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A demand for reasonable notice of layoffs to the union is mandatory.

Hudson Valley Comm Coll Faculty Assn and Hudson Valley Comm Coll, 12 PERB ¶3030 (1979); City of Albany, 7 PERB ¶3078 (1974).

A demand for notice which would limit the employer's power to eliminate positions is nonmandatory.

City of Albany, 7 PERB ¶3078 (1974).

Demands regarding the order of retrenchment or layoff are mandatory.

Hudson Valley Comm Coll Faculty Assn and Hudson Valley Comm Coll, 12 PERB ¶3030 (1979).

A demand that an employer discuss possible staff reductions would involve the union in the decisional process and is nonmandatory.

General Brown Teachers Assn, 10 PERB ¶3041 (1977).

A demand that the employer place employees released due to staff reduction in nonunit and nonemployer positions, is nonmandatory.

New Paltz United Teachers, 16 PERB ¶4552 (1983).

3.7 Vacancies

A demand that vacancies be filled, or be filled within a defined period of time, would restrict the employer's right to effect a staff reduction and is, therefore, nonmandatory.

City of Rochester, 12 PERB ¶3010 (1979); Scarsdale PBA, 8 PERB ¶3075 (1975) (30 days); City of Albany, 7 PERB ¶3079 (1974) (30 days); Professional Firefighters Assn, Local 274, 10 PERB ¶3043 (1977) (as soon as possible); Hudson Falls Permanent Firefighters, Local 2730, 14 PERB ¶3021 (1981) (as soon as feasible); City of Saratoga Springs, 16 PERB ¶3058 (1983) (immediately); VII of Mamaroneck PBA, 22 PERB ¶3029 (1989); NYCTA, 22 PERB ¶6501 (1989); Town of Henrietta, 25 PERB ¶6501 (1992); Niagara Falls Police Captains and Lieutenants Assn, 33 PERB ¶3058 (2000) (10 days).

A demand to include unit employees in the screening and interviewing of candidates to fill vacancies is nonmandatory.

Orange County Comm Coll, 9 PERB ¶3068 (1976).

The creation and filling of positions is a nonmandatory subject.

Churchville-Chili CSD, 17 PERB ¶3055 (1984); Town of Henrietta, 25 PERB ¶6501 (1992); Erie County Water Auth, 27 PERB ¶13010 (1994).

A demand that the employer request the scheduling of civil service exams so as to insure the availability of a list for filling vacancies is mandatory.

Brighton Fire Dist and Brighton Professional Firefighters Assn, Local 2223, 10 PERB ¶4545 (1977).

Posting and bidding procedures for vacant positions are mandatorily negotiable.

City of Schenectady, 22 PERB ¶3018 (1989), affg 21 PERB ¶4605 (1988). But see Cortland Paid Firefighters Assn, Local 2737, 29 PERB ¶3037 (1996) (posting for minimum period before filling vacancy is nonmandatory). See also Niagara Falls Police Captains and Lieutenants Assn, 33 PERB ¶3058 (2000); Rochester Police Locust Club, 43 PERB ¶4592 (2010).

The rate of pay for employees temporarily filling vacant positions is a mandatory subject of negotiation.

City of Schenectady, 22 PERB ¶3018 (1989), affg 21 PERB ¶4605 (1988).

Although police union's proposal was mandatorily negotiable insofar as it sought to expand the required notice period from five to thirty days and to have vacancies filled on the basis of seniority, the remaining aspect of demand — that the city fill positions within ten days of expiration of the notice — was nonmandatory because it sought to curtail city's managerial prerogative in deciding when to fill a vacancy.

Niagara Falls Police Club, Inc., 34 PERB ¶4506 (2001).

3.8 Staffing Levels

Determinations relating to deployment of staff are nonmandatory.

Rochester Police Locust Club, 43 PERB ¶4592 (2010); State of New York (Division of State Police), 46 PERB ¶3003 (2013).

A demand that an employer maintain a specific table of organization or organizational structure would interfere with its right to determine its staffing needs and staff deployment and is nonmandatory.

Tray Uniformed Firefighters Assn, Local 2304, 10 PERB ¶3015 (1977); Scarsdale PBA, 8 PERB ¶3075 (1975). See also Town of Carmel, 31 PERB ¶3006 (1998), affd, 267 AD2d 858, 32 PERB ¶7028 (3d Dept 1999); Rochester Police Locust Club, Inc., 40 PERB ¶4539 (2007); County of Nassau, 40 PERB ¶4554 (2007).

The number of employees assigned to a piece of equipment raises a compelling safety issue, but that is outweighed by the employers general right to fix staffing requirements unilaterally. The safety considerations should be dealt with outside the negotiating process. Thus, staffing per piece of equipment is nonmandatory.

City of White Plains, 9 PERB ¶3007 (1976) and *Local 294, IBT*, 10 PERB ¶3007 (1977) (2-person patrol cars); *Niagara Falls Uniformed Firefighters Assn, Local 714*, 9 PERB ¶3025 (1976) (5 fire fighters per apparatus); *State of New York (Dept of Transp)*, 27 PERB ¶3056 (1994) (2-person snow plows).

The number of employees on duty per piece of equipment or at a particular facility is a nonmandatory subject.

Intl Assn of Firefighters City of Newburgh, 10 PERB ¶3001 (1977); *City of Saratoga Springs*, 18 PERB ¶3009 (1985); *State of New York-UCS*, 25 PERB ¶3061 (1992) (number of employees on a work assignment).

A demand that a minimum number of employees be on duty at all times is nonmandatory because it infringes on the employer's managerial right to determine the level of services to be provided.

Village of Johnson City, 9 PERB ¶3042 (1976); *Local 294, IBT*, 10 PERB ¶3007 (1977); *City of Schenectady*, 18 PERB 53035 (1985); *City of Glens Falls*, 30 PERB ¶3047 (1997); *County of Nassau*, 40 PERB ¶4554 (2007). See also *Schenectady PBA*, 21 PERB ¶3022 (1988); *Johnstown PBA*, 25 PERB ¶3085 (1992); *Vil of Washingtonville PBA*, 43 PERB ¶4586 (2010).

Although staffing and the level of services provided by an employer are nonmandatory subjects, an employer's choice of the specific means of accomplishing those prerogatives directly affects terms and conditions of employment and, therefore, is a mandatory subject.

County of Erie, 43 PERB ¶3016 (2010), *confd*, 81 AD3d 1313, 44 PERB ¶7002 (4th Dept 2011).

An employer's decision to cease dispatching a backup vehicle to certain Emergency Medical Service calls constitutes a change in the fire district's deployment of its staff rather than a safety issue and, therefore, is a nonmandatory subject of bargaining.

Lake Mohegan Professional Firefighters Assn, Local 2956, IAFF, AFL-CIO, 41 PERB 53001 (2008).

A demand regarding manning levels and increased compensation for firefighters was a mandatory subject of bargaining.

Niagara Falls Uniformed Firefighters Assn, AFL-CIO, Local 714, 37 PERB ¶4520 (2004).

A demand that a part-time employee not be used if the use of a full-time employee is justified extends to staffing policies and is nonmandatory.

Orange County Comm Coll, 9 PERB ¶3068 (1976).

The substitution of part-time employees for full-time employees, absent a change in the nature or level of services, must be negotiated.

County of Broome, 22 PERB ¶3019 (1989); *State of New York-UCS*, 28 PERB ¶3014 (1995); *Town of Woodbury*, 45 PERB 54503 (2012). Compare *Marcellus CSD*, 32 PERB 54639 (1999) and *State of New York (Dept of En Con)*, 47 PERB ¶3035 (2014).

The union's demand, which included clauses governing work schedules and procedures for vacation selection in the parties' successor agreement, addressed terms and conditions of employment, thereby rendering the demand a mandatory subject of negotiation. Contrary to the City's argument, the Board concluded the demand did not interfere with the City's right to determine staffing needs, deploy staff, or how to render services to the public.

Patrolmen's Benevolent Assn, 37 PERB ¶3033 (2004).

A bargaining demand requiring all employees who provide a particular service be off on holidays was not mandatorily negotiable because it affects staffing and would prevent the employer from providing that service on a holiday.

City of Cortland, 29 PERB ¶3037 (1996).

Compensatory time is a mandatory subject of bargaining. The level of staffing is a management prerogative, central to decisions regarding the delivery of service and, is, therefore, a nonmandatory subject of bargaining. A demand for specific levels of supervision is also a nonmandatory subject of negotiation.

City of New Rochelle and Police Assn of New Rochelle, 35 PERB 114523 (2002).

A change in the manner in which vacation relief officers bid on partial weeks is nonmandafory because it affects the State's manpower concerns in filling shift assignments due to vacations.

State of New York (DOCS-Elmira Corr Fac), 39 PERB ¶3004 (2006).

3.9 Call-Ins

A demand which would require the call-in of off-duty fire fighters is nonmandatory.

Local 589, Intl Assn of Firefighters and City of Newburgh, 16 PERB ¶3030 (1983); *Hudson Falls Permanent Firefighters, Local 2730*, 14 PERB ¶3021 (1981); *City of Saratoga Springs*, 16 PERB 53058 (1983); *City of Albany*, 7 PERB ¶3078 (1974); *City of Glens Falls*, 30 PERB ¶3047 (1997).

