

MAY 1994

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

<p>1. Grievant(s) AFGE Local 3809</p>	<p>2. Duty Station FCI Big Spring, Texas</p>
<p>3. Representative of Grievant(s) Cathy New, President Local 3809</p>	<p>4. Informal resolution attempted with (name person) Tyler Baxter, Associate Warden Greg Kizziah, Captain Michael Cross, Employee Services Manager</p>
<p>5. Federal Prison System Directive, Executive Order, or Statute violated: Master Agreement, Article 3, 4, 6 5 USC 7106, 7114 and 7117</p>	
<p>6. In what way were each of the above violated? Be specific.</p> <p>On November 8, 2007, the AFGE Council of Prison Locals 33 entered into an agreement with the Bureau of Prisons entitled, Electronic Searches of Bureau of Prisons Staff. Said agreement was 2 pages in length and consisted of 11 provisions. Provision 2 reads as follows: During the initial six weeks of implementation of these procedures, management agrees to meet weekly, or a at a mutually agreed upon time, with the Union President or designee to review institution policies and procedural changes due to the implementation of electronic searches.</p> <p>The Council of Prison Locals 33, who is the exclusive representative of the bargaining units at FCI Big Spring and all other agency facilities, entered into a second agreement regarding finalizing of the new Master Agreement.</p> <p>Bryan K. Lowry represented the Council during the negotiation of the Agreement and advises that there was no intention to bind the specific locals to specific procedures which needed to be tailored to each locals needs. He delegated authority to each recognized Local President to negotiate local procedures.</p> <p>On December 23, 2007, the President of AFGE Local 3809 advised Warden Rodney Chandler that the Union had questions and concerns regarding the procedures to be utilized in the searches listing 44 issues not specifically addressed in the national agreement. She pointed out areas of institution supplements inconsistent with the new procedures which would require changes and asked for the Agency's draft of changes. She specifically invoked the Local's right to resolve these negotiable issues prior to the searching of bargaining units. This is a violation of the Master Agreement, Article 3 which states: The Union and Agency representatives, when notified by the other party, will meet and negotiate on any and all policies, practices and procedures which impact conditions of employment, where required by 5 USC 7106, 7114, and 7114, and other applicable government-wide laws and regulations, prior to implementation of any policy, practice or procedure.</p> <p>The Agency refused to provide drafts or even to meet to discuss the issues in violation of Article 4 of the Master which requires: 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.</p> <p>No reply was even sent to the Union concerning its request until January 3, 2008. Search procedures of supervisory staff were begun on Tuesday, January 8, 2008. Beginning on that date, Union official began discussing and inquiring about procedures being utilized which they had concerns about or were violations of the MOU.</p> <p>Staff searches were begun on Tuesday, January 15, 2008, without negotiation of procedures which had to be changed during the implementation of staff searches. The Bureau of Prisons failed to negotiate in good faith to the extent required by law.</p>	

The Agency has violated almost all of the provision of the MOU:

Provision 1 - paragraph 1: All staff will be required to clear a metal detection device prior to gaining access to the secure confines of the institution. Secure confines for this purpose generally means entering the secured inner perimeter of the institution.

Provision 1 - paragraph 4: Employees leaving the secure confines of the institution during their shifts are required to clear metal detection upon re-entering the institution.

This has not be done. Special rules have been implemented. The shift Lieutenant is not required to be rescreened when they leave to sign the logs in the mobile trucks. Some morning and evening watch staff are not screen if the shift Lieutenant does not want to walk up to the lobby. R&D staff are not rescreened when they retrieve inmates off an incoming bus. Management believes the Warden can establish where the secure perimeter is with respect to each staff member. This is a violation of Master Agreement, Article 6 (b) 2 which employees are to be treated fairly and equitably in all aspects of personnel management.

Provision 1 - paragraph 2: Electronic searches of all Bureau of Prisons staff will be conducted via walk-through or hand-held metal detectors by designated staff member(s). No inmates or inmate visitors will be allowed to remain in the area, or allowed to view screening procedures, when electronic searches of staff are being conducted.

Provision 1 - paragraph 3: It is the responsibility of the employee to clear the metal detector by either passing all items through the metal detector or by placing all items on an available x-ray machine for screening.

Management has not consistently required all employees to do this. They have allowed the use of zip-lock bags and required the officer to do visual searches of property which is a violation of the MOU. Supervisors do not enforce consist procedures for searching items. The Warden personally violated this provision when he cam in on a weekend with boxes of items which were not screened through the metal detector or x-ray machine.

Provision 2: During the initial six weeks of implementation of these procedures, management agrees to meet weekly, or a at a mutually agreed upon time, with the Union President or designee to review institution policies and procedural changes due to the implementation of electronic searches.

Management has met with the Union President twice during the six-week period. They have refused to redraft post orders and institution supplements including the local Front and Rear Entrance Procedures. They will not develop consistent search procedures in writing. Inconsistent procedures have been utilized by each supervisor who monitors the front lobby. The Union has asked for the Front Lobby Officer's responsibilities, as well as the responsibility of the Control Center and Rear Gate Officer,

Provision 3: Employees required to perform work in excess of their regularly scheduled hours will be compensated in accordance with applicable laws, rules and regulations.

A separate grievance will be filed by the local concerning appropriate compensation for staff regarding ongoing violation of this provision.

Provision 5: During the initial six weeks of the implementation of electronic searches, a supervisor (excluding an employee serving in an acting capacity) or management official will be in the search area assisting with screening.

Staff have been turned away from the rear gate due to a supervisor not being available to observe the screening.

Provision 6: A radiation badge will be in the immediate search area of each x-ray machine.

This badge was not available for weeks after the use of the x-ray machine began.

Provision 7: Staff required to utilize the x-ray/metal detectors will receive appropriate training prior to being assigned to any post requiring the operation of these devices.

The manufacturer of the machine provided the initial training on the machine but has not returned to the institution to trained multiple staff who have been required to operate the machine.

There are multiple other violations of the provisions of the MOU which will be presented at hearing.

7. Date(s) of violation(s)  
January 15, 2008, and ongoing

8. Request remedy (i.e., what you want done)  
Management will cease and desist from failing to negotiate in good faith with the Union.  
Management will cease and desist from instructing bargaining unit employees to not follow a nationally negotiated policy.  
Management will draft and negotiate consistent procedures whereby staff will be searched by electronic methods.  
Management will draft and negotiate consistent procedures whereby the property of staff will be search by electronic methods.  
Provide training to all executive staff, division heads, and branch directors concerning requirements for negotiating changes in working conditions.  
Post a large notice, signed by the Director, Bureau of Prisons, in a prominent place accessible to all BOP staff, in all BOP facilities, and in all facilities where BOP bargaining unit staff are employed, that management officials in the Bureau of Prisons will exercise good faith when bargain over policy changes and offer the Council of Prison Locals the opportunity to bargain in accordance with Statute and the Master Agreement.  
Any and all other relief the Arbitrator deems appropriate.

9. Person with whom filed

10. Title

11. Signature of recipient

12. Date signed

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

13. Signature of Grievant(s)

14. Signature of Representative