we have to look for another one.

We maintain lists at the headquarters level. A large number of the names come from letters from you all. Some of you will call Kevin, or somebody at the Postal Service will indicate that you are desirous of serving on the panel, and then they will advise you to send letters to myself and maybe some of the other presidents here. If the National Business Agents and their regional counterparts cannot agree on a panel, then it comes up to the national level. That has happened only once in only one of the regions about 5 years ago. In that case, I met with a representative of the Postal Service at headquarters and we agreed on the panel. As far as removal, we do not remove arbitrators on the NALC panels until the contract expires. We like the stability, but at the beginning of my presentation today I did give a clear indication that I am going to remove some in the next round and I gave the reason for it. Kevin is right. If an arbitrator is continually late—if the arbitrator can't live with the terms of the contract—then the contract will not be renewed.

Greco: Bill, do you have time limits in the contract?

Young: Yes. Arbitrators sign contracts saying that they will render decisions within X number of days of the receipt of the briefs or the closing of the hearing, and if he does not do that, he can be penalized. The arbitrator's fee can be reduced in stages, depend-

ing on how late the award is. But if it is a continual habit with the same arbitrator, he or she may be removed from the panel.

Burrus: APWU is structured into five regions. We have five regional coordinators that are responsible for our field operations. I entrust the selection of arbitrators to those five individuals. They consult with their business agents. Each has a group of business agents that reports directly to them in the different crafts that we represent. And through that feedback, recommendations from the business agents and the advocates, they arrive at final decisions. They work with our director of industrial relations in Washington, D.C., who establishes our panels.

We are a democratic organization, so politics play a role. A business agent can become very upset with an arbitrator. Typically this is not the result of a decision. Most of the complaints relate to the conduct of the hearing where an arbitrator takes over the hearing or takes over the case of a business agent and will not let the business agent ask questions and tends to dominate the hearing. Business agents will communicate their assessment of arbitrators to the coordinator with a positive or negative recommendation. The Postal Service will come to the table and they have an internal process like we do of identifying potential arbitrators and evaluating them as to whether or not they should be continued.

Often one of the parties will come in and say they want to get rid of the entire panel. The other side will retaliate. We have not matured enough to get beyond that. We have more than 100 panels. Each district has a contract panel, discipline removal panel, and an expedited panel. So in all, we have a very large group of arbitrators. But we haven't matured. I would hope that during my career that we would be able to mature to the point that we wouldn't go through this bloodletting every time the contract expires and we have 6 months to sit down and either continue with the panel or make recommendations for change. I would hope we have some consistency. But invariably, as our contract expires in November, if we follow true to form, we will probably replace at least a third of our panel.

During the term of an agreement, arbitrators get comfortable with the advocates and gain an understanding the idiosyncrasies of both sides. Likewise, the advocates can get familiar with the arbitrators and their idiosyncrasies—what one arbitrator will put up with, what another arbitrator won't put up with. When we had 2-year contracts, by the time it was time to renew their contracts,

we wouldn't even know the arbitrator yet. Now, we have had 3 and 4 and 5-year contracts.

Greco: Kevin, how does the Postal Service look at it?

Rachel: Arbitrators in the field are selected by the area labor relations managers. There are 10 of those so they do not match up one for one with regard to the NALC, APW, or the Mail Handlers. There is something about the Postal Service that is obvious, yet sometimes we do not appreciate how much it impacts on other things. That is just how decentralized the Postal Service really is. We are in every county, go to every street, and we are extremely decentralized. Whether you are the employer or the union representative, you cannot dictate every move in every corner of this great nation of ours. So you have different things occurring in different ways. So on the Postal Service side the area labor relations managers make those selections. They are subject to concurrence at Postal headquarters, and we do look at them. It is very unusual, however, if we do not concur.

