

1. Grievant(s) All bargaining unit staff assigned to Correctional Services	2. Duty Station Federal Correctional Complex (FCC) Terre Haute, Indiana
3. Representative of Grievant(s) David Gardner, AFGE Local 720 President	4. Informal resolution attempted with (name Person) David Young, Associate Warden Terri Hatcher, Employee Services Manager

5. Federal Prison System Directive, Executive Order, or Statute violated: Including, but not limited to: FMCS 01-08339; Settlement Agreement between parties, dated August 22, 2007; Portal Agreement between parties, dated August 24, 2005; Fair Labor Standards Act (FLSA); 29 U.S.C. § 254 (a)(b), Portal to Portal Act of 1947; 5 C.F.R. 550.112; 5 C.F.R. 551.412; Articles 3 and 18 of the Master Agreement; other pay acts and statutes.

6. In what way were each of the above violated? Be specific.

On August 22, 2007, the agency and the union entered into a settlement agreement (Attachment #1), which provided for payment of fifteen (15) minutes of overtime per day to bargaining unit employees assigned to Correctional Services (custody) posts the parties agreed were performing compensable pre-shift & post-shift work. On February 3, 2008, the agency ceased payment of the fifteen (15) minutes of overtime per day to staff working said posts, claiming a reorganization and elimination of pre-shift & post-shift activities (Attachment #2). Further, the agency changed the portal (location for shift starting & stopping times) from the Control Center to the assigned post. This action is a clear violation of a portal to portal agreement (Attachment #3) promulgated by the parties on August 24, 2005, in which the parties agreed that the shift starting & stopping times for all bargaining unit employees shall begin and end at the Control Center of each respective institution. By its actions, the agency has willfully violated the FLSA and failed to act in good faith.

7. Date(s) of violation(s)

February 3, 2008 and continuing. This is a continuing violation.

8. Request remedy (i.e., what you want done)

That the agency resume payment of the fifteen (15) minutes of overtime per day to bargaining unit staff assigned to the 120 posts the parties agreed were performing compensable pre-shift & post-shift work; provide back pay & liquidated damages to all bargaining unit staff assigned to said posts from February 3, 2008; other remedies deemed necessary and appropriate by the arbitrator.

9. Person with whom filed H. J. Marberry	10. Title Warden
11. Signature of recipient <i>C. L. Hodge</i>	12. Date signed 2/26/08

I hereby certify that efforts at informal resolution have been unsuccessful.

13. Signature of Grievant(s) N/A <i>David Gardner</i>	14. Signature of Representative <i>David Young</i>
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Record Copy - Agency; Copy - Union Local; Copy - Council of Prison Locals; Copy - Grievance (This form may be replicated via WP) This form replaces BP-176 (37) Dated October 1984

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