STATE OF NEW YORK
VOLUNTARY LABOR TRIBUNAL

-----XXX
In the Matter of the Expedited Contract Arbitration Between:
The State of New York: DOCS
Groveland Correctional Facility

-and-

TRIAGE EXPEDITED AWARD

Security Unit Employees
NYSCOPBA

RE: Class Action
Case No: OER File No. 06-01-493
CON 06- 0548

-----XXX
Before: Joel M. Douglas, Ph.D.
Master Arbitrator

Date: March 7, 2007

Pursuant to the Collective Bargaining Agreement (CBA) between the parties, and in accordance with the rules governing the TRIAGE process, the above stated grievance was heard by this undersigned Master Arbitrator.¹ A hearing was held in Albany, NY on February 9, 2007, during which time the State was represented by James Taylor, Esq., Assistant Counsel, Governor's Office of Employee Relations (GOER). The Union was represented by William Sheehan, Esq., Sheehan Greene Carraway Golderman & Jacques. At the conclusion of the hearing both parties submitted closing letter briefs. This Opinion and Award are based on the record as constituted.

ISSUE

During the January 25, 2007-triage session the parties stipulated to the following issues:

1. Is the grievance arbitrable?
2. If so did the State of N.Y. (DOCS - Groveland C.F.) violate Article 22 or Article 24 when, in July of 2006, it closed posts at the start of a shift?²
3. And, if so, what is the appropriate remedy consistent with the Agreement?³

¹ This expedited arbitration decision is non-precedential, but may be considered instructive.

² The original grievance only referenced Article 22 but was amended to include Article 24.

³ As a remedy the Union suggests that all posts be open at the start of a shift and then, as emergencies develop, respond as necessary.

DISCUSSION OF THE ARBITRATOR

1. The issue at grievance concerns post closings at Groveland CF in violation of Articles 22 and 24. ⁴ The State claims that the post-closings are not arbitrable under either Article 22 or Article 24 while the Union submits that the "Safe Working Condition" provision of Article 22 controls and the comprehensive parameters of Article 24 permit arbitration.
2. The Union argues that due to post-closing fewer officers are working and, as such, health and safety problems have been created. They note that in recent times that three Groveland inmates have died and that due to the closure of certain "red - dot" posts that fewer officers were available to respond to emergencies. CO Donald Lemmon testified via telephone and stated that he examined the staff planning grid and noted that numerous posts were closed for lengthy periods. He described post-closing as one in which a bid job was closed down for a day and the officer who held the bid was told to go elsewhere. For the time at grievance Lemmon noted that this was the "worst it has been for a few years."
3. Captain Paul Hendel testified as to the post-closing procedure employed at Groveland. He noted that at the time of the grievance the facility was short-staffed and was experiencing numerous retirements and that they did what was necessary and critical to fulfill their mission. He noted that the facility had discretion not to fill certain posts and that the authority to use overtime for staffing purposes was vested in the office of the DSS. In terms of the relationship between staffing and seniority, the Captain stated that with respect to post-closings that seniority was critical "the day before [post-closings] but there was no exercise of seniority the day of." He noted that the facility routinely goes to overtime when critical needs are required and that seniority was considered when vacancies are known in advance. Hendel added that staffing was impacted by vacation groups and contractual holidays. ⁵
4. Captain Hendel stated that "post-closing are not consultative" and that "work safety was always considered in post-closing." The Captain stated that all vacancies that are known 24 hours in advance are filled to the level of available resources. He concluded that there were no documented issues where an officer was injured because of a post-closing.
5. While the issue of post-closings is significant and may create certain facility issues, pursuant to the CBA, post-closings are not arbitrable. The closing of a post may create a particular problem which may extend to a "safe working condition"; however, Article 22, Section 22.5 states that. "*Grievances alleging failure to comply with this Article shall be processed pursuant to Article 7, paragraph 7.1(B)*" Said provision permits grievances to be processed up to and including the conference phase of the ADR process and not beyond. The record documents that the instant grievance was properly addressed at the conference phase of the ADR-Triage procedure and may proceed no further.

⁴ At the time of the post closings the facility was down some thirty-five officers. At the time of the instant hearing Groveland was short six or seven officers. There are some 465 officers on the facility plot plan.

⁵ For example on certain contractual holiday the facility closes the law library and the vocational school.

6. The State argued that even if the issue were arbitrable, there is no direct link between post-closings and seniority. The testimony of Captain Hendel that seniority plays a role only the day prior to the closing but not at the time the actual post closed is acknowledged. Article 24 of the CBA details seniority. Assuming arguendo the validity of the Union's position that seniority should control post-closings, Section 24.3 mandates that: " . . . *Grievances arising under this section shall be processed up to Step 3 of the grievance procedure but not to arbitration.*" The grievance and the record evidence was unable to overcome this contractual prohibition. ⁶
7. Neither Article 22 nor Article 24 permits the arbitral relief sought by the Union. The clear and unambiguous contract language controls and is dispositive. Therefore, based on the record, and in accordance with the CBA, the undersigned Awards:

A W A R D

1. Pursuant to Articles 22 and 24 the issue of post-closings is not arbitrable.

JOEL M. DOUGLAS, Ph. D.
Master Arbitrator
March 7, 2007



SHEEHAN GREENE
GOLDERMAN & JACQUES LLP

Attorneys at Law



54 State Street • Suite 1001 • Albany, NY 12207
p: 518.462.0110 • f: 518.462.5260 • www.sheehangreene.com

THOMAS D. LATIN
TLATIN@SHEEHANGREENE.COM

January 31, 2012

**Re: Expedited Contract Grievance Arbitration
DOCCS (Marcy C.F.) and NYSCOPBA (Sgt. Michael Scott)
C-10-0569**

Dear Sergeant Scott:

We have enclosed the award of the Arbitrator, Joel M. Douglas. The award holds that post-closings grievances are not arbitrable whether they are framed under Article 15 of the CBA (overtime) or Article 22 of the CBA (safety).

Should you have any questions please do not hesitate to call me.

Very truly yours,

Thomas D. Latin

Enclosure

cc: Central New York Regional Office (w/enclosure)
Robert Cronin (w/enclosure)
David Viddivo (w/enclosure)
Francis J. Kiernan, CSS Marcy C.F.(w/enclosure)

SGGJ 907065

STATE OF NEW YORK
VOLUNTARY LABOR TRIBUNAL

----- XXX

In the Matter of the Expedited Contract Arbitration Between:
The State of New York: DOCCS
Marcy Correctional Facility [MCF]

-and-

TRIAGE EXPEDITED AWARD

Security Unit Employees
NYSCOPBA

RE: Sergeant Michael Scott

Case No: OER File No. 10-01-0449
Union Case # C-10-0569

----- XXX

Before: Joel M. Douglas, Ph.D.
Master Arbitrator

Date: January 12, 2012

Pursuant to the Collective Bargaining Agreement (CBA) between the parties, and in accordance with the rules governing the TRIAGE process, the above stated grievance was heard by this undersigned Master Arbitrator.¹ A hearing was held in Albany, NY on January 6, 2012, during which time the State was represented by Lynn Vance, Esq., Assistant Counsel, Governor's Office of Employee Relations (GOER). The Union was represented by Thomas Latin, Esq., Sheehan Greene Golderman & Jacques. This Opinion and Award are based on the record as constituted.

ISSUE

On December 23 and December 28, 2011 the parties stipulated to the following issues:

1. Did the State of N.Y. (DOCCS - Marcy C.F.) violate Article 15.1 of the 2007 - 2009 SSU Agreement, when, on or about August 17, 2010, it closed Grievant's SHU/RASAT post?²

¹ This expedited arbitration decision is non-precedential, but may be considered instructive.

² The original grievance only referenced Article 15 but was amended at the Step 3 to include Article 22.

2. If so, what is the appropriate remedy consistent with the Agreement?
-

DISCUSSION OF THE ARBITRATOR

1. The Union argues that the instant matter is an attempt by the State to avoid the payment of overtime and as such is a clear violation of Article 15. By the closing of a post in order to avoid overtime payments the Union contends that a major safety issue was created as the post in question [Unit 7] covers some six housing units as well as an MHU. The Union submits that the "Safe Working Condition" provision of Article 22 controls and the comprehensive parameters of Article 24 permit contract arbitration. In terms of a remedy, the Union seeks a declaration that DOCCS no longer close supervisory posts for the purpose of overtime avoidance.
2. The State postulates that the Grievance is rooted in the question of post-closings and as such is not arbitrable. They claim that the post-closings are not arbitrable under Article 22 or Article 24. They further argue the CBA limits the question of post-closings to the Article 7 ADR conference phase and the matter is therefore precluded from arbitration. In their assertion they are correct.
3. As I previously noted in *Groveland*;

While the issue of post-closings is significant and may create certain facility issues, pursuant to the CBA, post-closings are not arbitrable. The closing of a post may create a particular problem which may extend to a "safe working condition"; however, Article 22, Section 22.5 states that "Grievances alleging failure to comply with this Article shall be processed pursuant to Article 7, paragraph 7.1(B)" Said provision permits grievances to be processed up to and including the conference phase of the ADR process and not beyond. The record documents that the instant grievance was properly addressed at the conference phase of the ADR-Triage procedure and may proceed no further.

