

***Labor Management Relations Quarterly Meeting
Washington, D.C.***

December 9 - 10, 2009

**Unresolved Items: May 2009 Agenda
Agenda Items: UNION**

6. Agency, who is the Responsible Management Official to ensure the policies that the parties have mutually agreed to is followed? Please state the name or names of these individuals for the minutes and/or positions.

Who: Joey Meade, LMR

Resolution:

7. What mechanism have been established by management to monitor this process? Please state for the minutes the mechanism or process. Who, is the responsible management official with oversight of this process? Please state the name of the Responsible Management Official for the minutes.

Who: Joey Meade, LMR

Resolution:

9. Does the agency considers calling a employee in under a Pretext of discipline to the CEO Office under false charges to give an employee a promotion a form of HAZING or workplace harassment? Please give explanation or answer in the minutes for record keeping.

Who: Christopher Wade, LMR

Resolution:

10. Based on the language in the Master Agreement "Collective Bargaining Agreement between the parties" Article 2 - Joint Labor Management Relations, Section (d). When there is an occasion when the minutes for the LMR Session will be later for whatever unforeseen reason. Why, isn't the agency articulating the situation for the delay to the Union designated LMR Chairperson to keep the update in the finalization of the minutes? The Union is aware that unforeseen events will delay the minutes however the spirit of cooperation should not suffer because of this

unforeseen event. In addition to this concern the agency is not correctly articulating the language in the minutes to reflect the Union's position concerning the issue. What is the agency position on this issue? Please articulate it in the minutes for record keeping.

Who: Joey Meade, LMR

Resolution:

Unresolved Items: September 2009 Agenda Agenda Items: MANAGEMENT

3. Master Agreement - scheduling of meeting dates.

Who: Joey Meade, LMR

Resolution:

Agenda Items: UNION

1. Retention of Documents

Recently at a portal hearing in Yazoo, MS, the Council learned the agency has started archiving custody rosters and post orders via WordPerfect files. In the process, we learned management shredded all the originals (hard copies - even last quarters' documents). Our concern is management is not officially archiving the documents in their current state. Management is excluding original dates, original signatures and/or the staff signature sheets in the process - which eliminates any authentication. In the process of electronically storing these documents, management shreds the originals and/or signature sheets - which has dates on them and subsequently claims the electronically stored documents are the original documents from years prior. It is no way to prove such, other than to check creation dates and last modified dates on the disk or the floppies' properties.

By doing this, we contend management can easily alter or manipulated documents, changing them from their original format. Language or instructions in the post orders which have portal implications can easily be changed. The CPL contends the documents should be saved in PDF format as an official document/file which demonstrate the creator or author of the post orders. Electronic storing should include documents which preserve dates and/or original signatures/initials. But, Captain and Executive Staff in Yazoo, MS stated at the hearing, the Custody Manual allows them to store just an electronic version without dates or signatures. They even claim program review permits this as well. To the Council, this is nothing more than a destruction of government documents - to avoid liability. More important, it is our belief this is an attempt to alter the official signed documents and cover-up past portal issues (language) that was in the post orders.

The Program Statement refers to this in three areas and it is somewhat different in each area. When policy was negotiated with the Council, the intent was to maintain stored documents in their original format with all original initials/signatures, included. This needs to be corrected immediately and guidance needs to be sent to the field - to avoid language in post orders from being compromised/changed electronically. The Council thinks it is necessary to try to clarify this language from a national perspective rather than leaving it to individual managers on a local perspective to understand and interpret or implement. Therefore, we ask that this policy language be clarified by the national parties in LMR, so there is no further misunderstandings occur. We want all Post Orders to be retained according to policy in their original format, with the original dates and original initials/signatures. Archives must be copies in PDF format.

Who: Joey Meade, LMR

Resolution:

2. Workers Compensation

The Council of Prison Locals recently learned from Locals that a REDMAP initiative has changed national policy. In example, Locals who request copies of the regionally approved Temporary Alternate Duty Assignments which is outlined in Program Statement 1601.4, 13. INSTITUTION RESPONSIBILITY. The policy says an institution is responsible for identifying and developing temporary alternative duty assignments. To reduce disruption to the institution and to facilitate the worker's recovery, injured/ill workers will be placed, when possible, within the department where their original job assigned is located. Identified TAD assignments will be submitted to the Regional Safety Administrator for discussion and review prior to program implementation. Safety managers have told Locals they do not have to obtained regional approval any more – as result of a Redmap initiative. Regional or Central Office Safety personnel also say they didn't have to obtained regional approval any longer.

