

Labor Management Relations Quarterly Meeting
Washington, DC
September 7-8, 2011

AGENCY

Paul Layer
Christopher Wade
Shaw Hargett
Mina Raskin
April McMillon
Vivica Simmons
Randy Eternick
Kevin Schwinn

UNION

Michael Keen
Michael A. Castelle
Shon Terrell
Dwayne Person
Eric Young
Clifton Buchanan
Phil Glover
Michael Meserve
Richard Figueroa
Sandra Parr

Unresolved November 30 - December 2, 2010 Agenda Items

Agenda Item: AGENCY

1. BOP Learn – Demonstration

A computerized demonstration of the BOP Learn System was provided to the union at the November 2010 meeting. A number of questions and concerns were raised by the union. There remains some outstanding issues which will be addressed during the next LMR Quarterly meeting, to include identifying and providing the union the current written procedures for completing training courses, as well as addressing specific procedures for when staff may access training courses electronically through the BOP Learn system.

Who: Mitch Allen, HRMD

Resolution: Deferred

Unresolved June 1 - 2, 2011 Agenda Items

Agenda Items: UNION

1. EEO/OFO Report

The Council would like to discuss the EEOC/OFO Report concerning the EEO Climate in the

Agency. In recent weeks since the report has come out, we have heard several manager make the comment that the report is misleading based on the percentage of staff interviewed.

What the Council has not heard is an admission that there is a problem in the Agency with retaliation, harassment, coercion, bullying, intimidation of our staff who partake in EEO process –what's suppose to be protected activity. We would like to discuss the Agency's alleged remedies they submitted to the OFO Director of Operations, to include but not limited to, agreements in placed by the parties to address such issue in Program Statement 3713.21, the Collective Bargaining Agreement, Article 22, 36, 37, 38 and previous LMR minutes on the issue.

If the Agency needs more specifics, please use the time and procedures outline in the Master Agreement, Article 2 to contact the Council's National Fair Practices Coordinator directly. ****Please note if the Agency fails to produce their subject matter expert to discuss these issue, please annotate this in the LMR minutes, to include the provision of Article 2 detailing what should have occurred.**

Who: OGC

Resolution: The Agency provided the Union information indicating steps taken in response to the EEOC Report including:

- Moving the EEO Office under the supervision of the Assistant Director, Program Review Division ("the EEO Director");
- Adding 13 EEO counselors, for a total of 18 full-time EEO counselors (three located in each region) servicing Bureau facilities nationwide (with the exceptions of MDC Guaynabo, PR, and FDC Honolulu, HI, which are serviced by collateral duty EEO counselors);
- The EEO Officer provided in-person training to Wardens regarding retaliation; the slideshow and material presented were received from the EEOC;
- The EEO Officer provided training regarding the EEO process to BOP supervisors via video conference;
- The EEO Director discussed the full time EEO counselor program, and confidentiality in the EEO process during a video conference for supervisors;
- Supervisors / Managers were required to view a CENTRA PowerPoint presentation narrated by the EEO Officer;
- A Joint Policy Committee is convening the week of September 26, 2011, to draft the Bureau's Anti-Harassment policy, as recommended by the EEOC report; and
- The Agency will provide the Union a copy of its most recently finalized statistical report on EEO cases (462 report).

6. Arbitration (Lock Shop Case)

The Union would like to discuss the order by Arbitrator O'Bierne regarding the Lock and Security Specialists, and the change made to the position description by the agency.

Who: HRMD

Resolution: *In February 2011, a new Office of Personnel Management (OPM) Position Classification Flysheet for Explosives Safety Series was issued. In response, the Bureau of*

Prisons was required to identify and review any potentially affected positions for impact. The Lock & Security Specialist positions were reviewed to determine impact. Additionally, the Classification and Compensation Section consulted with the Chief, Armory and Lock Technology Section. As a result of the review, the current PDs were not affected by the issuance of this new flysheet; however, the PDs were updated to provide further clarification of the current duties. The case decided by Arbitrator O'Bierne is currently on appeal.

8. South Central

Double standards are still in effect at facilities in South Central. At FCI Ft. Worth, the Captain sent out to bargaining unit employees a derogatory memo about the Union President. This was after the President requested official time to negotiate a change made by the Captain in the Control Room. The Captain stated, in writing, "The Local President was a scammer." The Captain statements are not professional; in fact, the Council believes they are inflammatory and defamatory in nature. We believe he should be held to the higher standard in the Employee Standards of Conduct – like other bargaining unit employees who are disciplined for "unprofessional conduct." More important, the Warden refused to address the issue when brought to his attention. And, he refused to forward the "apparent" conduct violation for investigation per the Standards and P.S. 1210.24, Office of Internal Affairs. This issue was addressed with the South Central Regional Director to no avail. Are the actions of the Captain and the Warden proper? Does the Director or designee condone such actions by either?