While *Groveland* was an expedited arbitration award and therefore not dispositive, the fact-patten and analytical framework used by the undersigned were analogous to that employed in *Scott*.²

4. An analysis of *Scott* is set forth below:
 - A. The record documents that Unit 7 is Scott's regular bid.
 - B. On August 17, 2010, an MHU inmate was the subject of a trip

²

See, *The State of New York: DOCS Groveland Correctional Facility, RE: Class Action*, Case No: OER File No.06-01-493, CON 06- 0548, dated March 7, 2007

from the facility to the county court house.³

- C. The trip was scheduled one week prior and since the two officers assigned to the trip were relatively inexperienced, a decision was therefore made to send a supervisory sergeant [Scott] on the trip.
 - D. The round trip was two hours in duration.
 - E. The trip left at 8:36.a.m. and returned at 10:28 a.m. (See, Gate Pass JX #5)
 - F. Sgt. Scott was relieved from his post and sent on the aforementioned trip.
5. Captain Glenn Scarafile testified for the State and stated that the decision to send Sgt. Scott on the trip was made that day and that in essence Post 7 was not closed. He noted that seven sergeants work that shift but due to short staffing, no one else was available. He knew that inmate being escorted was both seriously ill and assaultive and believed that a sergeant was necessary. Even though the trip was scheduled one week prior, the Captain noted that transport personnel were not designated until the day before.
6. In terms of Unit 7 coverage, the captain testified that the post was not "closed" but that the other six sergeants on duty could assist. Overtime was not offered since the two midnight sergeants had worked "a double" and there was not enough time to get someone else in. Since the scheduled trip was "short" the decision was made not to hire any overtime. In sum, the captain praised the Sergeant as an outstanding officer but that he was forced ". .. to manage the best we can."
7. The State further argues that pursuant to the CBA they have the right to exercise their management prerogative to make decisions of this type and their determination was consistent with their right to use their limited resources the best that they can. They argue that the instant matter is devoid of evidence that the post was illegally closed in order to avoid overtime. Absent a contractual obligation to award overtime, they contend that no violation occurred. They further claimed that if indeed there was a safety and health issue, there are other available mechanisms' besides from arbitration to resolve same.
8. The Union disputed the testimony of the Captain that the post remained open as the record documents that in essence the post was closed. No specific individual was assigned to Unit 7 or was given specific instructions as to any of the specified tasks.. The evidence suggests that the post was indeed closed and that no regular Post 7 duties were performed. The coverage details were vague at best and it appears that the post was left unsupervised during Scott's absence. Albeit that some safety issues may have been created, the closure of Unit 7 was contractually permissible.

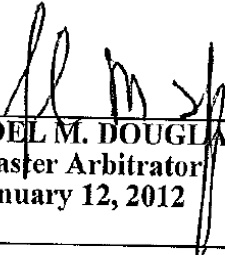
3

The inmate was part of the RMHU [Regional Mental Health Unit] and are considered on SHU status.

9. The CBA mandates that one cannot circumvent Article 22 [post closings] by arguing safety or health. While there may be some legitimate issues raised, they are precluded from being the subject of grievance arbitration. Neither Article 15 nor Article 22 permits the arbitral relief sought by the Union. The clear and unambiguous contract language controls and is dispositive. Therefore, based on the record, and in accordance with the CBA, the undersigned Awards:
-

A W A R D

1. The grievance is denied.
2. The State of N.Y. (DOCS - Marcy C.F.) did not violate Article 15.1 of the 2007 - 2009 SSU Agreement, when, on or about August 17, 2010, it closed Grievant's SHU/RASAT post.


JOEL M. DOUGLAS, Ph. D.
Master Arbitrator
January 12, 2012



New York State Correctional Officers
 & Police Benevolent Association, Inc.
 102 Hackett Blvd. – Albany, NY 12209
 (888) 484-7279 www.nyscopba.org nyscopba@nyscopba.org



POST CLOSING NOTIFICATION

DATE: _____ FACILITY: _____ JOB # _____

JOB TITLE: _____

POST CLOSED AT: _____ POST REOPENED: YES: TIME: _____ NO:

REDIRECTED TO:

REDIRECTED BY:

I AM A FACILITY RESPONSE OFFICER (RED DOT TEAM): YES: NO:

- Members forward form to Sector Steward
- CSS forward to NYSCOPBA Grievance and Staffing Office



New York State Correctional Officers
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STATE OF NEW YORK

**DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

THE HARRIMAN STATE CAMPUS – BUILDING 2

1220 WASHINGTON AVENUE


ALBANY, N.Y. 12226-2050

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

JOSEPH F. BELLNIER
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents

FROM: Joseph F. Bellnier, Deputy Commissioner 

DATE: July 8, 2014

SUBJECT: Facility Closed Posts

The effective use of security resources is a critical component in ensuring the safety of staff and inmates and the security of the facility. Superintendents and their facility supervisors are responsible for managing these resources as efficiently as possible while safeguarding our institutions.

One of your most important management tools is your ability to move staff. You must ensure that your staffing lieutenant accurately preplans the charts, balances shift and squad assignments for the chart period, and reviews the charts on a daily basis to determine if adjustments must be made to meet your changing workload.

Think carefully about the closing of a post. This is an area where Superintendents and their Deputy Superintendents for Security must pay close attention on a daily basis to ensure that before any post is closed, the post closure is either necessary or appropriate and will not jeopardize institutional safety and security. The following criteria must be considered prior to closing a post:

- Will the closure of the post jeopardize the facility safety?
- Is the post a response team position? If so, the response team responsibility should be reassigned or the post should not be closed.
- What is the workload associated with the post?
- What are all of the security duties for the posts with multiple tour stations, e.g., a lawn and grounds officer who also has messhall coverage at meal times?
- Is the post closure directly related to a facility emergency, i.e., outside hospital transport, cell extraction, weather conditions, etc.

Where it is determined to be necessary to close a post(s), the post(s) should be reopened as soon as additional resources become available or as the conditions warrant.

In the near future, the Security Staffing Unit will conduct a comprehensive staffing audit of each of the Department's facilities. This review will include an examination of the number of post closures, the frequency and the reasons for the closures and where the staff was redirected.

Any questions regarding the above should be directed to your Assistant Commissioner for Correctional Facilities.



GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

CHARLES M. DEVANE
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

March 13, 2000

JOB REBIDDING
50%

Mr. Jim Littlefoot
Director of Grievances
NYSCOPBA
194 Washington Avenue
Albany, New York 12210

Dear Mr. Littlefoot:

I have a copy of your letter to John Seiler regarding his early 1999 response to an Otisville grievance. You are seeking copies of minutes from statewide discussions regarding job rebidding. The portion of concern to you regards jobs that change by more than 50%.

We have researched this topic and, while we all remember the issue, we cannot find a record of that event. In any case, the 50% rule was never actually put into effect because it was too hard to quantify. Instead, we merely look for substantial change that would make a job either much more or less appealing. Of course, we also look to NYSCOPBA's recommendation when we decide whether to rebid the job.

Sincerely,

Peter B. Brown
Director
Bureau of Labor Relations

PBB/mmg



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

GLENN S. GOORD
COMMISSIONER

CHARLES M. DEVANE
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

May 30, 2002

Mr. Daniel Annutto
Business Agent
NYSCOPBA
Satellite Office
4981 Commercial Drive
Yorkville, New York 13495

RE: Agency Level Decision
L-14-02C, CON02-0434, 02-02-09
C. O. Schiffer & Vincent

Dear Mr. Annutto:

This will serve as the Agency Level Step 2 response to the above-referenced grievance which we discussed at the Marcy Correctional Facility.

This grievance arises from a dispute over what kind and degree of changes to a given job should result in the job being put up for bidding. In this specific case, Bid Job #0093 was changed from a Squad 1 wheel job to a Squad 8 job (weekends off). The grievants maintain that such a change is substantial enough to merit that job 0093 be re-bid.

As evidenced by the letters attached to the grievance from Bureau of Labor Relations (BLR) Director Peter Brown and BLR Assistant Director John B. Seiler (both of whom are this writers supervisors by the way), it is and has been the position of this office that a change in a job from a wheel job to a squad 8 job is, in fact, substantial enough to merit a re-bid. The grievance accordingly is sustained and a re-bid of job #0093 is ordered.

The parties are encouraged to meet at the local level to discuss what types of changes in job should merit re-bids and what changes should not merit re-bids. This will prevent future disputes over this issue.