Our question is as follows: (1) Has REDMAP changed this? (2) If so, when was this going to be brought to the attention of the Council that a national negotiated policy has been change? (3) If so, is the agency changing previously negotiated policy language without bringing it to the attention of the Exclusive Representative?

Who: Joey Meade, LMR

Resolution:

3. Article 28 - Uniform

Section c. The Employer will provide additional equipment or clothing for safety and health reasons when necessary due to the nature of the assignment and as prescribed by the Safety Officer. The Safety Officer will consider input from the safety committee as appropriate.

Section h. Uniforms for all staff will be in accordance with policy, and only those staff occupying positions outlined in policy will be eligible for a uniform allowance. Policy will not be changed or implemented until negotiated with the Union.

1. What law, rule or regulation, if any, prohibits employees from supplementing the boot allowance with their own money to obtain a higher quality boot - as long as the transaction is between the vendor and the employee?

2. Are non uniformed staff permitted to wear a uniform if they purchase it themselves?

Who: Joey Meade, LMR

Resolution:

4. Standards of Employee's Conduct

It is the Union's belief or philosophy that there is no true accountability in the field placed on Wardens when they violate policy, the law or the parties' CBA. One example is based on the situation that was allowed to develop at USP Atwater to create the working atmosphere that contributed to Jose Rivera's murder. This is based on the After-Action Report written by managers under the direction of the Director. In this case, the warden was merely relocated to another prison holding his same grade and/or pay. However, it is the opinion of the Union based on the After Action Report the Warden was "Inattentive to his Duties" as Chief Executive Officer of the facility. Bargaining Unit staff has been disciplined and/or terminated for this offense and for much less. Please answer the following questions:

1. Why didn't the agency pursue a standard of employee's conduct violation when Wardens/Executive Staff violates the Standards? When management obviously was inattentive to their responsibility of running the institution pursuant to BOP Policies.
2. Is it a code of conduct violation when labor law is violated in management's prospective?
3. What mechanism are in place in the Central and Regional Offices to monitor the performances of warden in the field? How was the Warden at Atwater able to

violate procedure so long without detection from his superiors in the Central and Regional Offices? (Failure to monitor management in the field effectively only breed cronyism and a ineffective agency.)

4. Does the Director of the Federal Bureau of Prisons exempt his subordinate managers from possible disciplinary actions pursuant to the Standard of Employee's Conduct Policy when they willingly or unwillingly violate the Standards, labor law or labor agreements?

If not, please explain why he has not discipline numerous Wardens in the field for these violations?

If so, without giving any personal identifiers give some examples of the discipline render in the field to Wardens that violated the Standards, labor agreements or labor law?

Who: Joey Meade, LMR

Resolution:

5. Equal Employment Opportunity (EEO)

The BOP issued a solicitation to multiple contractors with current General Services Administration (GSA) contracts for a home sale service program. The solicitation issued by the BOP requested a home sale service program for all BOP locations. Prudential Relocation was the only vendor that responded to the solicitation. As part of their response, Prudential stated current market conditions would prevent them from offering a home sale program for BOP staff relocating from Puerto Rico.

BOP previously and currently still engages in flagrant discriminatory acts by excluding native Puerto Ricans from Home Leave, including housing, access to certain schools or day care services and by denying military PX privileges. BOP knows these are violations of the law because of a previously rendered arbitration decision, yet, it continues to engage in or permits flagrant acts of discrimination to persist against staff in Puerto Rico. When is BOP going to end these discriminatory practices? When is BOP going to stand up for native Puerto Ricans/residents who work in Bureau of Prisons' facilities - on the Island? More important, when is BOP going to treat these staff in a fair and equitable manner as dictated by the Arbitrator? And, what is BOP doing presently to correct this current situation mentioned herein and/or the injustices with the Home Buyer Program?

