

*Labor Management Relations Quarterly Meeting  
Yazoo City, MS*

*July 6-8, 2004*

Agenda Items: MANAGEMENT

**ISSUE:** Arbitrator lists being sent electronically versus mailing the forms. We would like the union to agree to electronic submissions as a standard procedure throughout the country.

Who: Joe Chapin, LMR

*Resolution: Both parties agree that electronically filing of arbitrator lists will not be mandated, however, it will be encouraged. An e-mail will be put out to the field on this issue.*

Agenda Items: UNION

1. **ISSUE:** At several institutions lately (FCI Tallahassee and FCI Big Spring) OIG has come into investigate staff and has refused to give the employee the copy of the Form B or the affidavit. What is Management's stance on this issue? The council believes that if a copy of either document is not provided, the staff has no obligation to speak to OIG without the assurance of what type of investigation is being conducted.

Who: Don Laliberte, LLB

*Resolution: The agency agrees to talk to OIG about what their reasons are for holding back from giving out the Form B to staff. Don Laliberte will provide a date to the union next week as to when the meeting between OIG and BOP will take place. The union reiterated their concern over the use of*

*the program statement name (i.e. standards of employee conduct) being used as the investigatory subject is overly broad. This matter was resolved in a previous LMR Quarterly meeting and management agreed to remind OIA of this issue.*

2. **ISSUE:** The representatives of the aggrieved party for an EEO complaint are not getting copies of files, motion from the agency, etc., in accordance with the provisions of 29 CFR 1614.

Who: Don Laliberte, LLB

*Resolution: Don Laliberte has agreed to discuss with Mina Raskin to remind her that representatives should be given copies of files, motions, etc. in accordance with 29 CFR 1614.605 (d) upon agency receipt of the designation of representative. The union notes that this is the second time this issue was brought to the table.*

3. **ISSUE:** EEO investigators are not informing bargaining unit staff of their Weingarten Meeting Rights. Some EEO investigators and Management Officials of the agency are not allowing bargaining unit staff to have Union Representatives to be present during the investigation. This is a potential violation of Title 5 U.S.C. 7114 (a)(2)(B).

Who: Don Laliberte, LLB

*Resolution: This agenda item was discussed. Management agreed to inform Mina Raskin that EEO investigators should be reminded to follow Title 5 U.S.C. 7114 (a)(2)(b) and the Master Agreement Article 6.*

4. **ISSUE:** Several institutions throughout the agency are failing to adhere to the guidelines of Management Directive 715 as it relates to the procedures regarding reasonable accommodations for temporary and permanently disabled employees. There have been several employees who requested temporary accommodations and the CEO of the institution have failed to accommodate the employees and have failed to respond back in writing as to why the accommodation was not arranged.

Who: Don Laliberte, LLB

*Resolution: The union wants to table this issue for this meeting for further examination by the union.*

5. **ISSUE:** There is a perception on the part of management that participating and providing information at the EEO counseling stage is voluntary on their part, then the parties need to be made fully aware of this, or the perception, the way management sees the process, needs to be changed to cooperate fully with the EEO counselor regardless of grade level.

Who: Don Laliberte, LLB

*Resolution: Management agreed that all staff are encouraged to cooperate in the counseling stage of the EEO process in accordance with all applicable policies and regulations.*

6. **ISSUE:** EEO representatives that also happen to be union officials are receiving difficulties from EEO counselors and managers regarding official time in accordance with 29 CFR 1614.605. This particular EEO representative is also being stereotyped as a union representative in the EEO process, which is discriminatory.

Who: Don Laliberte, LLB

*Resolution: Management and the union agree that Official time under the EEO process is different than official time as the union representative which will further be defined under the Discrimination Complaints Processing Program Statement.*

7. **ISSUE:** Bilingual staff are being forced to translate for the agency against their will, creating a hostile working environment. The agency policy needs to be enforced throughout the bureau.

Who: Don Laliberte, LLB

*Resolution: This issue is tabled for further research by the union.*

8. **ISSUE:** Smoking Implementation: Apparently, Wardens do not realize that grievances will be coming if they are not reasonable in setting up smoking shelters around the institution. They are not reading policy along with the FSIP decision. I would like to discuss this and get some information sent out to try and limit grievances over the matter.

