



# Jailhouse Chatter

**AFGE Local 1612**

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## Employee Secret Files

Can a supervisor keep a “secret” or informal file on an employee?

No. Article 17 of the Master Agreement outlines “Employee Personal Files.” No derogatory material that may have an adverse effect on the employee’s character or career will be placed in any official file without the employee’s knowledge, per the agreement.

Personnel records must be made available to the employee upon request from the employee. A union representative can look at an employee’s file only with written authorization first.

Human Resource managers are the “official custodians” of personnel records, which would include official personnel records, employee performance files and adverse action and/or disciplinary files. All files are considered “official” because they could be detrimental and can contain sensitive information, such as Social Security numbers. Human Resource managers, according to the Human Resources Manual, are responsible for “safeguarding” these records to prevent unauthorized disclosure.

If adverse material is placed in an employee’s file, the employee has the right to be notified within 15 days of the material being placed in the file. Staff files shouldn’t be kept in a supervisor’s office - - only Human Resources.

The file can’t be removed from Human Resources by the employee, but may be reviewed with a member of Human Resources present. The employee is authorized to have copies of materials in their file.

If an employee believes their personal file contains inaccurate information, they may attempt to resolve the discrepancies with their local Human Resources office.

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## This Month in Labor History

Tennessee state convicts had been leased to mine owners by prison officials in an effort to make prisons self-supporting and to increase state revenues. The practice had started in 1866 and ended in 1892.

The American Federation of Government Employees was founded in 1932. AFGE is currently 275,000 members strong! In 1935 President Roosevelt signed the first of its kind guaranteed income for retirees under the Social Security Act.

President Nixon announced a 90-day freeze on wages, prices and rent in an attempt to curb inflation in 1971.

A year long strike began in 1985 with the Hormel meatpackers.

In 1994, a major league baseball strike began that lasted 232 days and cancelled 938 games. The strike was over team owner's demand to cap the salaries of players.

The North American Free Trade Agreement between the United States, Canada and Mexico launched in 1994, but did not become fully implemented until 2008. Economists have slated the agreement as one of the most successful trade agreements in history.

Employees in a Wal-Mart automotive department in Canada won an arbitrator-imposed contract in 2008 becoming the retailing giant's only North American store to have a collective bargaining agreement.

A few months later Wal-Mart closed that department. Three years later Wal-Mart closed an entire store after the government announced an arbitrator would impose a contract agreement there as well.

## Local Happenings

1. A case regarding light-duty has been picked up by an AFGE attorney and continues to move forward. We're waiting on the attorneys to pick a date for arbitration.
2. A grievance has been filed in regards to 1-2 Clinic sleep studies - - no overtime and changing staff schedules.
3. Bekki Stafford, Fair Practice Coordinator, will be attending the Fair Practice Convention/Training in September.
4. Augmentation is still an issue - - pulling staff to cover for training and staff skipping their augmentation.
5. A case regarding the two day suspension of a staff member is going to arbitration.
6. The volume of the fire alarms will be discussed at the next Labor-Management meeting in September.
7. Rachael Owens, Joni Krider and Chuck Clevenger will serve as the election committee for elections in November.
8. A vote was taken and passed to pay for a Union Representative's travel in regards to the snow-storm arbitration case and back pay. The Union will pay for the travel expenses, but will then be reimbursed by the Agency. The 2011 Snow Storm arbitration is waiting on the arbitrator's decision.
9. The National had a petition regarding the pat search policy. We had approximately 130 signatures.
10. Staffing levels and schedules are an issue at the powerhouse.
11. An unfair labor practice has been filed over Human Resources not responding to requests for documentation.
12. The E-board will be attending the National Convention on September 1-6.
13. Nursing roster - Once the LTC expansion is complete, the 12 hour set sick and annual posts will show up in the sick and annual section.
14. Negotiations on radiology "Callback System" will start at the end of August.
15. Negotiations on entrance procedures will start soon.