Sincerely,

David Riley
Labor Relations Representative

DR/jeh

cc: Supt. Greene
DSS Jubert
B. Shanagher - NYSCOPBA
A. Farda
C. O. Restle
C. O. Vincent



GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

March 31, 1999

L#2967
COUNCIL 82
RECEIVED
APR 1 1999

AFSCME AFL-CIO

CHARLES M. DEVANE
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

Mr. Charles Cambareri
Field Representative
Council 82
RD 1 Box 349
Westtown, NY 10993

*cc - file
Cc: R. Feliciano
Jane Cole
C. Cambareri*

RE: Agency Level Decision
Feliciano; Otisville CF
L-25-98C; C98-1787; 98-29

Dear Mr. Cambareri:

On Friday, March 26, 1999 we met at Otisville Correctional Facility to discuss the above referenced contract grievance alleging the Department violated Article 24 of the negotiated agreement between the State of New York and Council 82.

The issue in this grievance is posting and bidding.

It is the union's position that a job was changed from a Squad 9 to a Squad 8 without it being posted.

In looking at this grievance, it must be noted that this issue had been discussed at Statewide Labor/Management meeting. It was discussed that jobs would be re-bid if there was a substantial change in them. This being defined as the job changing by more than 50%. However, it was agreed by both parties that a job becoming a Squad 8 job would be considered to be a substantial change and should be re-bid. Based on this agreement, it is my determination that the remedy sought in this grievance should be granted. This job should be put up for bid.

Sincerely,

John B. Seiler
Deputy Director
Bureau of Labor Relations

JBS:co

cc: Supt. Edwards
DSS Kikendall
Richard Abrahamson
C.O. Coles
C.O. Feliciano



STATE OF NEW YORK
DEPARTMENT OF CIVIL SERVICE
THE STATE CAMPUS
ALBANY, NEW YORK 12239

GEORGE C. SINNOTT
COMMISSIONER

DANIEL E. WALL
EXECUTIVE
DEPUTY COMMISSIONER

August 18, 2000

RECEIVED
AUG 23 2000
NYSCOPBA

Mr. Jim Littlefoot, Grievance Director
Mr. Daniel Stuart, Associate Director
Mr. Donald Premo, Staffing Specialist
NYSCOPBA
194 Washington Avenue
Albany, New York 12210

Re: Time and Attendance Issue

Gentlemen:

The purpose of this letter is to respond to your inquiry dated June 29, 2000, in which you requested an opinion regarding whether, in the case of a Correction Officer who has worked over 16 hours straight, a rest period is required without charge to accruals or overtime credits before the Officer works his/her next regularly scheduled tour of duty.

There is no provision in the Civil Service Law or the Attendance Rules governing rest periods. It appears this is a matter which is subject to collective bargaining.

Very truly yours,

Patricia A. Hite
Office of Counsel

PAH/AJB:tph

Agreement for the Bidding of Temporary Job Vacancies

- 1) All full time jobs which Correctional Services management determines will exist beyond six months will be posted and bid immediately.
- 2) Full-time jobs which initially are not expected or intended to last six months but, in fact, continue will be posted for bid when they have existed for five months and will be awarded 30 days later.
- 3) "Temporary jobs" as used in this Agreement shall meet:
 - a. temporary jobs funded by the Division of the Budget such as construction items
 - b. unfunded positions (i.e., positions which do not exist on the formally approved plot plan) but which have been approved by the Department
 1. on an interim plot plan

OR

 2. for submission to the Budget
 - c. a permanent item which is temporarily vacant
- 4) Any individual who bids on, and is awarded such a temporary assignment, will give up his right to his former bid job.

The determination as to the length of time a position will exist remains management's. However, the Department will investigate expeditiously at the Department level allegations that local management is failing to act in good faith in this area. Problems resulting with this type of bidding will be reviewed at future Department Labor/Management Committee Meetings upon submission of written documentation of specific cases.

- 5) Under this Agreement, individuals who accept a provisional or temporary promotion at another facility or outside the jurisdiction of the Security Unit will have their bid jobs posted as permanent vacancies.

This Agreement shall have Department-wide application except as to the specific arrangements agreed to between the Department and Council 82 as outlined in the attached submissions by Council 82 for the Auburn, Coxsackie and Ossining Facilities.

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 - OR
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DATE: June 19, 1974

SIGNED: [Signature]
FOR DEPARTMENT OF CORRECTIONAL SERVICES

John Van De Car?
Cock Gray

[Signature]
FOR COUNCIL 82

#4 Temporary Jobs

Union's Position

The union discussed the issue of temporary jobs (eg. construction, etc.) and a formula for the number of staff needed and how established.

Management's Position

The Department abides by the temporary bidding agreement first written by Jack Vandecar in the early 1970's. Basically, this agreement allows for the bidding of all temporary posts that we anticipate will last six month or more or temporary posts that have lasted for more than five months unbid.

President Flanagan made the observation that an arbitrator has recently ruled that we will be required to bid, from resource, all temporary posts with lifetimes of more than two weeks.

Actually, this is inaccurate. Arbitrator Douglas did not rule in that fashion but signed a Consent Award between the parties that at Arthur Kill. Correctional Facility, by the agreement of the parties, this would occur. This settlement was non-precedential, Arthur Kill Correctional Facility specific, and contained language about the settlement's very limited use. It does not apply to more than one facility in the Department and in that specific case because of an agreement that was not to be used to affect other facilities.

With respect to the raised topic of facilities resource pool distribution, the Department agreed that Phil Battiste, Director of Security Staffing, would meet with John Pappas to discuss this matter.

NOV 8 2006 Statewide LM



DEPARTMENT OF CORRECTIONAL SERVICES

THE STATE OFFICE BUILDING CAMPUS

ALBANY, N.Y. 12226

THOMAS A. DOUGHLIN III
COMMISSIONER

September 1990 SWLM


SENIORITY SECURITY RESOURCE POOL


(VARIOUS VARIOUS)

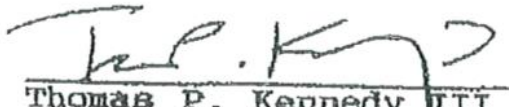
It is agreed by Council 82 and the Department of Correctional services that seniority shall be the basis by which those employees in the portion of the security resource pool known as various various will select pass days, shift and job assignments.

The bidding process will be decided upon at each facility through the labor/management process.

This agreement is a guideline and does not supersede current local agreements regarding the assignment of employees in the security resource pool.


Joseph P. Puma
Executive Director
Council 82


Thomas A. Doughtlin III
Commissioner
Department of Correctional
Services


Thomas P. Kennedy III
President
Council 82


Joseph Kraft
Policy Chairman
Council 82



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Date of Decision- April 8, 2003

Opinion and Award: CON01-0995 **Article 24.2 Seniority (Selection of Pass Days)**

Issue/Subject Matter: Did the State of New York (DOCS Southport) violate Article 24.2 when, on or about August 9, 2001, it did not afford those Vacation Relief Officers not actually assigned a Vacation Relief Slot an opportunity to select their pass days on the basis of seniority? On or about February 2000, Southport Superintendent Michael McGuinness advised the Union that Vacation Relief Officers without a vacation slot would henceforth be made various/ various and assigned a shift and squad by the planning Lieutenant. The reason given was to reduce overtime.

Opinion: Prior to and following the change implemented by the Superintendent, Vacation Relief Officers, who are considered part of the resource pool, were allowed to select their vacation coverage and hence their pass days on the basis of seniority. Considering the evidence in its entirety, the Arbitrator finds the grievance should be sustained. First, Article 24.2 does unequivocally state that seniority shall be the basis by which employees shall select pass days. Clearly for those VRO's without a vacation to cover and thus relegated to various/ various, an assignment by the Planning Lieutenant has not allowed them to exercise this bargained seniority right.

Award:

1. The grievance is sustained.
2. The State violated Article 24.2 when it did not afford those Vacation Relief Officers not actually assigned a vacation relief slot an opportunity to select their pass days on the basis of seniority.
3. As a remedy, the matter is remanded to the local labor management process for those officers classified as various/ various.
4. The Arbitrator will retain jurisdiction for ninety (90) days following the date of this award.

Grid Consolidation Summary

Many facilities have begun consolidating chart grids, “crunching or compressing grids”, as it is commonly referred to. Several issues must be discussed regarding grid consolidations: 1. Job Ownership 2. What changes can be made to a job to achieve grid consolidations 3. When can a job be moved to another grid.

Plot plan posts/jobs are most commonly reflected on the facility charts as squads 1 through 5 (See example below). These jobs are posted, bid and awarded as outlined in the CBA. The successful bidder of a plot plan job retains rights to those pass days and permanent job and shift assignment. For example below, Officer Smith successfully bid on and was awarded A-1 Dorm, Job # 0001, 0700 shift and Squad 1.

	Post				Grid
Squad	Description	Shift	Post/Res#	Name	#
1	A-1 Dorm	700	0001	Smith	
2	A-2 Dorm	700	0002	Johnson	A
3	B-1 Dorm	700	0003	Williams	
4	B-2 Dorm	700	0004	Jones	
5	A-B Rover	700	0005	Rodriguez	
6	RDO	700	0006	Brown	
7	RDO	700	0007	Thomas	

RDO relief jobs are not permanent plot plan posts, and thus are reflected as RDO only posts in grids, usually designated as squads 6 and 7. Although these jobs are posted, bid and awarded through the contract process, Officers merely bid on and are awarded the RDO relief of designated squads, not posts, in a given grid. Squad 6 relieves whatever Officer posts are assigned to squads 1, 3 and 5 in a given grid, and squad 7 relieves officer posts assigned to squads 2, 4 and when squads 5 and 6 are off simultaneously in a given grid.