Who: Cristina Griffith, LMR

*Resolution: Agenda items #8 and #9 were discussed. Both parties agree that the FSIP decision is controlling for staff smoking which is included in the smoking policy. Further, the language in 28 CFR Subpart N applies to inmate smoking only, and is separated accordingly in the policy. Under the FSIP decision the warden shall designate outdoor smoking areas without requiring local negotiations. However, to avoid unnecessary grievances Wardens are encouraged to consult with their local union officials regarding this issue.*

9. **ISSUE:** It was brought to my attention that the FSIP language won by the union was removed from 28 CFR in March 24th rules language. The parts that discussed “extended period of time” (locked in an area) which were the former rule and the impasse decision have been eliminated. This should not have happened as you went to FSIP over this and the language is the language, you can’t just change it in a BOP rule making procedure.

Who: Cristina Griffith, LMR

*Resolution: See resolution for Agenda item #8.*

10. **ISSUE:** I would like copies of all Executive Staff decisions (either minutes or simply listings) so the E-board can keep up with all the changes coming down. I would be happy to have the last 3 or 4 meeting decisions.

Who: Joe Chapin, LMR

*Resolution: Management provided the union copies of the Executive Staff meeting minutes from August 2003, November 2003, and February 2004.*

**ISSUE:** I have not gotten anymore information on the uniforms or what the executive staff is looking for. Are we going back to committee meetings? Or what other process is going to be used?

Who: Cristina Griffith, LMR

*Resolution: The union discussed its extreme dismay at the delay in resolving the uniform change. The union reminded management that this was their initiative and that management pressed this issue because of time constraints. Now that we are approaching the October 1<sup>st</sup> deadline there has been no feedback to the committee or to the union on the status of the uniform. Management stated that the focus has been on budget issues and that a meeting is still supposed to occur with Phil Glover, Cristina Griffith, Steve Schwalb, Keith Hall and other union committee members. The union stated that contracts have been awarded at Jesup and at least one other institution for the production of the uniform. The union is very concerned that management is moving forward without resolution of the uniform change.*

12. **ISSUE:** I would like an update of the status of our budget cuts and if we have cut enough to reach the 140 million for FY 2004. I would like a detailed listing of cuts to positions and a break down by bargaining unit, non-bargaining unit, supervisor, and manager.

Who: Regina Sullivan/Sheila Kiernan, HRMD

*Resolution: Management has attached a list of the initiatives taken to reach the \$140 million reduction for FY 2004.*

- 3 **ISSUE:** What steps is the agency proposing to take to expedite a reduction in workload in proportion to the reduction of staffing that we're already experiencing?

Who: Joe Chapin, LMR

*Resolution: The union has attached an e-mail from Ron Rubottom regarding this issue.*

14. **ISSUE:** We are continuing to have a tremendous problem in the field with management implementing changes in local policies, working conditions, etc., prior to ever notifying the union or giving the union the opportunity to have input. There also seems to be a tremendous increase in management claiming issues are “non-negotiable” and don’t recognize the fact that even in non-negotiable changes, we often have the right to negotiate appropriate arrangements. We would like a nationwide e-mail sent out to all Wardens and Local Presidents clarifying the process and what is required of management and the union when making changes to personnel policies and practices and conditions of employment. Article 4 of the Master Agreement refers to these issues but it seems that it’s not being acknowledged.

Who: Ruby Navarro, LMR

*Resolution: The union raised the issue that local institutions are increasingly declaring things non-negotiable and not allowing bargaining as permitted by Title 5 and the Master Agreement. The union is going to start identifying which wardens aren’t complying with the directives of the Central Office. An e-mail sent on March 25, 2004, from Keith Hall, is attached to the minutes which reminded management of their bargaining obligations.*

15. **ISSUE:** I am requesting a copy of the number of all vacant positions not currently filled at each BOP facility. How many positions have been eliminated from each facility compliment in the last two years? The agency is claiming that they are trying to maintain an overall compliment of 91%. Do the eliminated positions from each compliment allow the agency to continue to show that they are in fact still maintaining current levels?

Who: Regina Sullivan/Sheila Kiernan, HRMD

*Resolution: The union is concerned that we are reducing positions and then funding those positions at 91%. The union feels that it appears to others that we have enough to operate. Sheila Keirnan will get the information for the union that they requested no later than next week.*

16. **ISSUE:** Is there a push by the agency to activate FCC-Medium Forrest City as a smoke free institution?