In terms of Bill's remarks about complete panel changes, it happens both ways. There are times when we will receive the panel up from an area and it will be a whole new panel. Next door, there may be a nearly complete continuation of the arbitrators in there. That is certainly more common, but it certainly does happen both ways.

Anderson: I guess I will prove there is always an exception. We have five regional panels, and once more, it is the director of labor relations working with our general counsel that does the vetting of the arbitrators. Although our national president's name is on the letter that goes out with the contract, it is the director of labor relations that deals with the representative from Postal headquarters. That's how we do it in the rural craft.

I must say, just as a personal aside, I don't go to casinos and gamble, I don't play the horses, but I have found that striking names has a certain adrenaline rush for me. (Laughter.) And as Bill mentioned earlier, when you spend your life—16 hours a day—in labor relations, that's your world. You don't have a whole lot of high points, but that's certainly one for me.

Rachel: And I should have mentioned, as Randy said, the selection of Rural Carrier arbitrators is different. It is more of a headquarters matter. But his comment about striking just reminded me it is something that we do very infrequently. The area officials on both sides almost always come up with names. Occasionally,

there is a resort to FMCS for a list in unusual circumstances, but that is very unusual.

D'Ambrosia: I just want to comment that our structures are different. If I recall correctly, the APWU and NALC, and probably the Rurals, pay for arbitration at the national level. Our structure is completely different. We have 37 local unions, and they have total autonomy. So we run the names by the local presidents who present the cases. That makes sense to me.

Many of our regional and national people do not present cases. The presidents or their advocates hear the cases, so those are the folks who should be involved in the striking. I am not too sure I agree with the Postal Service on the strikings. I got reports about the strikings recently, and we lost a lot of good arbitrators in my eyes. It is a system that goes both ways, and it cuts both ways. Seeing some of the people we lost brings tears to my eyes, but that is how our structure is for the Mail Handlers.

Greco: Go ahead, Bill.

Young: Early in my first comment, I mentioned that I was going to strike some people. It would be disingenuous for you not to agree, Kevin, that you have already struck people for the very same reason. You struck the two arbitrators that upheld the joint statement on violence that you had to take to court. So let's be honest with people, both sides at the national level have done that. We have done that as a direct result of a decision where we thought an arbitrator has acted inappropriately. It would only be fair to acknowledge that right in front of everybody.

Rachel: Let me just say when I talked about striking being unusual, I was speaking of the context in which you get an FMCS list and go through the process of striking.

Young: Oh, okay.

Rachel: I didn't mean to suggest that the Postal Service never loses its enthusiasm about a particular arbitrator because that does happen.

Young: That's fair.

Greco: I am going to see if there are any questions because we are just going to run for a few more minutes. Please identify yourself for the record.

Passo: My name is Sinclair Passo. I arbitrate out of Chicago. Based on what the panel members have said, they will entertain applications from arbitrators and when they have to pick new arbitrators, they look over the applications. It would be helpful for

those of us here who would like to be on panels to have the names and addresses to which we may send resumes if we want to be considered.

Burrus: All of the requests for the APWU panel are directed through the Director of Industrial Relations in Washington, D.C., but one of the coordinators at the back there can give you the name and address of the officer. We maintain a file. I assume the director will confer with the coordinators and attorneys and that they have an evaluation process and a method for circulating names of arbitrators around the country.

We have no magical process. Most of the arbitrators get on quickly because we are horse trading. The Postal Service has an arbitrator who has contacted them, and a top-level official will call my office and our director of industrial relations and say "Can you put this arbitrator on the panel?" Or an arbitrator comes to me and I decide to run interference for that individual, I will call somebody at the Postal Service and say "Can you do me a favor?" And we don't even look at the record for those. If there is a postal manager who is retiring, say an ex-director of labor relations who wants to dabble in arbitration, he will contact APWU. Or if we have an officer who retired and wants to arbitrate, I will call the Postal Service. Most of the ones that get through quickly are handled in that fashion. If you send your resume in, that's the slow process.