In the example above, Officer Brown successfully bid and was awarded the Squad 6 RDO Relief Job in Grid #A. Thus he covers whatever permanent posts appear in Squad 1, 3 and 5 in Grid A at any given time. Currently Officer Brown covers A-1 Dorm when Squad 1 is off; B-1 Dorm when squad 3 is off; and A-B Rover when squad 5 is off. However, he merely owns the right to provide reliefs for squads 1, 3 and 5 in Grid # A. He does not own the right to cover the particular posts assigned to grid A when he was awarded the RDO relief job.

Grid consolidations are achieved by abolishing jobs; changing the pass days of jobs in order to fill a vacancy in a grid; or simply moving jobs/posts from one grid to another to fill a vacancy. These moves can result in the elimination of grids which are no longer staffed, and especially RDO relief assignments.

DOCS has already abolished jobs through their “consolidation” plan, which has created holes in the chart grids at facilities. Thus, planning Lieutenants at the facility begin to find ways to move jobs from other partially filled grids to fill the vacancies that the abolished jobs create.

Points to remember:

1. When a post becomes vacant, the facility has seven (7) days to review and make any changes to the post they see fit, including squad and shift changes.
2. The standing policy from DOCS staffing is to not change the squad of a permanent post while the bid is held; unless the squad change is approved by the Union, and although approval from the bid holder is not required, it is strongly suggested.
3. The facility can move a permanent post job to any grid in the charts at any time as long as the pass days of the post remain the same as when the post was awarded.
4. Job descriptions can be changed at any time following notification and discussions with the Union, not just the bid holder. The facility does not require approval from the Union to ultimately make the changes, however, the facility is required to submit these changes to DOCS staffing so they can properly update the jobs hourly inventory.

- The requirement to repost a bid that is held but has “changed” is determined by local arrangement. Absent a local or past practice, DOCS and NYSCOPBA recognize that a “substantial change that would make a job much more or less appealing” can be established as a reason to repost a held bid. Again, local arrangements prevail.

A Grid Consolidation Example

Squad	Post Description	Shift	Post/Res#	Name	Grid #
1		Farm #1	Abolished	Barnes	L
2					
3		Farm #2	Abolished	Henderson	
4	Keeplock Rec # 3			Coleman	
5		Farm Escort	Abolished	Jenkins	
6		RDO	eliminated	Perry	
7	RDO			Powell	

In the above example, DOCS has abolished the permanent plot plan posts for the farm. Officers Barnes, Henderson and Jenkins have lost their bids, and have no seniority rights to bump another Officer out of a bid. Likewise, Officer Perry no longer has posts in the squads he normally relieves. Therefore his job will also be eliminated. Remember Officer Perry simply held the bid to provide relief for squads 1, 3 and 5 in Grid L. Since the jobs no longer exist in his grid, he no longer has a relief function.

However, in the same example, Officer Powell still provides a relief function when squads 2, 4 and 5/6 are on RDO. Since Keeplock Rec #3 is the only permanent post in Grid L, Officer Powell is resource when squad 2 is off, relieves Keeplock Rec #3 when squad 4 is off and is resource when squads 5/6 are off simultaneously.

If we take the same example shown, Grid L now has one permanent plot plan post and one Squad 7 RDO relief post. If the staffing office has a Squad 4 vacancy in an otherwise complete grid, they will most likely move Keeplock Rec #3 to that grid. Therefore Grid L will no longer have a permanent post, which means Officer Powell no longer has a job to relieve; thus Officer Powell’s relief job is eliminated. Remember Officer Powell held the squad 7 RDO relief bid in Grid L only. He does not hold the bid to relieve Keeplock Rec #3 if it appears in a different grid. In the end, the facility has correctly eliminated grid L, and have returned 2 RDO Relief officers back to the resource pool to use to offset staffing shortages.

Officer Coleman retains his bid although it is now located in a different grid. The squad 7 RDO relief officer in the grid that Keeplock Rec #3 is newly located to provides relief when Coleman is on RDO.

If in the example above, the facility needed to change the squad of Keeplock Rec #3, held by Officer Coleman, from a squad 4 to a squad 1 in order to fit it in another grid, the facility would require approval from the Union; and although approval from the bid holder is not required, it is strongly suggested. If the Union does not approve of the squad change, the facility will have to leave Keeplock Rec #3 in squad 4 of grid L until another squad 4 slot opens up, Coleman vacates his bid or the Union approves the change. If Keeplock Rec #3 remains in Grid L, Officer Powell retains his bid and provides relief as determined above.

Please contact the Staffing / Grievance department if you have questions regarding a specific grid crunching at your facility. If done incorrectly, these issues, which are often time sensitive, are best addressed through immediate discussions between the NYSCOPBA and facility Management or DOCS staffing, rather than through the grievance process.

STATE OF NEW YORK
VOLUNTARY LABOR TRIBUNAL

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In the Matter of the Expedited Contract Arbitration Between:
The State of New York: DOCS
Riverview Correctional Facility [RCP]

-and-

TRIAGE EXPEDITED AWARD

Security Unit Employees - NYSCOPBA
RE: CO Leif Smithers
Case No: OER File No. 04-01-0988
CON 04-1130

-----XXX

Before Joel M. Douglas, Ph.D.
Master Arbitrator

Date: April 30, 2007

Pursuant to the Collective Bargaining Agreement (CBA) between the parties, and in accordance with the rules governing the TRIAGE process, the above stated grievance was heard by this undersigned Master Arbitrator.¹ A hearing was held in Albany, NY on March 9, 2007, during which time the State was represented by James Taylor, Esq., Assistant Counsel, Governor's Office of Employee Relations (GOER). The Union was represented by Edward J. Greene, Esq., Sheehan Greene Carraway Golderman & Jacques. This Opinion and Award are based on the record as thus constituted.

ISSUE

During the February 12, 2007-triage session the parties stipulated to the following issue:

1. Did the State of N.Y. (DOCS - Riverview C.F.) violate Article 24.2 of the Agreement in the manner in which it changed the Grievant's squad on or about October 4, 2004?
2. And, if so, what is the appropriate remedy consistent with the Agreement?

¹ This expedited arbitration decision is non-precedential, but may be considered instructive.

DISCUSSION OF THE ARBITRATOR

1. The Union argued that when the facility changed the Grievant's bid job from Squad Four to Three they violated the seniority provisions of Article 24.2 and thereby committed a contract violation. CO Smithers testified that at the time of the transfer there was Squad Four opening in the facility plot plan and that his removal and placement into Squad Three were done in direct contradiction to his contractual seniority rights. The State claims that Smithers' job was consolidated and Squad changed due to staff reduction and at the time of the modification there was no available Squad Four slot into which he could be moved.
2. Smithers testified as to his seniority and how he believed his contract rights were violated. He did however note that after the Squad change that he still worked the same job, had the same hours and duties, and that only his RDO had been changed. The record documents that the grievant [Smithers] has greater seniority than the Lobby Officer [Shaw] who requested and received a Squad change from Two to Four in order to accommodate his swap.²
3. Article 24.2 requires that seniority be used as the basis to select pass days. Within the DOCS framework pass days are regulated by squad assignments. Officer Smithers and Union Business Representative Randy Page testified that squad changes to facilitate "swap hook-ups" had been routinely denied at Riverview and that in 2004, when the aforementioned change was made, the Union met with facility management to explain to them how chart revisions could be made in order to accommodate the Union's need to preserve and protect seniority consistent with the facility goal of inmate reduction.
4. Page described the negotiations concerning Riverview downsizing. He noted that the bilateral meetings were often informal and attempted to minimize security staff job disruption. He testified that they related to job compression and were "not job-targeted" and that as result of the change from double bunking to single cells there was a loss of temporary Riverview jobs. The joint meetings occurred after the arrival of DSS Hessel in July of 2004 and were an attempt to eliminate certain grids and fill vacant slots. (See UX #1) In essence, the testimony of Page was that although the Union had some input into the squad changes, their role was minimal and that facility management did not want to hear of their proposed chart revisions.
5. DSS James Hessel testified that he was at Riverview at the time of the grievance and that he was sure that there were conversations with the Union during the downsizing period. His overall goal was to "better manage the resources" and that he sought input from the Union and DOCS Central Office. He stated that he made a "minimal amount of moves so as to affect all the staff and to make seniority a consideration in each grid." He noted that he tried to impact as few officers as possible and that he continued to respect seniority.
6. The State argued that due to facility downsizing charts that grids had to be modified and that the changes were based on their managerial prerogatives. They note that in an attempt to consolidate the charts that discussions were held with the Union and that no contract violations occurred. In sum the State argued that the staffing changes were necessitated by monetary, budget, and safety concerns and that it was unfortunate that certain officers were not pleased

² The record documents that Officer Shaw is three years junior to Officer Smithers.

by the overall outcome. They submit that under the CBA that "right-sizing" is a prerogative reserved to State and there was no any Article 24.2 violation.

