

UNITED STATES PENITENTIARY
ATWATER, CA

MONTHLY LABOR-MANAGEMENT RELATIONS MEETING
August 6, 2009

Management Representatives:

David Shinn, Associate Warden (Programs)
John Bell, Associate Warden (Operations)
William Lothrop, Captain
Peggi Sahota, Employee Services Specialist/Recorder

AFGE Local 1242 Representatives:

Timothy Herchenbach, Union President
Donald Martin, 1st Vice President
Juan Herrera, Union Steward

The LMR meeting minutes are not verbatim.

The regular monthly LMR Meeting was held on August 6, 2009, at approximately 1:00 p.m. in the Warden's Conference Room.

Mr. Shinn asked the Union if they received his email today to which they had not. He presented a memo to them and stated that Management would not be discussing the four agenda items submitted as they are not LMR issues. The only business to discuss would be old business.

Agenda Items:

- Issue # 1: *Accountability for management staff following the murder of Officer Jose Rivera, i.e., Warden Dennis Smith, Special Investigative Agent Jesse Estrada, and Unit Manager Denise Bowles.*
- Issue #2: *The "emergency keys" for the camp offices that include a key to the union office were drawn by an SIS tech granting them access to the Union's confidential information. Additionally, there was no "restricted key" form filled out or authorized by the Operations Lt. As policy dictates. The Union is concerned about the security of emergency key set being compromised while containing the key to the Union Office.*
- Issue #3: *The Union has been advised that 1B is housing 3 inmates per cell in some cells. What is being done to address the overcrowding situation?*
- Issue #4: *It was reported to the Union that the Warden saw a staff member on official time wearing flip-flops and shorts. This doesn't seem credible as none of the eBoard members have been on official time and wearing shorts and flip-flops. There was one time when Mr. Tim Herchenbach and Donald Martin worked on their day off in the Union office when AW's Shinn and Bell came in to discuss business, but both were NOT on official time and did not enter the institution. The Union abides an "appropriate dress" standard when official time duties require entering the institution.*

OLD BUSINESS from July 2, 2009

- Issue #7: *The Union would like to discuss the next time frame for issuing Boots to staff pursuant to the Master Agreement.*

Discussion/Resolution: The Captain said the order will be arriving anytime. Ms. Sahota stated that she saw boots come through the front lobby today.

Follow-up: No follow-up required.

General Discussion

Mr. Martin asked if Juan Herrera, Case Manager, could be part of the meeting instead of Gary Pullings, Senior Officer Specialist, to address issues from the non-custody staff.

Management asked Mr. Herrera if he had any issues at this time. Mr. Herrera stated that his first item was to request that Unit Team terminals have STG capabilities. Currently, only the Unit Managers and SIS have access. Mr. Bell said that central office has to give approval and that the issue is a national issue.

The second issue is that the Correctional Counselors are overwhelmed with their workload. The supplement now requires them to process FRP. The workload is not equitable according to other USP's. Mr. Herchenbach said he worked with a Counselor who stated that he was getting burnt out with his large caseload. Mr. Shinn said that the role of a counselor has changed over the years and they are no longer doing groups. He thought we were full on counselor positions, but would look into the issue.

Management stated that official time was given to the Union for one day a week to take care of official business. However, management seems to be getting an increase in data requests. The official time is not benefitting the institution and cost overtime. Mr. Martin said that he is the one on official business one day a week and has not submitted any data requests himself. He said he is out taking care of staff issues and that there is a cost of doing business. The union also stated that some of the data requests are being submitted 2 and 3 times because they are not being answered the first time.

Mr. Martin said that he feels that the communication between the union and management is being cut off lately.

Mr. Shinn said that we have lost our focus with the LMR meetings and that maybe we should go back to quarterly meetings. The issues being brought up are not negotiable issues and therefore we cannot resolve them. LMR is for global issues that effect USP Atwater.

Mr. Martin said it seems as though he is questioning the credibility of the other party. These issues are important to the union.