Who: Darlene Ely, Admin.

Resolution:

8. Sick Leave

There are allegations that the agency is issuing Sick Leave Abuse Letters based on an ambiguous criterion of an undefined pattern of Sick Leave usage by bargaining unit employees. The issuance of these Sick Leave Abuse Letters includes but is not limited to the following institutions: FCI El Reno, FCI Dublin, FCC Coleman (all institutions), FCC Beaumont (all institutions) FCI Butner - Low, FCI Sandstone.

The Union wants clarity on what constitutes Sick Leave Abuse by a user?

The Union also wants clarity on what constitutes an alleged pattern by the Sick Leave user?

The Union wants to know if sick leave that is taking pursuant to FFLA, FMLA and Sick Leave that are accompanied with a doctor's excuse to the employer is being calculated into the alleged pattern of the user?

The Union, is requesting that the agency provide the Sick Leave usage of all staff to include managers assigned to above mention institutions at the up coming LMR. We would further request that no personal identifiers be used. However, the Union is requesting that the Sick Leave Usage be collated and broken down by grades, gender, race and national origin of the user. This agenda item is being submitted to the agency twenty-one (21) days in advance of the LMR session. The Union is requesting if the agency is unwilling to provide this information please inform the Union prior to coming to the table. Which will allow the Union the opportunity to request this information pursuant to Title 5 USC subsection 7114 (b)(4).

Who: Joey Meade, LMR

Resolution:

9. Electronic Searches of Female Staff resulting in allegations of Sexual Harassment

Numerous allegations of inappropriate touching resulting from the hand held metal detector going off in the area of a female's bra. It was established when the parties were negotiating the Electronic Search Procedure, that management was looking for weapons going into the secure facility. It is also noted that there is discretion giving to a staff member that never been suspected of bringing in contraband during their career and the metal detector goes off in an area that we can visually see metal in a bar maybe setting the detector off. Female, staff in this agency should not believe they are being sexually harassed by management resulting in the filing of EEO Complaint. A National grievance has been filed on this issue. The agency's lack of movement in correcting this is thereby considered by the Council as condoning this type of behavior willingly or unwillingly – cronyism!

When this being said, why is male staff searching female staff after the hand-held device sound off for a more intimate search, (e.g., FCC Lompoc Medium Institution and FCI Sandstone)? Why, is the agency at the highest level not monitoring our agreement concerning Electronic Searches? Is, the agency at the highest level, actually monitoring the agreement on Staff Searches? How, is this monitoring being done?

Who: Joe Moorhead, CPD

Resolution:

December 2009 Agenda Items Agenda Items: MANAGEMENT

1. Electronic Performance Evaluations

Who: Robert Brooks, HRMD

Resolution:

2. Update on HSPD-12 Initiative

Who: Sonya Thompson, IPPA

Resolution:

Agenda Items: UNION

1. Health and Safety

Hearing Conservation. It continues to be the practice of the agency to expose employees to dangerous noise levels without hearing protection according to OSHA Standards. This is not limited to bargaining unit employees who participate in Special Operations and Response Team (SORT) during maneuvers, Disturbance and Control Team (DCT) during periods of training and all other employees who work in various other areas of Institutions where noise levels are prevalent, sustained or distressingly to employees' hearing (e.g., Powerhouse, Housing Units, Corridors, etc.). This is occurring at the majority of Bureau of Prisons facilities/Institutions.

OSHA regulations require Employers to monitor all employees whose noise exposure in the workplace is equivalent to or greater than 85 dB. The exposure measurement must include all continuous, intermittent, and impulsive noise within an 80 dB to 130 dB range and must be taken during a typical work situation. OSHA regs mandate Employers must provide baseline audio grams within 6 months of an employee's first exposure at or above an 8-hour TWA of 85 dB. OSHA regulations say that it is important to test workers' hearing annually to identify

deterioration in their hearing ability as early as possible. This enables employers to initiate protective follow-up measures before hearing loss progresses. In addition, OSHA requires measurement records be maintained by the employer for 2 years and maintain other test results for the duration of affected employees' employment.

Uniform. The Council has been informed none of the vendors supply or make a poly blend uniform. We believe the positions affected are as follows: All Electricians, Comm Techs, HVAC and Powerhouse Operators.