7. The Union seeks a finding that Smithers' seniority rights were violated when the facility unilaterally changed his bid Squad and awarded Squad Four to a less senior officer. They want a restoration to the *ante quo*, a return of Smithers to his prior Squad Four bid, and an order to conduct local Labor Management meetings to work out the chart revisions with the least negative impact.
8. The Union acknowledges that although changes in duties and shifts are not arbitrable that Squad changes are. They note that Officer Smithers had his bid job for more than ten years and that seniority is a paramount contract right. Although management claims that they met with the Union, it is the position of the Union that meetings were not held and that favoritism existed at Riverview. In sum the Union submits that management acted in bad faith and that when Officer Shaw requested his change, they bumped Smithers into a Squad Three slot.
9. The Union suggests that a reconvening of the facility Labor Management committee would be an appropriate forum to resolve these types of questions. They further note that in Step Three Appeal that Associate Director Hrachian notes that;

... the concern of the Officer [Smithers] in his ability to perform his job at the highest possible level is noted and appreciated. (See .1X #3, Hrachian letter dated December 16, 2004)

It should be noted that the Hrachian response was to an Article 24.3 and 27 grievance while the issue before the undersigned is limited to Article 24.2.

10. The record should reflect that the instant grievance "traveled" with *Hooper* [C 04-1129, OER Case # 04-01-1086.] In that matter Officer Hooper [Riverview] lost his RDO relief bid job when the facility developed a new consolidated plot plan. Pursuant to that plan staff were redeployed as certain jobs no longer existed. In his Step Three *Hooper* response Associate Director Hrachian wrote:

It should be noted that discussions in a local labor/management forum in advance of the action would have been appropriate. It is entirely possible that the Union or affected employees may have had constructive alternatives that the facility may have considered. Increased communication would have done no harm, and possible improved the situation. It is strongly recommended that such discussions take place in the future In advance of changes. (UX #3)

The Union insists that the Hrachian Step Three was also applicable to *Smithers* and that it should be controlling.

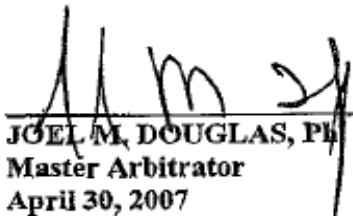
11. In terms of an Article 24.2 violation, the Union cites *CA Greene* in which the contract Arbitrator held that Article 24.2 "contains no caveat ...[and] that seniority exclusively

controls pass day selection."³ That position is credited but is distinguishable from the instant grievance.

12. It is the position of the Agency that at the time of the change in plot plans that no Squad four opening existed. ⁴ Thus, while Article 24.2 controls, at the time of the change the issue was not seniority bidding but one of chart consolidation. The new chart did not contain the Squad opening that Smithers sought and there was no contractual obligation on the part of the employer to modify the revised consolidated chart.
13. The Union's argument of greater input into the process, coupled with the admonition issued by Associate Director Hrachian in Hooper is noted and credited; however that does not require an order to return the Grievant to a position that he held nearly two and one half years ago and to reconstruct the process with the added benefit of hindsight. It appears that at the time of the plot plan consolidation the job that Smithers occupied was no longer carried in Squad Four and that the lobby officer had already been moved from Squad Two to Squad Four. Thus, there was no Squad Four opening to return Smithers to. Although I agree with Director Hrachian that the facility could have responded in a more communicative and symmetrical manner and perhaps paid greater heed to the proposals set forth by R. Page, there reluctance to do so in and by itself does not rise to the level of a contract violation.
14. Therefore, based on the record, and in accordance with the CBA, the undersigned Awards:

A W A R D

1. The grievance is denied.
2. The State of N.Y. (DOCS - Riverview C.F.) Did not violate Article 24.2 of the Agreement in the manner in which it changed the Grievant's squad on or about October 4, 2004.


JOEL M. DOUGLAS, Ph. D.
Master Arbitrator
April 30, 2007

³ See Opinion and Award dated C -98-1218 and 98-01-1325 etc Award dated December 27, 2003@p. 20.

⁴ It appears that at the time of the Squad change that Officer Smithers also had a change in his Job duties. The evolution the grievance detailed period when Smithers lost his job only to have it subsequently resorted. Although al his duties were eventually returned to him, the RDO were not.



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

GLENN S. GOORD
COMMISSIONER

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

August 18, 1999

Mr. James Littlefoot
Grievance Director
New York State Correctional Officers
& Police Benevolent Association
194 Washington Avenue
Albany, New York 12210

RECEIVED
AUG 19 1999
NYSCOPBA

Dear Mr. Littlefoot:

This is in response to your letter dated July 21, 1999, regarding clarification of portions of the Managing Security Overtime memorandum.

Plot plan documents and job descriptions must be accurate and reflect the actual operation of each facility. As such, Department managers continually review bid jobs to determine if the duties are still needed or should be modified. To the extent possible, the Department has agreed to modify or abolish posts as they become vacant. Therefore, a process was established that requires all Deputy Superintendents for Security Services to review, approve, and sign all jobs before a bid is reposted. The window for this review is seven (7) days.

A temporary post approval process was formalized as a result of a statewide meeting in April 1997. The process provides that all temporary posts be reviewed every six (6) months. If the activity cannot be abolished, absorbed by existing posts, or an offset identified, and must be covered for 30 days or more, a request may be submitted to Security Staffing for approval to create a temporary post. All approved temporary posts will be bid pursuant to the collective bargaining agreement. The exceptions are temporary posts for construction, outside hospital, or transportation. These functions should be evaluated daily; temporary assignment to them should not be routine.

I trust this response addresses your concerns.

Sincerely,

Lucien J. Leclaire, Jr.
Deputy Commissioner

cc: Kevin Breen, Assistant Commissioner




STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING #2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents

FROM: Lucien J. Leclaire, Jr., Deputy Commissioner 

RE: Managing Security Resources and Overtime

DATE: February 17, 2010

As we prepare to begin a new fiscal year, our focus must remain steadfast to manage security staff resources and cut spending while safeguarding our institutions. The unprecedented fiscal climate in New York State demands that we all make every effort to operate our facilities as efficiently as possible.

Control of all funds is of the utmost importance. You have been given clear direction that security overtime must be limited to essential workload only. This does not mean shutting down critical posts to save money. It means that if you don't have the staff resources, you don't do the work unless it is mandated. You must evaluate all staff assignments, not just overtime use. Determine if additional service functions are essential and prioritize your security workload accordingly. Nonessential work should be canceled or postponed. Identify posts, or partial posts, that can be closed and redirect the staff to alleviate overtime or cover the work that must be performed without jeopardizing facility safety. Pay particular attention to trip start and return times. Time and attendance rules must be enforced to improve days worked and reduce the need for overtime.

The effective use of staff resources is the responsibility of you and your supervisors and is key to controlling overtime. As we move into the new fiscal year, tracking overtime by categories (sick leave, construction, etc.) will be closely monitored by Central Office. Superintendents should be looking at each category as well. Be aware of the number of officers allowed off per day to ensure it does not exceed the number established by your annual leave schedule provided by the Security Staffing Unit. Refer to your staff utilization monitoring report that is printed for you daily. We expect every superintendent, first deputy superintendent, deputy superintendent and uniformed supervisor to know their facility's plot plan and overtime status.

Under no circumstances should you make any local labor/management agreement that might create overtime situations. You are also reminded that no local agreement can be finalized unless approved by the Director of Labor Relations.

During 2009, staffing reviews have revealed that discrepancies still exist between the job descriptions and plot plans in many facilities. It is your responsibility to ensure that discrepancies are corrected and your facility is in compliance with our policy. If your resource pool does not meet the 50-25-25 distribution requirement, you must continue to work toward compliance through attrition.

Your authorized plot plan, post inventory documents and job descriptions are critical to the operation of this agency and are the basis for how security staff must be assigned in your facility. For this reason, these documents must be accurate and reflect the actual operation of your facility. You must follow your plot plan. No new programs or changes to a program that results in causing overtime or the creation of a new post is to be established without discussion with this office first. The modification of even a single post without considering its responsibilities within the overall plot plan can significantly impact the effectiveness of security in our institutions. In order to evaluate if existing posts still match your operation or require modification, job descriptions must be reviewed, signed and dated on an annual basis by the deputy superintendent for security or highest ranking security supervisor. **You may not modify jobs without approval of the Security Staffing Unit through the plot plan change form process. No changes may be implemented prior to approval.**

Your most important management tool is your ability to move staff. You must ensure that your staffing lieutenant accurately preplans the charts, balances shift and squad assignments for the chart period and reviews the chart on a daily basis to determine if adjustments must be made to meet your changing workload.

It is a priority that the captain closely supervises planning and chart functions on a daily basis as well as review and sign the daily SISU report. This responsibility includes continually evaluating how resources are used and tracked to determine if the workload is necessary. Discussions regarding efficient staff usage must occur with watch commanders and chart sergeants daily, as they play an integral role in this strategy. This can be accomplished, in part, by the captain's oversight of the required mid-shift review. This review must be documented in the watch commander's log per Directive #4008. Captains must also provide oversight of supervisor training and leave schedules to ensure no unnecessary overtime is incurred.