Mr. Herrera said he had one more item to discuss. He was working his late night on a Wednesday and had taken an inmate out and when he came back there was nobody at the front lobby. He said that he usually has control get someone. He said that a GS-13 manager told him to come in anyways. Mr. Herrera is concerned that a manager would do that and that safety and security of the institution is a concern.

Management said that it appears to be a code of conduct issue for the manager and asked Mr. Herrera to write a memo reporting the incident.

The next LMR meeting is scheduled for Thursday, September 3, 2009, at 1:00 p.m., in the USP Atwater Warden's Conference Room. Agenda items are due by the close of business on Thursday, August 27, 2009.

With no further business to discuss, the meeting was adjourned at approximately 1:30p.m.

Recorded by: Peggi Sahota
Peggi Sahota, Employee Services Specialist

Reviewed: David Shinn
David Shinn, Associate Warden (Programs)
LMR Chairperson

Reviewed: Timothy Herchenbach
Timothy Herchenbach, President, AFGE Local 1242

Noted/Approved: H. A. Rios, Jr.
H. A. Rios, Jr., Warden

Rejected as inaccurate and intentionally missing information the Agency admits it does not want in the minutes. The union will include the information in its Addendum A to this document.

UNITED STATES PENITENTIARY
ATWATER, CA

MONTHLY LABOR-MANAGEMENT RELATIONS MEETING
ADDENDUM A from the Union
August 6, 2009

Management Representatives:

David Shinn, Associate Warden (Programs)
John Bell, Associate Warden (Operations)
William Lothrop, Captain
Peggi Sahota, Employee Services Specialist/Recorder

AFGE Local 1242 Representatives:

Timothy Herchenbach, Union President
Donald Martin, 1st Vice President
Juan Herrera, Unit Team Steward

Note: This Addendum A is added onto the official minutes as an additional clarification by the Union only. It reflects in total, the agenda items as submitted by the Union to the Agency for the LMR meeting. The Agency objected to recording the items into the official minutes in total, because of concerns about content. The objector insisted on the Addendum for purposes of transparency and an accurate public record.

Agenda Items:

Issue # 1: *Accountability for management staff following the murder of Officer Jose Rivera.*

• **Warden Dennis Smith** - *The Union proposes that Dennis Smith be reprimanded for his role as the CEO in charge of the institution during the murder. The Board of Inquiry report appears to articulate a prison environment where inmates were not held accountable and where intoxicants were allowed to flourish throughout the institution ultimately contributing to the events that resulted in Officer Rivera's death.*

• **Special Investigative Agent Jesse Estrada** - *The Union proposes that Warden Rios reconsider his denial of a "threat assessment" the Union previously requested of SIA Jesse Estrada given the circumstances articulated in the Board of Inquiry report and the Maria Orozco FBI affidavit.*

Upon review of the documents, the Union feels there are enough allegations and facts articulated in the two documents to warrant the threat assessment and the possible discipline of Estarada for "failure to exercise sound correctional judgement" in over ruling Unit Manager Maria Orozco's judgement that inmate Guerrero continue to be housed in the Special Housing Unit.

The circumstances articulated by Ms. Orozco in her affidavit appear to show that had "standard practice" prevailed in allowing the Unit Team to determine if Guerrero was General Population eligible, at least one inmate (Guerrero) involved in the death of Officer Rivera would not have been housed in Unit 5A the day of the murder. According to the Orozco affidavit, Estarada insisted that inmate Guerrero be released to general population "to program". In fact, inmate Guerrero was initially assigned to be housed on the East side of the compound opposite his accomplice Sablan according to records. At some point, it appears inmate Guerrero asked if he could be housed in Unit 5 and the SIS department granted the inmate's request changing the assignment which proved lethal in the events that followed.

• **Unit Manager Denise Bowles** - *The Board of Inquiry report indicates that Mrs. Bowles failed to respond to an emergency by observing inmates Guerrero and Sablan stabbing Officer Jose Rivera without attempting to assist. The Bureau of Prisons own Code of Conduct PS 3420.09 cites at 12. "Failure to respond immediately to an emergency situation" as a violation allowing "Official reprimand to removal".*

Discussion/Resolution: Management would not discuss this item as indicated in their memo.