NFPA 70E "Electrical Safety in the Workplace" specifies the appropriate clothing to wear for various levels of exposure to Arc/Flash hazards, but the undergarments worn under Nomex or other flash protection should still be 100% cotton (no synthetic fibers). The Council previously expressed this issue before to the Employer. What can be done about this to correct this problem? Has the the Employer initiated efforts to correct this problem?

Who: Ron Day, HSD

Resolution:

2. **Calendar**

The Council of Prison Locals will like to complete the yearly calendar with management (e.g., Master Agreement, Policy Negotiations, National LMR, etc.) before the upcoming fiscal year 2010. Presently, the calendar is only set until March 2010. The Union needs advance notice to secure room reservations in the Washington, D.C. area. This can be better achieved, if the calendar is completed for the remaining of the year.

Who: Joey Meade, LMR

Resolution:

3. **MRSA**

Previously, this issue was addressed in LMR. However, inadvertently, this pertinent issue was never addressed by the management in LMR when it was presented.

The issue is MRSA testing. Presently, we have bargaining unit employees who assert they have contracted a work related occupational illnesses at work. However, OWCP has continued to deny these type claims, due to a nexus not being drawn back to the work site. The main reason why this keeps occurring, particularly, is because the agency has refused to test the inmates – who contract the contagious disease at the Institutions. It is imperative for the agency

(Institution) to test the inmates to determine the strain of MRSA, so the employee can demonstrate he contracted the same strain at work from a particular inmate (s). If this is not done, OWCP will continue to arbitrarily deny employees' claims. We have been informed these tests are relatively cheap. It is imperative for employees to demonstrate the nexus that the strain of MRSA came from a particular inmate at a particular time.

Who: Dr. Pelton, HSD

Resolution:

4. **Employee Standards Conduct**

It continues to be the practice of management officials locally to violate the Standards P.S. 3420 and Office of Internal Affairs P.S. 1210, through its managers, by questioning employees or directing employees to write memorandums upon observing or becoming aware of a violation (s) or apparent violation (s) of the Employee Standards of Conduct.

Policy is specific and clear in both policies – as to whose responsibility it is to direct alleged improprieties of wrongdoing. It summarizes all employees have a responsibility to contact the CEO or appropriate authority immediately upon becoming aware of an alleged violation or **apparent violation**. As an example, in the Southeast Region, a Captain and a Lieutenant called an employee into the Captain's office, repeatedly, over the course of several days and questioned the bargaining unit employee on several different occasions of alleged improprieties and wrongdoing of another employee. No Investigator was present. The Officer fearing discipline himself and requested a representative. A rep was never provided – even though the employee exercised his right in accordance with Article 6. Yet, the Captain and Lieutenant continued demanding he answer the questions. Subsequently, the employee was ordered to write a memorandum of the alleged impropriety. The Union contends the Captain or the Lieutenant is not an investigator. The Warden indicated he had not authorized an investigation and did not know of the inquiry being conducted by these management officials. The Union believes these managers are not above the Standards and are both employees as well. We contend Supervisors are held to the higher standard. We contend both had no right or authority to question this employee in such a manner, nor engage in intimidation or coercion in the exercising of the employee's rights. Department Heads, Lieutenants, and other management officials Bureau-wide are engaging in similar acts.

How can we stop this from reoccurring?

Does management contend this is coercion?

Does management contend this as conducting an unauthorized investigation, since the Captain or the Lieutenant is not an Investigator -- nor did they have such approval by the Warden or any investigating authority, too illicit such questions?

Does management believe these management officials should have been referred by the Warden for conducting an unauthorized investigation? If not, why and where does it justify such conduct or their actions in policy?

Would any other employee be referred for engaging in such an act?

Who: Joey Meade, LMR

Resolution:

4. **Correctional Services Manual**

At one time all of the "sensitive policies" were not given to the union. However, it was agreed upon that the Union could "sign" for a copy or chit out a copy of this Manual. Has this practice changed?

Who: Joe Moorhead, CPD

Resolution:

5. **Pre-Selection**

The Union received information through a hearing where several management officials utilized the government computer to engaged in wrongdoing. We contend these managers intentionally engaged in wrongdoing on GroupWise to keep an announced merit promotion from a bargaining unit employee.