It has always been our policy that when a bid job becomes vacant, the duties must be reviewed prior to posting to determine if the function is still needed or should be modified. All deputy superintendents for security services are required to review, approve and sign all jobs prior to posting. This process should be completed within seven days. A record of the approval must be kept on the reverse side of the job description indicating the date the bid was approved for posting and the deputy superintendent's signature. All job descriptions must be available for review by the Security Staffing Unit.

You are not authorized to establish any temporary posts without approval from the Security Staffing Unit. Be very clear on this. A facility cannot create a bid job for any post that does not appear on your plot plan without our approval. There will be no unauthorized posts. Do not attempt to make deals or disguise unauthorized posts with creative charting.

Think carefully about temporary post requests before you submit them. Even if they have been previously approved, they will not be rubber-stamped. Each temporary post you create further depletes your resource pool. Look closely at your plot plan posts to determine if any portion of the existing coverage can be redirected. Temporary posts should be requested only when there is no other way to provide an essential routine function. Temporary posts for construction coverage may be requested only if the project is six months or more in duration and has actually started. Initial requests for temporary posts may be submitted as needed. Thereafter, they must be resubmitted on the January 1 and July 1 cycle. Questions regarding this process may be directed to Security Staffing.

We have made significant progress through our chart/staffing reviews. These reviews are a useful management tool to evaluate staff usage and post closures, while training hub managers in techniques to monitor and prioritize workload, improve staff usage and reduce overtime. These trained managers are a valuable resource to you and should be used to ensure compliance with review findings as well as train other staff.

I expect you to share this memorandum with your executive team and security supervisors. You must ensure they understand the practical application of this direction and you must charge them with carrying out these objectives. Frequent meetings between the deputy superintendent for security and security supervisors, with both positive and critical feedback, must occur. As we move into the next fiscal year, your continuing personal involvement in controlling overtime is critical. Remember, it is your responsibility to authorize every hour of overtime prior to its being expended and to limit the expenditure to only what is essential to maintain effective facility operations,

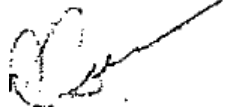


STATE OF NEW YORK
DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

JOSEPH F. BELLNIER
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents
FROM: Joseph F. Bellnier, Deputy Commissioner 
SUBJECT: Managing Security Resources and Overtime
DATE: February 24, 2012

As we prepare to begin a new fiscal year, our focus must remain steadfast to manage security staff resources and cut spending while safeguarding our institutions. The unprecedented fiscal climate in New York State demands that we all make every effort to operate our facilities as efficiently as possible.

Control of all funds is of the utmost importance. You have been given clear direction that security overtime must be limited to essential workload only. This does not mean shutting down critical posts to save money. It means that if you don't have the staff resources, you don't do the work unless it is mandated. You must evaluate all staff assignments, not just overtime use. Determine if additional service functions are essential and prioritize your security workload accordingly. Nonessential work should be canceled or postponed. Identify posts, or partial posts, that can be closed and redirect the staff to alleviate/overtime or cover the work that must be performed without jeopardizing facility safety. Pay particular attention to trip start and return times. Time and attendance rules must be enforced to improve days worked and reduce the need for overtime.

The effective use of staff resources is the responsibility of you and your supervisors and is key to controlling overtime. As we move into the new fiscal year, tracking overtime by categories (sick leave, construction, etc.) will be closely monitored by Central Office. Superintendents should be looking at each category as well. Be aware of the number of officers allowed off per day to ensure it does not exceed the number established by your annual leave schedule provided by the Security Staffing Unit. Refer to your staff utilization monitoring report that is printed for you daily. I expect every superintendent, deputy superintendent, and uniformed supervisor to know their facility's plot plan and overtime status.

Under no circumstances should you make any local labor/management agreement that might create overtime situations. You are also reminded that no local agreement can be finalized unless approved by the Director of Labor Relations.

Staffing reviews have revealed that discrepancies still exist between the job descriptions and plot plans in many facilities. It is your responsibility to ensure that discrepancies are corrected and your facility is in compliance with our policy. If your resource pool does not meet the 50-25-25 distribution requirement, you must continue to work toward compliance through attrition.

Your authorized plot plan, post inventory documents and Job descriptions are critical to the operation of this agency and are the basis for how security staff must be assigned in your facility. For this reason, these documents must be accurate and reflect the actual operation of your facility. You must follow your plot plan. No new programs or changes to a program that results in causing overtime or the creation of a new post is to be established without discussion with this office first. The modification of even a single post without considering its responsibilities within the overall plot plan can significantly impact the effectiveness of security in our institutions. In order to evaluate if existing posts still match your operation or require modification, job descriptions must be reviewed, signed and dated on an annual basis by the deputy superintendent for security or highest ranking security supervisor. You may not modify jobs without approval of the Security Staffing Unit through the plot plan change form process. No changes may be implemented prior to approval.

Your most important management tool is your ability to move staff. You must ensure that your staffing lieutenant accurately preplans the charts, balances shift and squad assignments for the chart period and reviews the chart on a daily basis to determine if adjustments must be made to meet your changing workload.

It is a priority that the captain closely supervises planning and chart functions on a daily basis as well as review and sign the daily SISU report. This responsibility includes continually evaluating how resources are used and tracked to determine if the workload is necessary. Discussions regarding efficient staff usage must occur with watch commanders and chart sergeants daily, as they play an integral role in this strategy. This can be accomplished, in part, by the captain's oversight of the required mid-shift review. This review must be documented in the watch commander's log per Directive #4008. Captains must also provide oversight of supervisor training and leave schedules to ensure no unnecessary overtime is incurred.

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I expect you to share this memorandum with your executive team and security supervisors. You must ensure they understand the practical application of this direction and you must charge them with carrying out these objectives. Frequent meetings between the deputy superintendent for security and security supervisors, with both positive and critical feedback, must occur. As we move into the next fiscal year, your continuing personal involvement in controlling overtime is critical. Remember, it is your responsibility to authorize every hour of overtime prior to its being expended and to limit the expenditure to only what is essential to maintain effective facility operations.

DEPARTMENT OF CORRECTIONAL SERVICES
REQUEST TO CHANGE SECURITY STAFF PLOT PLANS

PART 1: TO BE COMPLETED BY REQUESTING FACILITY (TYPE OR PRINT)			SUPERINTENDENT SIGNATURE:				HUB SUPERINTENDENT SIGNATURE:			
DATE	FACILITY NAME	SISU CODE	DATE: _____ UNION INPUT?: YES <input type="checkbox"/> NO <input type="checkbox"/>				DATE: _____			

● REQUEST TO CHANGE THE DUTIES OF: POST NUMBER:

POST NAME:

SECURITY TITLE	RELIEF FACTOR	SHIFT	SUPERVISOR CODE	SECURITY OBJECTIVE	SECURITY FUNCTION	PRIMARY ACTIVITY	HOUR 1	HOUR 2	HOUR 3	HOUR 4	HOUR 5	HOUR 6	HOUR 7	HOUR 8	WEEKEND PRIMARY	HOUR 1	HOUR 2	HOUR 3	HOUR 4	HOUR 5	HOUR 6	HOUR 7	HOUR 8		

● TO THESE NEW DUTIES: POST NUMBER:

POST NAME:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

 (LIMIT 18 CHARACTERS)

SECURITY TITLE	RELIEF FACTOR	SHIFT	SUPERVISOR CODE	SECURITY OBJECTIVE	SECURITY FUNCTION	PRIMARY ACTIVITY	HOUR 1	HOUR 2	HOUR 3	HOUR 4	HOUR 5	HOUR 6	HOUR 7	HOUR 8	WEEKEND PRIMARY	HOUR 1	HOUR 2	HOUR 3	HOUR 4	HOUR 5	HOUR 6	HOUR 7	HOUR 8		

● THE REASON FOR THE REQUEST IS:

CENTRAL OFFICE USE ONLY

PART II: FOR STAFFING SIGNATURE		PART III: FOR DIRECTOR SIGNATURE		PART IV: FOR DEPUTY COMMISSIONER SIGNATURE	
<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	SIGNATURE: _____ DATE: _____	<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	SIGNATURE: _____ DATE: _____	<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	SIGNATURE: _____ DATE: _____
REMARKS:		REMARKS:		REMARKS:	

Vacation Process and Leave Days Earned (LDE)

