



On The Move

July 8, 2019

Official Publication of TWU Local 234

www.twulocal234.net

SEPTA & the IG play games, as crime rises

We live in a time in which crime and illegal drug use seems to carry the day. Working in the transit industry, Local 234 members get an up close and personal look at the vices that plague Philadelphia. At a recent meeting with our union brothers and sisters who work in the stations we learned that they fear for their lives while working on the Market-Frankford, Broad Street, and Subway Surface Stations. This is a disgrace.

When reporting to work, station workers should not have to step over homeless people, nor confront drug users lying in the stairways leading to the stations. Our members witness people openly using and selling drugs in plain view of our customers, including children, without any shame or fear. On occasion, our cleaners have had to “negotiate” with drug dealers to get them to move, so that they could clean the areas where drugs are sold, in the stations.

IG is out of line...he thinks the contract doesn't apply to detective interviews

With all this happening, you would think that SEPTA would have an “all hands-on deck” approach to providing safety and security for our members and the public. Think about this. SEPTA has an Office of Inspector General (IG) with armed detectives and the ability to conduct criminal investigations, with the power of arrest. Yet, the IG and his detectives spend a lot of their time *interviewing union members* in order to get evidence of some offense in support of discipline, something that is supposed to be handled by location management.

Just last week, SEPTA's Chief “Labor Relations Officer,” Chad Cuneo, who is supposed to enforce the contract, threatened to discipline union members who exercise their contractual rights by “refusing to answer questions posed to them by [armed] IG investigators.” Cuneo also blamed the Union for the problems with the IG. Cuneo is wrong and he's out of line. If Cuneo thinks Local 234 is violating the contract, he should file a grievance. We have to fight this fight, whatever it may take. Here's why it's so important.

In order to investigate a possible disciplinary infraction, SEPTA must give *notice* to the union and the employee. Notice is a fundamental due process right. However, the IG thinks he can force member interviews without notice and in violation of their right not to speak. Those who have complied with the IG's request for an interview with an armed detective have not done well, because the purpose of the interview is to obtain evidence to incriminate you of some disciplinary offense---usually one resulting in discharge.

The IG must honor our members' rights under the contract, just like everyone else working in SEPTA management

Under the contract, Local 234 members have no obligation to consent to being interrogated by an *armed, trained* interrogator working for the IG. The IG must honor the contract as much as other SEPTA managers assigned to other departments or divisions of the Authority. However,

SEPTA has decided to use the IG to circumvent the due process protections provided under the contract.

In other words, SEPTA has decided that it is more important to call a 234 member down to the IG's office and question them about a doctor's note than it is to stop someone from shooting drugs in a station in front of young children. The IG thinks it's more important to investigate petty public complaints than to deal with criminal assaults against our drivers and the riding public. The IG would rather use police resources to try to run roughshod over our rights than join the fight to provide safety for the riding public and our members.

Has the IG gone soft on the real crimes taking place on SEPTA property?

What we have here is a misplaced use of scarce resources and a waste of taxpayer dollars, to say the least. What we also have is a war against our members, so it's important for you to know that there is nothing to be gained by agreeing to an IG interview, it can only do you harm---irreparable harm---in addition to violating your rights.

SEPTA's wasteful use of IG resources shows that something is seriously wrong with SEPTA management. The Authority is losing a substantial number of riders. Some focus solely on Uber or Lyft to explain why. However, all you need to do is take a trip over to 1234 Market and talk to Chad Cuneo and those who oversee the work of the IG. I think you'll agree that many of SEPTA's wounds are self-inflicted.

Discharged by skipping steps in progressive discipline

At the end of 2017, a Midvale operator got fired for "poor job performance," when SEPTA skipped a step of progressive discipline. The bosses at Midvale and Cuneo's Labor Relations Department thought that managers could "skip steps" of progressive discipline whenever they wanted. As a result, the discharge violated the Midvale operator's right to "progressive" *step by step* discipline. The Union took the case to arbitration. Meanwhile, the operator had no income, no benefits, and didn't know whether she would ever get her job back.

In arbitration, we argued that unless the offense were *very serious*, SEPTA could not skip steps of discipline, because if SEPTA had the right to skip steps they could skip *multiple steps*; or go directly to the discharge step, undermining the whole purpose of progressive discipline. SEPTA's position made little sense, but the managers wanted to walk people out the door quicker, so labor relations patted them on the back, and refused to enforce the contract.

The Union won the case. The arbitrator decided that the operator's performance violations were not so "extraordinary or unusual" so as to justify SEPTA's "deviating from the five-step progressive discipline system established through collective bargaining." SEPTA was ordered to reinstate the operator with full back pay. This waste of time and money could have been avoided, if SEPTA had lived up to its side of the bargain. If Cuneo and the others in labor relations worked in the private sector they would be gone by now.

We Must and We Will