## Untimely Paid Overtime

AFGE Local 1300, Florence, Colorado, won an arbitration case when the Federal Labor Relations Authority upheld a previous arbitration decision that the Agency, the Bureau of Prisons, had violated the Federal Labor Standards Act by not promptly paying employee's overtime.

Shortly stated - - management in Florence wasn't paying overtime until all "necessary signatures were entered on the overtime authorization form." Because it was taking so long to get all the necessary signatures, employees weren't being paid for the overtime they worked until later pay periods. This violated past practice, because they had previously been paid the same pay period using an overtime roster-based system.

The Federal Labor Relations Authority ordered the Bureau of Prisons to return to the roster-based payment system. It was noted that the Office of Personnel Management's regulations didn't specifically outline a timeframe for overtime payments, but the timeframes, according to the codes for federal regulations under the Fair Labor Standards Act, must be consistent with the Department of Labor's, where practical.

## Around the Bureau

### AFGE

A win for AFGE's Council of HUD Locals! They were successful in reducing their furlough days from seven to five!

The Department of Defense has reduced the number of furloughs for their employees from eleven to six.

AFGE President has called-out the Pentagon on a proposal that could potentially strip military retirees of their pensions should they return to work for the government as civilians. President Cox stated, "...this proposal stoops to a new low."

A rally is being held in protest to sequestration and federal budget cuts in Pittsburgh. Hundreds are expected to attend.

### Councils of Prisons Local

The Council of Prisons Local 33, at the National level, has filed an unfair labor practice violation against the Bureau of Prisons. The Bureau of Prisons is charged with violating the terms of an electronic search procedure for staff that had already been established by an earlier filed unfair labor practice and Federal Labor Relations Authority hearing.

The Bureau has "systematically" violated the terms of that agreement across the Bureau less than 30 days after a signed settlement has been reached.

Attempts by CPL at informal resolution have been ignored by the Bureau of Prisons. As stated in the ULP, Director of the Bureau of Prisons, Charles Samuels, stated he implemented this policy and staff are happy with the policy.

MCFP's Local 1612, along with Locals all across the country gathered signatures for a petition to show staff are in fact not all okay with this policy.

Bureau wide, the new staff searches policy has been implemented prior to negotiations with the National and Locals. This is an ongoing issue.

The CPL will have their National Convention in September.

## Know Your Rights

Garrity rights have stemmed from a 1967 United States Supreme Court decision. This decision protects employees from being compelled to incriminate themselves. These rights protect the employee from choosing between self-incrimination and job forfeiture for failing to cooperate with a voluntary interview or investigation.

These rights stem from the 5<sup>th</sup> Amendment Rights outlined in the Constitution, which states, the government can't compel a person to be a witness against himself. "I plead the fifth." The 14<sup>th</sup> Amendment makes the 5<sup>th</sup> Amendment rights applicable to state, county and municipalities as well as determined in the 1964 Malloy vs. Hogan case.

Always request a Union representative prior to answering any questions. If you are informed the interview is voluntary or that investigators want a voluntary statement, you don't have to provide one. You have the right to not be threatened or intimidated with adverse or disciplinary action from the investigator in order for them to secure incriminating evidence. Incriminating evidence could be used for an arrest or prosecution. If the investigation is regarding criminal matters, you would also be entitled to Miranda Rights.

## Happy Labor Day

The first Monday of September is observed as "Labor Day" a day to celebrate the creation of the labor movement and to honor the social and economic achievements of the American worker! Congratulations to the workers that have helped make this country a great one!

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**We're putting the  
*move* back in  
labor movement!**

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**AFGE Local 1612**

**We are only as strong as our members! We rely on our members to help us identify violations of our Master Agreement, past practice, etc. in order to ensure our rights are upheld!**

**If you have a question for the Union or a letter to the editor that you would like included in the newsletter, send an email to spg/AFGE or let a Union representative know!**

**Union meetings are held at 4:30pm, the second Monday of the month at the Union House. We welcome you to attend meetings to vote for issues important to you and to have a voice in discussions affecting us all!**

**We're on the Web!**  
[www.local1612.com](http://www.local1612.com)

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