Who: LMR

Resolution: While both management and the union recognize that there may be disagreement over bargaining matters from time to time, the parties also recognize the provision in the Preamble of the Master Agreement regarding building a relationship on ideals of mutual respect, trust, and commitment to the mission and the employees who carry it out.

9. Inmate Character Profile (ICP)

There was an ICP performed at FCI Ft. Worth. We were told it revealed poor management of the facility and low morale of staff. Overcrowding of inmates and shortage of staff were some of the other issues revealed as well. The institution is in the process of changing missions. There was a promotion of a nursing supervisor from Carswell – who had a terrible record of poor staff supervision. The individual is a PHS employee. How does the agency plan to improve the ICP with this move and eliminate continued attacks on the Local Union?

Who: CPD

Resolution: This matter was resolved prior to the LMR meeting.

10. Article 31 – Grievance Procedure

Section b., states, "...the parties strongly endorse the concept that grievances should be resolved informally and will always attempt informal resolution **at the lowest appropriate level** before filing a formal grievance." A reasonable and concerted effort must be made by both parties toward informal resolution.

The Captain in Pollock is relatively new. Recently, he told the Local President that he has no time to speak to him. More interestingly, he stated, "He does not have to speak to him." He told the Local President, "**That he is just a bully and that he will not be bullied.**" The President reported this to the Warden; and to the RD, who sends him back to speak to the Warden. The Warden refuses to address issues at all – leaving nothing for the Union to do, except file formal grievances or unfair labor practices. Is this the new Bureau? What is the message from Central Office or the Director or his designee?

Who: LMR

Resolution: This matter was discussed. Both parties agree to adhere to the provisions of Article 31 (Grievance Procedures) of the Master Agreement, including that "grievances should be resolved informally and will always attempt informal resolution at the lowest possible level before filing a formal grievance."

11. La Tuna and Ft. Worth

Total repudiation of the contract is in placed at La Tuna. One example, the local administration took the Local President off his shift (day watch) and changed his days' off from Sunday/Saturday arbitrarily. Only after Central Office got involved was he placed back on his shift. Games. Is this the sentiments of implementing Partnership in BOP? The denial of day watch assignment for the Local President has also occurred in Ft. Worth. The RD is obviously aware of these issues yet they continue. Do we have a contract in place or not? Is this going to be the standard protocol when it comes to the South Central Region -- with Central Office dealing with all its issues?

Who: LMR

Resolution: The parties resolved this issue prior to the LMR meeting.

12. Official Time

In May 2006, BOP responded to the Council in LMR quarterly, the amount of time official time union officials utilized in 2004. The Council would like to make a similar request.

What were the numbers reported by this Agency for official time usage in 2008, 2009 and 2010? How were they broken down and what system was used to track and report these numbers to Central Office?

Who: HRMD

Resolution: Resolution: *The numbers reported by this agency for official time were broken down into four categories: grievances and appeals (38); ongoing LMR (37); midterm negotiations (36); and contract negotiations (35);*

<i>FY 2008:</i>	<i>FY 2009:</i>	<i>FY 2010:</i>
<i>35: 8016</i>	<i>18768.75</i>	<i>22398.75</i>
<i>36: 1434</i>	<i>2356.5</i>	<i>1835.25</i>
<i>37: 48790</i>	<i>107509.5</i>	<i>112228.5</i>
<i>38: 7474.25</i>	<i>15252.75</i>	<i>21179</i>

13. Guidelines versus Policy

What is the difference between guidelines and policy?

There is back and forth change in the interpretation by management officials at both the national and local level whether or not guidelines are like negotiated policy. There are several instances where management has told Locals when these guidelines are being implemented, there's no duty to bargain, because they were negotiated nationally with the Council – which is absolutely false. In fact, the agency has bypass the Council repeatedly, sending guidelines directly to the field to be utilized in various departments by employees. Clinical Care and MRSA guidelines are some examples.

On one hand, management tells the national these are just guidelines and that these guidelines just guide employees in some form of discretionary responsibilities – which helps them in their day to day, decision-making. When asked by the Council years ago, we were told they couldn't be utilized in disciplinary actions, if they are not followed. Now, we see management locally utilizing these various guidelines, in proposal letters and arbitration against bargaining unit employees. Then, on the other hand, we have witnessed Labor Management Specialists, from time to time, say, "Post Orders are 'only' guidelines" when defending their cases – meaning employees cannot get in trouble if they do not follow the instructions. Are Clinical Care, MRSA and/or Post Orders guidelines or not? Can employees be disciplined for failure to follow them? What is the difference between guidelines and/or policy?

Who: IPPA

Resolution: Deferred.

September 7 - 8, 2011 Agenda Items

Agenda Items: AGENCY

1. Automated Transit Subsidy System Demonstration

A demonstration will be provided of BOP's automated transit subsidy system which allows employees to electronically submit all new transit subsidy applications, changes, and annual certifications.