Young: For NALC, if you send a resume to Gary Mullins, 100 Indiana Avenue, Washington, D.C. 20001, it will get on file.

Rachel: Every resume that I receive, I send out to area labor relations managers in the geographic region of the arbitrator as well as keeping them in my file.

Anderson: On this issue, about sending things in, we do not encourage that because most of those inquiries don't have a long shelf life. They will be given the weight they deserve.

Greco: Are you going to take it for what it is worth?

Anderson: I am just being honest with you. I get some in every once in a while and yes, indeed, they come to my office. That can be good or bad, but when we are selecting the new arbitrators, it may be just a serendipitous confluence as they say. But if you really want the address, I will be happy to give it to you.

Burrus: They don't have a backlog, so take your time. We have 30,000 cases pending. (Laughter.)

Rachel: But the Postal Service needs the postage revenue. (Laughter.)

Greco: I am going to take just one or two more questions.

Simon: Gary Simon, member of the Academy from Chicago. Mr. Rachel, you mentioned problems with cases where the remedy isn't explained to you. In the awards that you have, is it clear that the Postal Service advocate addressed the remedy in his or her argument, or does the arbitrator simply take the remedy that the union has asked for because no one challenged it?

Rachel: I cannot say how much discussion there was of the remedy. I can say that in one case, the problem was the adoption of the union's proposed remedy without any explanation as to why that was appropriate and a lot of self-evident reasons to question whether it was appropriate. In other cases, there may have been a multi-part remedy where one part was self-evident, but the others simply left our people scratching their heads wondering what the thought process was that led the arbitrator to that outcome. It creates a level of frustration, which causes awards to be sent to me.

Burrus: I read three decisions on the plane coming here. The director of industrial relations gave them to me. I normally don't read arbitration decisions because we get too many of them, but I have been thinking about them ever since, and I will think about them all the way home. All three of them said the disciplinary action was not for just cause, but the employee would not be returned to work. Back pay was awarded, but the employee was not returned to work. And I have been trying to think through that. How can you have an action that the arbitrator says was not for just cause but not restore the employee to their previous position?

Greco: I am going to give Bill Young the last word.

Young: Well, Bill, that one doesn't make any sense to me at all either, but I just offer this observation. Kevin is a very experienced and effective advocate. He has handled cases involving the NALC at the national level for a number of years. Normally at national arbitration, you don't have remedies granted. What the Postal Service struggles with is permissive remedies. From our viewpoint, they are long overdue. I just read a case involving the working of employees in excess of 12 hours. We had a national arbitrator say you cannot work an employee more than 12 hours, or more than 60 hours in a week, under any circumstances. Then we settled some cases at the national level by paying the grievants an additional 50 percent of their pay. They had already received time-and-a-half, so now they will receive double-time pay.

Six grievances were processed out of the Upland, California, post office where the manager said, "I don't care about the extra 50 percent. I am going to work you 65 hours and give you the

half time pay.” Finally, an arbitrator said, “Post this on the bulletin board—No more ‘obey now and grieve later’ in Upland California. When you get to your 60th hour, bring the mail back and let the manager worry about what to do with it.” I am sure the Postal Service is going to have a problem with that, but my God in Heaven. Six times they were told they can’t do it, and six times they just waved at it.

So I want to encourage all the arbitrators in this room to take the necessary action when you run into that kind of obstinacy. Kevin and the people that work at his level will tell you that in an organization of 800,000 people, you are going to have some who are mavericks who won’t listen to the good advice they get, and I believe that. I have been in the Postal Service too many years not to believe that. So if these kinds of managers will not listen to Kevin and his professional staff, then maybe you can help deliver the message. I want to encourage you to keep those kinds of remedies coming. Sometimes that’s the only thing that will ring the bell and bring some finality to otherwise absurd actions. Thank you very much.

Greco: Thank you. Let me thank the panel for their participation and thanks to all of you for staying late.