1. Around June 1st — Albany DOCS Staffing issues the calculation sheets to the staffing Lt. at the facility for the upcoming vacation year. These sheets include the LDE form with seniority dates and how many days an officer with that seniority earns, and the formula sheet for computing LDE for Vacation and Incidental Schedules. In consideration is annual leave (vacation and personal) as well as Holiday leave.
2. The Lt. at the facility uses the sheets to calculate the LDE according to the number of COs at the facility on a given date. The facility choose to carve out certain job titles (FSO, WTO, TROs who may get their time off out of the Staffing or Dep's Office) as well as long term absences anticipated to be longer than six (6) months in duration.
3. The facility adjusts for those officers who take money instead of Holiday time (12 days).
4. The facility then arrives at a net LDE number (### Officers earn #### time annually as of this given date).
5. The Lt. then forwards this sheet to DOCS Staffing who constructs the LDE formula sheet. DOCS Staffing then forwards the LDE sheets to NYSCOPBA and Labor Relations.
6. NYSCOPBA then issues a letter, certified, to the CSS of the affected facility explaining that they can either accept DOCS Staffing's recommendation, or the can choose to restrict vacations in order to even out or provide more available incidental leave throughout the year. This decision must be made by September 1st in order to provide for annual bidding processes to take place.
7. If the Facility Sector chooses to accept Staffing's recommendation, no further action is required. However, it must be noted that the facility is held to that recommendation for the entire year.
8. If the Facility Sector chooses to restrict their vacations to affect their incidental leave, they must inform NYSCOPBA Staffing in writing of their wishes, so NYSCOPBA can enter into an Agency level Agreement to affect change on DOCS Staffing LDE Distribution.
9. After receiving notification from the Facility Sector, NYSCOPBA calculates allowable vacation and incidental leave changes and forwards these calculations to DOCS staffing for their approval. Upon DOCS Staffing approval, NYSCOPBA forwards agreements to Labor Relations for their signature and return. After receiving a signed copy of the agreement, NYSCOPBA forwards a copy to the Facility Sector for their records. These agreements are in effect for the entire following vacation distribution year.

FORM FOR COMPUTING TOTAL DAYS EARNED BY CORRECTION OFFICERS

TOTAL DAYS EARNED=

FACILITY:

YEAR STARTED	SENIORITY YEARS	AL DAYS EARNED	HOL + PL EARNED	DAYS EARNED PER CO	NUMBER OF CO'S	TOTAL DAYS EARNED
2008	0	13	17	30		
2007	1	14	17	31		
2006	2	15	17	32		
2005	3	16	17	33		
2004	4	17	17	34		
2003	5	18	17	35		
2002	6	19	17	36		
2001	7	20	17	37		
2000	8	20	17	37		
1999	9	20	17	37		
1998	10	20	17	37		
1997	11	20	17	37		
1996	12	20	17	37		
1995	13	20	17	37		
1894	14	20	17	37		
1993	15	20	17	37		
1992	16	20	17	37		
1991	17	20	17	37		
1990	18	20	17	37		
1989	19	20	17	37		
1988-84	20-24	21	17	38		
1983-79	25-29	22	17	39		
1978-74	30-34	23	17	40		
<1974	35+	24	17	41		

TOTAL

NOTE: Record only those officers that are participating in the leave schedule on this form.

The total number of officers must equal the number of officers reported on line #4, from the Formula for Computing Leave Days Earned form. The total days earned must equal the total days earned reported on line #5, from the Formula for Computing Leave Days Earned form.

Formula for Computing Leave Days Earned
For Vacation and Incidental Schedules

Facility: _____

Type of vacation schedule: _____

Total officers assigned to facility as of ____/____/____ _____ 1.

Number of officers not participating in the
vacation/incidental schedule: _____ 2.

List by job title:

Number of officers on long-term absence, not expected
to return for six months or more: _____ 3.

List by absence category:

Sub-total officers participating in schedule:
(subtract lines 2 and 3 from line 1) _____ 4.

Compute the total days earned for the number of officers on line 4 from the current seniority list.
Enter total days earned below:

Total days earned for officers participating in the schedule: _____ 5.

Number of days for holidays paid:
(officers paid times six holidays average) _____ 6.

Number of days for holidays off:
(officers off holidays times twelve) _____ 7.

Net total days earned:
(subtract lines 6 & 7 from line 5) _____ 8.

FORM FOR COMPUTING TOTAL DAYS EARNED BY CORRECTION OFFICERS

TOTAL DAYS EARNED=

~~4201~~ 4139

FACILITY:

TACONIC C. F.

YEAR STARTED	SENIORITY YEARS	AL DAYS EARNED	HOL + PL EARNED	DAYS EARNED PER CO	NUMBER OF CO'S	TOTAL DAYS EARNED
2008	0	13	17	30	0	0
2007	1	14	17	31	28 12	434
2006	2	15	17	32	10	320
2005	3	16	17	33	9	297
2004	4	17	17	34	24	816
2003	5	18	17	35	3	105
2002	6	19	17	36	4	144
2001	7	20	17	37	2	74
2000	8	20	17	37	5	185
1999	9	20	17	37	2	74
1998	10	20	17	37	3	111
1997	11	20	17	37	15	555
1996	12	20	17	37	5	185
1995	13	20	17	37	1	37
1994	14	20	17	37	5	185
1993	16	20	17	37	1	37
1992	16	20	17	37	1	37
1991	17	20	17	37	0	0
1990	18	20	17	37	2	74
1089	19	20	17	37	4	148
1988-84	20-24	21	17	38	9	342
1983-79	25-29	22	17	39	0	0
1978-74	30-34	23	17	40	0	0
<1974	35+	24	17	41	1	41

TOTAL

120	4201
118	4139

NOTE: Record only those officers that are participating in the leave schedule on this form.

The total number of officers must equal the number of officers reported on line #4, from the Formula for Computing Leave Days Earned form. The total days earned must equal the total days earned reported on line #5, from the Formula for Computing Leave Days Earned form.

Formula for Computing Leave Days Earned For Vacation and Incidental Schedules

Facility: TACONIC C.F.

Type of vacation schedule: B (3-2 Week Periods)

Total officers assigned to facility as of 06/19/08 132 1.

Number of officers not participating in the vacation/incidental schedule: 4 2.

List by job title:

<u>FSO</u>	<u>TRO</u>
<u>WTO</u>	<u>TRO</u>
<u> </u>	<u> </u>

Number of officers on long-term absence, not expected to return for six months or more: 8 3.

List by absence category:

<u>ADA</u>	<u>ADA</u>
<u>ADS</u>	<u>ADS</u>
<u>APS</u>	<u>APS</u>
<u>APS</u>	<u>AWC</u>

Sub-total officers participating in schedule:
(subtract lines 2 and 3 from line 1) 120 4.

Compute the total days earned for the number of officers on line 4 from the current seniority list.
Enter total days earned below:

Total days earned for officers participating in the schedule: 4201 5.

Number of days for holidays paid:
(officers paid times six holidays average) 17x6 102 6.

Number of days for holidays off:
(officers off holidays times twelve) 2x12 24 7.

Net total days earned:
(subtract lines 6 & 7 from line 5) 4075 8.

6/30/08
130

-4

-8

118

4139

-102

10

24
4075
4037



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



REPOSTING (PROSPER) SUMMARY (updated 12/9/12)

The pre-planning period starts 8 days prior to when reliefs for scheduled vacations are made, but can not start less than 30 days prior to the charting period. (I.e., 8 days prior to when your charts are usually posted.)

Outside the Pre-Planning Period – Time turned in at least 15 days prior to the posting of charts. There must be 7 days prior to the beginning of the Pre-planning period in order to re-post and award turned in or un-bid vacation time outside the pre-planning period.

- Any amount of turned in or un-bid time will be reposted once (initial turn in) for all in facility to bid regardless of shift or squad.
- Only one or two weeks of turned in or un-bid time will be reposted up to 10 more times after the initial reposting.
- Turned in or un-bid time in less than a one or two week block will only be reposted for the initial reposting. After that it is gone.
- Reposted time will remain available for bid for 5 days and then awarded. If no one bids on the turned in or unbid time, it will be subsequently reposted for another 5 day period up to a total of 11 times(10 times after the initial reposting), and awarded where appropriate.
- When an Officer's successfully bids and is awarded a block of reposted vacation that includes their RDOs, the days on which the RDOs fall can not be turned in and reposted.

Inside the Pre-Planning Period – Time turned in less than 15 days prior to the posting of charts

- Any amount of turned in time will be reposted for bid for 5 days following the initial turn in and 3 days from 2nd turn in on, and only made available to those Officers in the same squad and shift as the Officer who last turned in the time.
- Turned in time will be reposted as many times as time will allow. In other words, as long as it can be reposted for five days if initial turn in and 3 days if multiple turn-in and awarded prior to the start date, it will be reposted.

NOTES

It is recommended that any amount of time less than one or two week blocks be turned in inside the planning period after the initial reposting.

Officers can submit multiple bids for the same reposted time. If multiple bids are received for reposted time, seniority will prevail for each available block of time.

An officer is not required to have enough time on the books to bid a vacation. The Officer is required to have enough time at the end of the previous pay period to take awarded vacation time. Days taken without proper accruals will result in LWOP.

Officers do not have to turn in time (exchange) in order to bid reposted vacation time.

The most difficult compliance issue with reposting is getting officers to turn in unwanted time to be reposted. Second, is being able to track what vacation time is being reposted and for how many times.

***Different scenarios will be treated different ways - - feel free to contact me regarding these scenarios.
Mike Marro – NYSOPBA Staffing / Grievance 518-427-1551 Ext 253