The Union contends this is preselection. We contend each manager's actions were flagrant. We contend their actions were an abuse of authority as well. (See Attached email).

Does management condone this type behavior?

What is management doing about it?

Will any of these management officials be disciplined and/or referred for wrongdoing?

Are these management officials being held to the higher standard according to P.S. 3420?

Who: Joey Meade, LMR

Resolution:

6. **Mission Critical Arbitration**

Several months have passed without the parties agreeing on dates to resolve the issues in the above arbitration Award. There appears to be no urgency on the agency's behalf to get dates scheduled for reconstruction and resolution. Failure to agree on dates at this LMR meeting will result in an unfair labor practice being filed for enforcement.

Who: Docia Casillas, LMR

Resolution:

7. **VRA**

What is the current status of the erroneous VRA appointments and the waiver from OPM?

Who: John Caraway, HRMD

Resolution:

8. **Master Agreement**

Various administrations, locally, have been proposing changes to practices and/or working conditions without following the Master Agreement. The CBA articulates in Article 3, section c. what the Agency will do when changing any and all policies, practice and procedures. Article 4, section a., further summarizes the Employer's responsibility of notification of changes in working conditions at the local level. Article 4 section c., further states, the Employer will provide expeditious notification of the changes to be implemented in working conditions at the local level. Such changes will be negotiated in accordance with the provisions of this Agreement.

Fortunately, some Institutions and management officials do follow the CBA. However, there are many that do not. Instead, they make a change and unilaterally implement without engaging in good faith negotiations – selecting a time period for proposals to be in (which are usually only a few days and threatens implementation should the Local not submit proposals within that time). For instance, the Agency will notify the Union on Monday at 1:00 p.m. that they are planning changing the current way employees are performing their jobs. The agency is not contesting the Union's right to bargain over these changes, and/or are not saying it is nonnegotiable. What they are doing however is telling the Union when they will meet, where they will meet and when will proposals be due – without affording the Union an opportunity to negotiate ground rules, when requested. As mentioned above, they tell the Union on Monday there will be a change. And, they also tell the Union it is going to be implemented on Friday – giving the Union, no time to obtain official time and/or try and submit proposals drafted.

The Union is asking this be rectified immediately and guidance be given to the field on this matter. We contend this can be construed as a repudiation of the national CBA.

Who: Joey Meade, LMR

Resolution:

9. **REDMAP**

This agency has submitted numerous pages of their unilateral "Red Map Initiatives" for consideration. The Council would like the agency to explain all these initiatives to include how this data was obtained -- in detail.

Who: Mike Richter, PRD

Resolution:

10. **Hiring**

The Director of the BOP placed a Sallyport message recently to all staff that he had initiated efforts to increase hiring -- to fill more than 2000 vacate positions. In addition, further information revealed the BOP had authorized positions for FY 2010 totaling 40,563, including 19,408 correctional officers. The FY 2010 request for BOP included an increase of 871 positions, including 350 correctional officers, over the FY 2009 level of 39,692 direct authorized positions.

The Council would like to address the issue with the additional Officers in Correctional Services that are currently being hired in the Bureau. It is our understanding from the feedback in the field that instead of reinforcing and adding staff to Correctional Services Roster on new posts that these Officers being hired are being placed on the sick and annual rosters -- to offset the costs of overtime. If so, this is a direct conflict with the message the Director has expressed to Congress on Capital Hill. The Council contends we cannot continue to operate with insufficient staff. Our staffing levels are adversely affecting BOP operations, specifically related to the safety of staff and the security of the Bureau of Prisons.

Why aren't we using this staff to enhance our security within the prisons? We should be replacing vacated post that was taken off the rosters as a result of mission critical.

Has the Director provided direction to all Wardens to place these new employees on the sick and annual roster to offset overtime cost, in opposite, to addressing the safety and security concerns -- expressed by the Council to Executive Branch of Government and to the Congress -- within the prisons?

Who: Joey Meade, LMR

Resolution:

Bryan K. Lowry, President
Council of Prison Locals

Joey Meade, Chief
Labor Management Relations & Employee Security Branch