Follow-up: No follow-up required.

Issue #2: *The "emergency keys" for the camp offices that include a key to the union office were drawn by an SIS tech granting them access to the Union's confidential information. Additionally, there was no "restricted key" form filled out or authorized by the Operations Lt. As policy dictates. The Union is concerned about the security of emergency key set being compromised while containing the key to the Union Office.*

Discussion/Resolution: Management would not discuss this item as indicated in their memo.

Follow-up: No follow-up required.

Issue #3: *The Union has been advised that 1B is housing 3 inmates per cell in some cells. What is being done to address the overcrowding situation?*

Discussion/Resolution: Management would not discuss this item as indicated in their memo.

Follow-up: No follow-up required.

Issue #4: *It was reported to the Union that the Warden saw a staff member on official time wearing flip-flops and shorts. This doesn't seem credible as none of the eBoard members have been on official time and wearing shorts and flip-flops. There was one time when Mr. Tim Herchenbach and Donald Martin worked on their day off in the Union office when AS's Shinn and Bell came in to discuss business, but both were NOT on official time and did not enter the institution. The Union abides an "appropriate dress" standard when official time duties require entering the institution.*

Discussion/Resolution: Management would not discuss this item as indicated in their memo.

Follow-up: No follow-up required.

OLD BUSINESS from July 2, 2009

Issue #7: *The Union would like to discuss the next time frame for issuing Boots to staff pursuant to the Master Agreement.*

Discussion/Resolution: The Captain said the order will be arriving anytime. Ms. Sahota stated that she saw boots come through the front lobby today.

Follow-up: No follow-up required.

General Discussion

Mr. Martin asked if Juan Herrera, Case Manager, could be ask some case management questions to address issues from the non-custody staff.

Management asked Mr. Herrera if he had any issues at this time. Mr. Herrera stated that his first item was to request that Unit Team terminals have STG capabilities. Currently, only the Unit Managers and SIS have access. Mr. Bell said that central office has to give approval and that the issue is a national issue.

The second issue is that the Correctional Counselors are overwhelmed with their workload. The supplement now requires them to process FRP. The workload is not equitable according to other USP's. Mr. Herchenbach said he worked with a Counselor who stated that he was getting burnt out with his large caseload and that currently each case manager has an approximately 240 inmate workload. Mr. Shinn said that the role of a counselor has changed over the years and they are no longer doing groups. He thought we were full on counselor positions, but would look into the issue.

Management stated that official time was given to the Union for one day a week to take care of official business. However, management seems to be getting an increase in data requests. The official time is not benefitting the institution and cost overtime. Mr. Martin said that he is the one on official business one day a week and has not submitted any data requests. He said he is out taking care of staff issues and addressing constituents and that there is

a cost of doing business. The union also stated that some of the data requests are being submitted 2 and 3 times because the request is being denied the first and/or second time and that many of them are redundant requests due to the denials.

Mr. Martin said that he feels that the communication between the union and management is being cut off lately.

Mr. Shinn said that we have lost our focus with the LMR meetings and that maybe we should go back to quarterly meetings. The issues being brought up are not negotiable issues and therefore we cannot resolve them. LMR is for global issues that effect USP Atwater.

Mr. Martin said that ending monthly meetings would further erode communications and he stated that it seems as though Mr. Shinn questioning the credibility of the other party in bringing issues. These issues are important to the union.

Mr. Herrera said he had one more item to discuss. He was working his late night on a Wednesday and had taken an inmate out and when he came back there was nobody at the front lobby. He said that he usually has control get someone. He said that a GS-13 manager told him to come in anyways. Mr. Herrera is concerned that a manager would do that and that safety and security of the institution is a concern.

Management said that it appears to be a code of conduct issue for the manager and asked Mr. Herrera to write a memo reporting the incident.

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Submitted for the record by the AFGE Local 1242 Executive Board.