Who: Ruby Navarro, LMR

*Resolution: See agenda item #8 and #9. The new medium at Forrest City will be activated in accordance with the current smoking policy.*

7. **ISSUE:** Would like to discuss memorandum put out by agency concerning procurement of shoe/boots for employees. Since memorandum was put out, there has not been an urgency by local administrations to renegotiate agreements that were in place. Every day that goes by without an agreement on how these shoe/boots will be purchased is a violation of Article 28, Section G.

Who: Joe Chapin, LMR

*Resolution: The above referenced memorandum was not intended to change the cost and/or quality of safety shoes which have been negotiated at the local level. The memo was intended to outline which procedures are inconsistent with the regulations, and to instruct those who have negotiated such inconsistent procedures to renegotiate procedures to be in compliance with the regulations. Union and management engaged in lengthy negotiations must develop interim procedures to ensure staff continue to receive shoes/boots. Although the cost and quality of shoes should not generally be renegotiated, these items may be renegotiated if both parties agree.*

8. **ISSUE:** The agency is freaking out about the budget. Cost cutting is going as far as elimination of positions, consolidations, etc. How much money has the agency spent on new furniture, new computers, new conference room tables, at all BOP facilities that already had all of these items that were in good working order?

Who: Joe Chapin/Ruby Navarro, LMR

*Resolution: The union has advised that they are actively monitoring purchases and sending them forward to the appropriate Executive Staff member for explanation and response.*

19. **ISSUE:** Why did the agency eliminate QSI's in the BOP? How much was the cost savings annually? Has the agency eliminated all bonuses for Executive Staff? What is the cost savings?

Who: Joe Chapin, LMR & Regina Sullivan/Sheila Kiernan, HRMD

*Resolution: Sheila Kiernan advised that all QSI's were eliminated for this fiscal year only in order to save money. The agency has also eliminated all bonuses for Executive Staff for this year only. The total cost savings for eliminating all QSI's and bonuses for this fiscal year was \$7.7 million.*

20. **ISSUE:** The agency has taken some current supervisory positions such as Safety Managers, and Security Officers and call them Lead Positions. Are these types of positions no longer going to be of a supervisory nature? Are they going to be allowed to be in the bargaining unit?

Who: Regina Sullivan/Sheila Kiernan, HRMD

*Resolution: These Lead Positions may still be of a supervisory nature. In establishing these lead positions personnel offices need to review their bargaining unit status consistent with Title 5. Management agrees to review the bargaining unit determination at FCC Forrest City for Lead Positions.*

21. **ISSUE:** Administration at Houston posting roster changes at Houston without proposing the change to the local union. Is the local administration at Houston obligated to follow the Master Agreement?

Who: Ruby Navarro, LMR

*Resolution: Management stated that FDC Houston and all Bureau of Prisons facilities are obligated to follow the Master Agreement.*

22. **ISSUE:** Why are counselors at FDC Oakdale having to perform functions that the classification manual requires case managers to perform? FDC Oakdale is not the only institution that has pre-trial inmates, but is the only one where counselors are assigned GS-11 case manager functions! Seems that management at that facility has piecemealed parts of the teaming and classification manual and trying to apply it for pre-trial.

Who: Regina Sullivan/Sheila Kiernan, HRMD

*Resolution: This issue is tabled until the next LMR Quarterly meeting.*

23. **ISSUE:** A staff member at FCC Forrest City reported to his supervisor that he was prescribed heavy narcotics and probably shouldn't be working. HSA stated they (department) were short and to report to work. Aren't narcotics, narcotics? Prescribed or illegal, should the staff member be working?

Who: Ruby Navarro, LMR

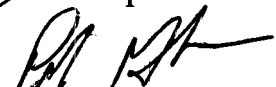
*Resolution: This issue is tabled until the next LMR Quarterly meeting.*

- 24 **ISSUE:** We'd like to discuss the rights of PHS staff when it comes to roster scheduling. There is an issue at Lexington going on with this and Dwayne Pettit, the local president at Lexington will be at LMR in my place so he can address the issues with you. We feel this needs clarified so that all institutions are on the same page and aware of what PHS rights are.