Who: ADMIN

Resolution: Deferred

2. TRUINTEL Demonstration

A demonstration will be provided of the TRUINTEL system's upcoming enhancements, at 10:00am to 12:00pm on Thursday, September 8, 2011, in the Trust Fund Branch Conference Room, 500 1st Street, 4th floor, Central Office.

Who: Intelligence / CPD

Resolution: A computerized demonstration of the TRUINTEL system was provided to the Union. There were questions concerning whether and what reports could be generated from the system for review by Union officials. The questions will be further explored by the Chief, Intelligence, who will follow-up with the National Union President.

Agenda Items: UNION

1. Recognition

Section d. The Union will have access, using predetermined entry procedures, to properly represent bargaining unit employees located in contract/privatized facilities, in accordance with this Agreement and applicable laws, rules, and regulations.

How many bargaining unit employees do we have currently working in contract/privatized facilities, if any?

Where are these facilities, if any?

Who: PMB/CPD

Resolution: *Privatization Management Branch (CPD) has 6 bargaining unit employees (Inmate Systems Specialists) with duty stations at secure correctional contract facility sites, as follows:*

*Big Spring Correctional Center, Big Spring, TX
Giles W. Dalby Correctional Facility, Dalby, TX
Reeves County Detention Center I/II & III, Pecos, TX
Taft Correctional Institution, Taft, CA
McRae Correctional Facility, McRae, GA
Moshannon Valley Correctional Center, Philipsburg, PA*

2. Article 7 – Rights of the Union

Union representatives are being restricted and/or denied their right to have at least one Union representative on the daytime hours as indicated in Master mentioned above. Section f., clearly articulates, “The Employer and the Union agree to the scheduling, at the local level, of **at least one** Union representative, designated by the Union, to daytime hours of work. Daytime hours of work are defined as those hours between 6:00 a.m. to 6:00 p.m., Monday through Friday.”

Who: LMR/HRMD

Resolution: *Deferred.*

3. Article 7 – Rights of the Union

The Council President and Western Regional Vice President were denied entry into a BOP facility in Tucson, AR, after advance notice was given to the Warden. Article 7, Section (h)(1) summarizes that Union representatives who are not employees of a specific local Bureau of Prisons managed facility who desire admission to the facility will be allowed access in the same manner as any visiting employee.

Who: LMR/HRMD

Resolution: Deferred.

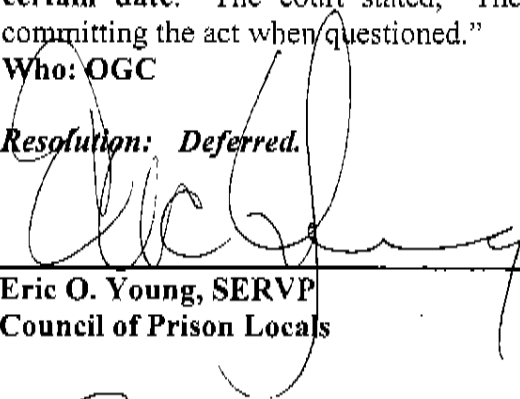
4. Privacy Act Violations

5 USC, 552a (Privacy Act) forbids management to divulge certain individual identifiers to the Union especially when employees are proposed disciplinary/adverse actions. The Act goes even further. The DC Circuit Court of Appeals affirmed in a decision that privacy act violations are considered misdemeanors and penalties provide for individual liability for managers and supervisors – as well as unlimited damages. It is the CPL’s belief, Special Investigative Agents, Special Investigative Supervisors, Office of Internal Affairs and/or Office of Inspector General (OIG) often engage in privacy act violations by interviewing other employees (witnesses) – who are not the target of the investigation – before interviewing the subjects first.

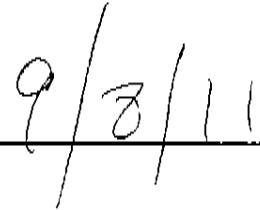
It further stated “to the greatest extent practicable” agencies’ investigators must collect “objective, unalterable and/or “factual” data” information from the subject of the investigation first before interviewing other witnesses. In example, “objective” information include questions of alleged misconduct such as whether the subject “**Made a phone call on a particular date,**” “**Took an unauthorized trip on a particular date,**” “**Took possession of a government vehicle on a certain date.**” The court stated, “The investigation would end if the employee admits to committing the act when questioned.”

Who: OGC

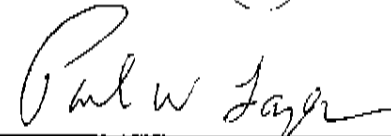
Resolution: Deferred.



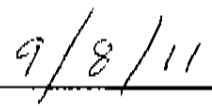
**Eric O. Young, SERVP
Council of Prison Locals**



Date



**Paul W. Layer, Chief
Labor Management Relations Branch**



Date