Who: Joe Chapin, LMR

*Resolution: Management agreed that the Master Agreement should be adhered to with respect to the roster procedures. Management should ensure that a blank roster for the upcoming quarter will be posted in an area that is accessible to the appropriate bargaining unit staff, for the purpose of giving those employees advance notice of assignments, days off, and shifts that are available for which they will be given the opportunity to submit preference requests. Once the assignments are made, should management make any changes, they must be made in accordance with the Master Agreement and appropriate laws, rules, and regulations.*

 7-8-04  
\_\_\_\_\_  
Joe Chapin

 7-8-04  
\_\_\_\_\_  
Phil Glover

#12

RESPONSES TO QUARTERLY LMR MEETING AGENDA ITEMS  
ADMINISTRATION DIVISION

13. I would like an update of the status of our budget cuts and if we have cut enough to reach the 140 million for FY 2004? I would like a detailed listing of cuts to positions and a break down by bargaining unit, non-bargaining unit, supervisor, manager.

Response: We have made enough adjustments to the FY 2004 Financial Plan to cover the earlier projected \$140 million deficit. These included such things as: Reducing number of Permanent Change of Station relocations; Reducing inmate programs, Reducing non-mandatory training; Reducing TDY travel at all levels; Eliminating vehicle replacement purchases in FY 2004; Deferring Major Equipment purchases; Applying a 1% across-the-board reduction to central office, regions and training centers; Reducing funding for special projects; Reducing co-op and intern positions. These necessary actions did not involve reducing permanent positions at institutions. However, the Director did place a hiring freeze on the Central Office through the end of FY 2004. Any central office position filled must be personally approved by the Director, after the relevant Assistant Director has submitted a written justification for the action.

Although not directly associated with the actions taken related to coping with the FY 2004 deficit, it should be noted that an across-the-board reduction of management positions at regional and central offices was completed in April 2004 which resulted in a reduction of 106 positions.

16. I am requesting a copy of the number of all vacant positions not currently filled at each BOP facility. How many positions have been eliminated from each facility complement in the last two years?

RE: The Agency is claiming that they are trying to maintain a overall complement of 91%. Do the eliminated positions from each complement allow the agency the ability to continue to show that they are in fact still maintaining current levels?

Response: Positions have not been eliminated from each institution's complement. However, out of financial necessity positions have been left vacant.

(NOTE TO HRM/LMR: Someone in HRM has to address the request for the number of vacant positions not currently filled at each BOP facility.)

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#12

From CPLMARVP@aol.com  
To local817@att.net  
Subject LMR Agenda for Mid Atlantic  
Date Tue, 15 Jun 2004 22:16:24 +0000

Mid Atlantic

My agenda items for the July 2004 LMR meeting:

- 1 What steps is the Agency proposing to take to expedite a reduction in workload in proportion to the reduction of staffing that we're already experiencing ?

My view: We are seriously understaffed and according <sup>to</sup> the Director's letter put out a few months ago, we were going to "reinvent" the Bureau doing "less with less". Thus far, I've seen nothing proposed to reduce workload for staff to enable them to help with correctional coverage and accomplish the mission of the Bureau with "less".

- 2 We are continuing to have a tremendous problem in the field with Management implementing changes in local policies, working working conditions, etc prior to ever notifying the union or giving

the

union the opportunity to have input. There also seems to be a tremendous increase in Management claiming issues are "non-negotiable" and don't recognize the fact that even in non-negotiable changes, we often have the right to negotiate appropriate arrangements. We would like a nationwide email sent out to all Wardens and Local Presidents clarifying the process and what is required of Management and the Union when making changes to personnel policies and practices and conditions of employment. Article 4 of the Master Agreement refers to these issues but it seems that it's not being acknowledged.

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#14

**From:** Keith E. Hall, Assistant Director, Human Resource Management Division (Joe Chapin)  
**To:** Hall, Keith E.  
**Date:** Thu, Mar 25, 2004 1:21 PM  
**Subject:** Budget Issues/Master Agreement

As you know, the agency is currently working through many issues with regard to the budget. Although many changes may be necessary to work through these issues at the local level, we are still under an obligation to inform and otherwise negotiate with the union, when appropriate, over changes in working conditions. Even if the issues you are contending with are otherwise not negotiable, you still may have a duty to negotiate procedures and appropriate arrangements.

You are strongly encouraged to keep your union officials informed as to the challenges our agency continues to face, regardless of any bargaining obligations you may have.

Please contact me or a member of the Labor Relations staff at 202-307-6684 should you have any questions.

**CC:** Chapin, Joe